



**Bureau of Land Management  
Winnemucca District Office  
BRFO (W030)**

**Categorical Exclusion**

**CX#: DOI-BLM-NV-W030-2014- 0022-CX**

**Date: 8/27/2014**

Lease / Case File / Serial #: N-28749

Regulatory Authority (CFR or Law): 2800

BLM Manual: 2800

Subject Function Code: 2870

Is the project located within a Preliminary Priority Habitat?  Yes  No

Is the project located within a Preliminary General Priority Habitat?  Yes  No

Is the project located within a National Landscape Conservation System feature (NCA, Wilderness, WSA, ISA, Scenic or Historic Trails)?  Yes  No

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1. BLM District Office: Winnemucca District Office

2. Name of Project Lead: Julie McKinnon

3. Project Title: DeLong Pipeline ROW Renewal

4. Applicant: DeLong Ranches Inc.

5. Project Description: (briefly describe who, what, when, where, why, how)

DeLong Ranches Inc. submitted an application to renew an existing authorized buried water pipeline right-of-way, originally authorized in 1982. This pipeline is to assist in conveying water from Trout Creek to private lands, also known as Trout Creek Ranch, for irrigation and domestic purposes. The pipeline is buried between Trout Creek and Trout Creek Road and is approximately 12 inches in diameter and approximately 8,764 feet in length, crossing both public and private lands.

DeLong Ranches has existing water rights approved under permit 82237, originally permitted under 1561 and certificate 8912, to convey water to Trout Creek Ranch.

Maintenance activities could include shovel work or work with a backhoe if repairs, replacement or reconstruction of the pipeline is needed.

On January 7, 2015, DeLong Ranches submitted an application to amend the existing pipeline ROW to include an existing ditch that begins slightly above or north from where the pipeline initiates and then runs parallel to the pipeline on east side, beginning at the weir. This ditch conveys water from private property above to the weir and any overflow water that is not

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captured by the pipeline runs down the ditch to the Trout Creek Ranch for irrigation and domestic use. The ditch varies in width anywhere from 4' – 15' wide. This ditch has been maintained for years when needed using a dozer or backhoe.

The right-of-way authorization would be widened an additional 15 feet to east to include the ditch, for a total width of 45 feet.

Project dimensions (length, width, height, depth): 19,099' (l) (1.73 miles) x 30'(w) pipeline  
4'x 15'(w) x 30,478' (l) (2.2 miles) ditch

Total Acres: 31.4

BLM Acres: 31.4

Will the project result in new surface disturbance?  Yes  No

Has the project area been previously disturbed?  Yes  No  N/A

If yes, what percent of the project area has been disturbed? 75% . If only part of the project area has been disturbed, indicate disturbed area on map. Describe disturbance (and attach photo of disturbed area if you have one):

6. Legal Description: T.39 N., R. 31 E., sec. 36, SESW, SWSE,  
T. 38 N., R. 31 E., sec. 1, lots 1, 2, NESE;  
Sec. 6, SESW;  
sec. 7, SWNE, NESW, NESE;  
Sec. 17, SWNW.

USGS 24k Quad name: Schoolhouse Butte

100k map name: Jackson Mtns

Land Status:  BLM  Private  Other\_\_\_\_\_.

**Part I: Plan Conformance Review**

The Proposed Action is subject to the:

- Paradise-Denio Management Framework Plan
- Sonoma-Gerlach Management Framework Plan
- Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP

The proposed action is in conformance with the applicