

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
CHALLIS FIELD OFFICE**

**Categorical Exclusion**

*Morganroth to Shiloh Warm Springs Ranch, LLC\_*

*ROW Water Facility\_Assignments\_Renewal*

**DOI-BLM-ID-I030-2015-0001-CX**

**Applicant:** Shiloh Warm Spring Ranch, LLC  
**Project/Serial No.:** IDI-20915 and IDI-20670  
**Project Lead:** Joni Cain, Realty Specialist  
**Date:** April 2015

Background:

BLM ROW IDI-20670 was originally issued on April 4, 1984, in perpetuity to Ingram Warm Springs Ranch allowing 6.5 acres for a ditch, access road, and Phase 1 of a hydroelectric project. On January 1, 1994, the ROW was amended to include a penstock and powerhouse. It was also amended in 1994 to reflect the as-built facilities, which reduced the acreage of the ditch to approximately 4,446.76 feet in length and 30 feet wide or 3.402 acres, more or less. On December 16, 1988, Ingram was issued BLM ROW grant IDI-20915 which authorized Phase 2 of the hydroelectrical project and to facilitate erosion control. The authorization allowed construction, operation and maintenance of a canal, access road, and penstock. The ROW was issued as follows: approximately 10,140 feet with a width of 30 feet and a segment 9,000 feet long with a ROW width of 60 feet, encumbering 19.38 acres. This authorization expires on December 15, 2018. The ROWs, as shown on the enclosed map, were assigned to Lois Von Morganroth on February 20, 1997.

Proposed Action:

On October 8, 2014, Shiloh Warm Springs Ranch submitted applications requesting assignment for rights-of-ways (ROWs) identified as IDI-20670 and IDI-20915 from Lois Von Morganroth. Shiloh Warm Springs Ranch has also requested a renewal of ROW IDI-20915, with a 30 year term, which would expire December 31, 2044.

Shiloh Warm Springs Ranch proposes to continue to operate and maintain the two hydropower facilities, including canal systems, penstocks, access road and power plants, in accordance with the rights-of-ways originally granted to Ingram Warm Springs Ranch in 1984 and 1988 respectively, including the additional stipulations added to the ROWs upon assignment to Lois Von Morganroth in 1997. The stipulations applicable to the ROWs under these assignments/renewal, are included herein as Exhibit A.

The existing facilities encumber 4.6 acres (6688 feet long by 30 feet wide) and 25.9 acres (22561 feet long by average width of 50 feet) respectively. As technology has improved since originally authorized, the dimensions have been measured and updated using GIS.

These facilities are located within the following legal land description in Custer County:

Boise Meridian, Idaho

- T. 12 N., R. 20 E.,
  - Sec. 4, Lot 13;
  - Sec. 5, Lot 1;
  - Sec. 9, SWNE.
- T. 13 N., R. 20 E.,
  - Sec. 17, SWSW;
  - Sec. 18, E2SE;
  - Sec. 20, Lot 3, NW, NWSW, SESW;
  - Sec. 29, Lots 5, 10 and 12, NESE;
  - Sec. 32, SESE, NWSE, SWNE.

Consultation and Coordination:

This project was posted on the BLM E-planning website on January 9, 2015 and there have been no public comments or inquiries.

Land Use Plan Conformance Statement:

Land Use Plan Name: Challis Resource Management Plan, 1999.

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP goal:

*Goal 3: Consider public needs for use authorizations, such as rights-of-way, leases, permits, and withdrawals. Page 35*

Finding and Recommendation:

The proposed action is categorically excluded as outlined in 516 DM 11.9, section E, number 9, which states: *Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations*, and none of the extraordinary circumstances described in 516 DM 2, Appendix 2 apply.

I recommend that ROW grant IDI-20670 be assigned to Shiloh Warm Springs Ranch, in perpetuity, under the stipulations provided in Exhibit A, and with right of assignment. I further recommend that ROW grant IDI-20915 be assigned to Shiloh Warm Spring Ranch and renewed, with an expiration date of December 31, 2044. This grant would be authorized with the right to renew/assign, subject to current terms and conditions and the stipulations provided in Exhibit A. Rent would be charged according to regulations found at 43 CFR 2800.

Preparer signature /s/ Joni D. Cain

Date 5/22/2015

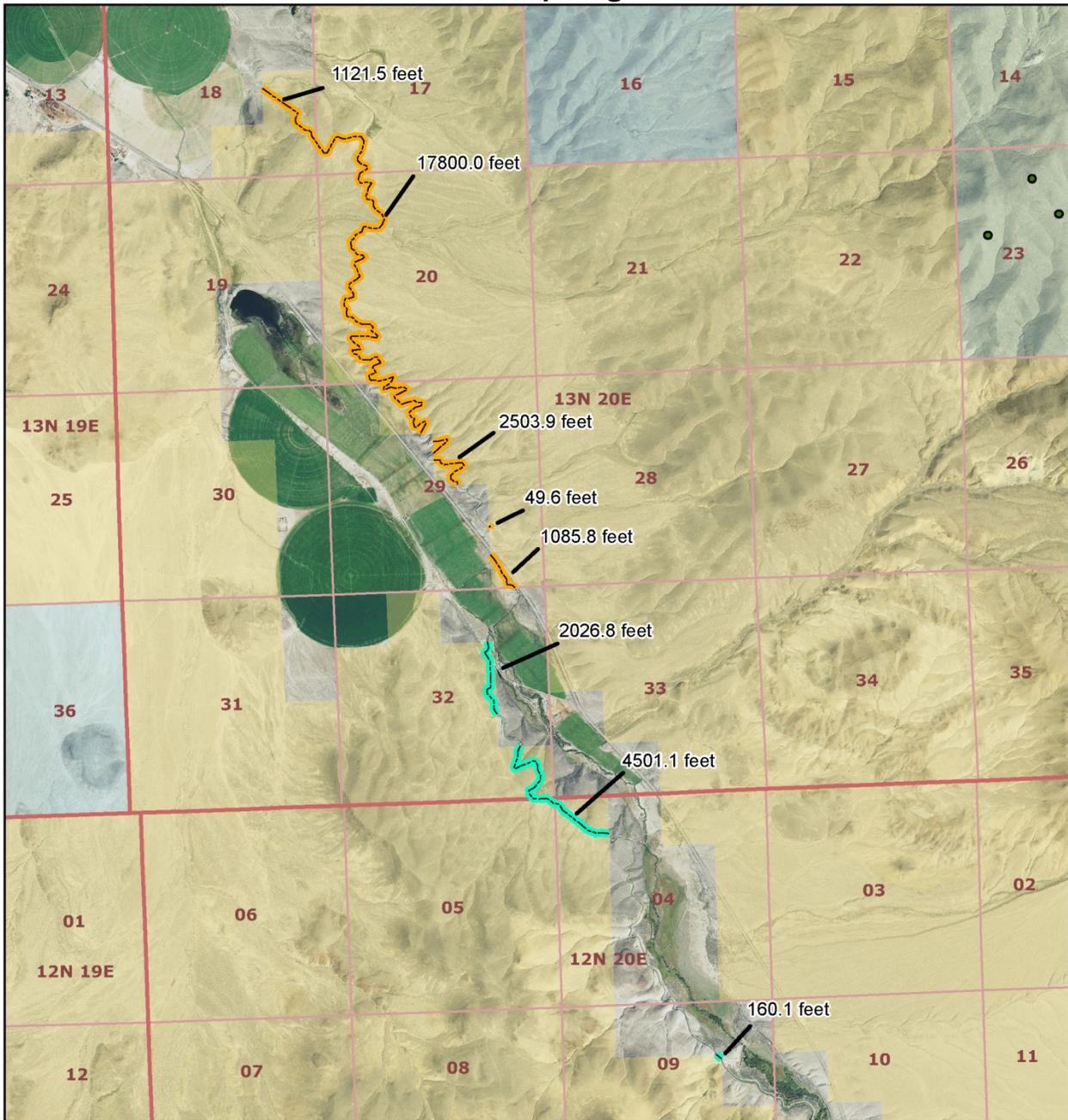
## Extraordinary Circumstances Requiring Preparation of an EA or EIS

The action described in categorical exclusion DOI-BLM-I030-2015-0001-CX has been reviewed to determine if any of the following extraordinary circumstances listed below apply, as listed in the Departmental NEPA regulations (43 CFR 46.215). A rationale for why the circumstance does not apply is included below:

	<b>Extraordinary Circumstance</b>
1.	Have significant impacts on public health or safety: <b>RATIONALE:</b> The area has been in use, under current conditions, since 1984. No impact on public health and safety are expected or foreseeable.
2.	Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas: <b>RATIONALE:</b> There are no such resources or characteristics within the project ROW area, therefore no impacts.
3.	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]: <b>RATIONALE:</b> There are no such effects or conflicts in the project area.
4.	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks: <b>RATIONALE:</b> There are no such effects or risks in the project area.
5.	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects: <b>RATIONALE:</b> There would be no precedent for future action established by the proposed action.
6.	Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects: <b>RATIONALE:</b> There are no other known actions in the project area.
7.	Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office: <b>RATIONALE:</b> Consultation under the National Historic Preservation Act of 1966 (as amended) has been conducted in accordance with BLMs National Programmatic Agreement and the implementing protocol agreement between Idaho BLM and the Idaho State Historic Preservation Office. The following stipulation will be included in the ROW grant: The holder shall be responsible for contacting BLM Challis Field Office prior to

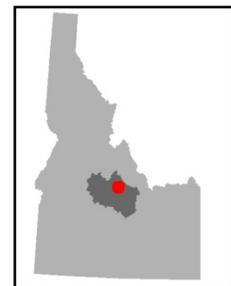
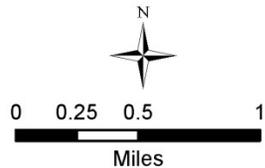
	<b>Extraordinary Circumstance</b>
	any ground disturbing activities to avoid any inadvertent damage to near by archeological sites.
8.	<p>Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have significant impacts on designated critical habitat for these species:</p> <p><b>RATIONALE:</b>  A Biological Evaluation for ESA listed fish species was conducted on 05/11/2015. It was determined by the BLM CFO Fisheries Biologist that the proposed action would have <b>No Effect</b> on ESA listed fish species, including Snake River Chinook salmon, Snake River steelhead, Snake River Sockeye Salmon, Columbia River bull trout or their designated critical habitat.</p>
9.	<p>Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment:</p> <p><b>RATIONALE:</b>  The project does not violate any known law or regulation.</p>
10.	<p>Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898):</p> <p><b>RATIONALE:</b>  There are no such identified populations in the project area.</p>
11.	<p>Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007):</p> <p><b>RATIONALE:</b>  No such sites are known to exist within the project area.</p>
12.	<p>Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112):</p> <p><b>RATIONALE:</b>  There will be no new ground disturbing activities within the ROW. Weed control will be addressed with the following stipulation in the grant:  The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations). Control measures must be done in accordance with the Challis Field Office Integrated Weed Management Program. Coordination with the Challis Field Office Weed Specialist shall be completed <b>before</b> applying herbicides.</p>

# Shiloh Warm Springs Canals



- IDI 20670 - 6688.0 feet
- IDI 20915 - 22560.8 feet
- Townships
- Sections

- Surface Management Agency**
- Bureau of Land Management
  - Private
  - US Forest Service
  - State
  - Other



No warranty is made by the Bureau of Land Management (BLM). The accuracy, reliability, or completeness of these data for individual use or aggregate use with other data is not guaranteed. Map date: December 2014

**Exhibit A**  
Terms/Conditions and Stipulations  
IDI-20915 and IDI-20670  
April 2015

**Terms and Conditions**

- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulation parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph(1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20<sup>th</sup> year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit A, dated April 2015, attached hereto, are incorporated into and made part of the grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

**Stipulations**

1. The holder shall conduct all activities associated with the construction, operation, and termination of the ROW within the authorized limits of the ROW.
2. Holder shall remove only the minimum amount of vegetation necessary for the use and maintenance of the existing road.
3. ROW shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. 'Waste' means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
4. The holder shall be responsible for weed control on disturbed areas within the limits of the ROW. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations). Control measures must be done in accordance with the Challis Field Office Integrated Weed Management Program. Coordination with the Challis Field Office Weed Specialist shall be completed before applying herbicides.

5. The holders of ROWs, IDI-20915 and IDI-20670, agree to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the ROW (unless the release or threatened release is wholly unrelated to the ROW holder's activity on the ROW.) This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
6. There is reserved to the Authorized Officer, the right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant.
7. The holder shall be responsible for contacting BLM Challis Field Office prior to any ground disturbing activities to avoid any inadvertent damage to near by archeological sites.
8. The holder shall immediately bring to the attention of the responsible Federal agency official any and all antiquities, or other objects of historic, paleontological, or scientific interest including but not limited to, historic or prehistoric ruins, fossils, or artifacts discovered as a result of operations under this authorization. The holder shall immediately suspend all activities in the area of the object and shall protect and leave such discoveries intact until written approval to proceed is obtained from the Agency Official (36 CFR 800.13(b)). Approval to proceed will be based upon timely evaluation of the object(s). Evaluation shall be by a qualified professional selected by the Agency Official from a Federal agency insofar as feasible (BLM Manual 8140.06H). When not feasible, the holder shall bear the cost of the services of a properly qualified non-Federal professional (BLM Manual Direction 8100.24). Antiquities, historic or prehistoric ruins, paleontological or objects of scientific interest that are outside of the authorization boundaries but directly associated with the impacted resource will also be included in this evaluation.
9. The holder of this authorization must immediately notify the responsible Federal agency official by telephone upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony, in accordance with 43 CFR 10.4(g). Further, pursuant to 43 CFR 10.4(b), the holder must also provide the Agency Official with written confirmation of the inadvertent discovery, to be sent via certified letter. The holder must stop all activity in the area and make a reasonable effort to protect the discovery until notified to proceed by the responsible Federal agency official (43 CFR 10.4(c) and (d)).
10. Ninety (90) days prior to termination of the ROW, the holder shall contact the authorized officer to arrange a joint inspection of the ROW. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, top soiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
11. Canal maintenance will be conducted while the canal system is dewatered. All material waste from maintenance of canals will be deposited on the upslope side of the canal, within the right-of-way or disposed of off BLM lands. Materials will not be side cast from canal.

12. Any activities requiring new ground disturbance will be submitted for approval in advance and will include a rehabilitation plan. No new ground disturbance will occur without prior approval.
13. Maintenance activities will be restricted to August 1st through March 15th, to avoid breeding season for migratory birds.
14. The holder is required to provide a performance bond in the amount of \$60,000.00. This bond must be received by the Authorized Officer on or before issuance of assignment. The bond will be held through the term of ROW number IDI-20915, against reclamation and rehabilitation expenses incurred by unauthorized maintenance activities and/or structural failure of the authorized facilities.

Stipulations omitted from grant IDI-20915

1. (m.) The Holder will be required to install a number of antelope crossings along the canal when the BLM and the Idaho Department of Fish and Game determine the proper locations during a 1989 census.
2. (n.) The Holder will allow natural colonization and establishment of riparian vegetation along the banks of the canal. If necessary to maintain the function of the canal, riparian vegetation may be removed along specific sections with the approval of the BLM Authorized Officer.

Decision and Rationale for the Decision:

It is my decision to assign ROWs, IDI-20670 and IDI-29015, allowing for the operation and maintenance of existing hydropower facilities, including canal systems, penstocks, access road and power plants. The existing facilities encumber 4.6 acres (6688 feet long by 30 feet wide) and 25.9 acres (22561 feet long by average width of 50 feet) respectively, more or less. The grant IDI-20915 will be renewed expiring on December 31, 2044. The stipulations relevant to both ROWs are included herein as Exhibit A. No new activities will occur on the site.

Issuance of the right-of-ways will cause no significant environmental disturbance. The subject action qualifies as a Categorical Exclusion and meets the criteria contained in 516 DM 11.9, Appendix 4 E (9). None of the exceptions found in 43 Code of Federal Regulations (CFR) 46.215 applies.

Acting Field Manager signature /s/ Peggy S. Redick  
Date 5/27/2015

Appeals Information:

Refer to 43 Code of Federal Regulations (CFR), Part 4 for appeals information.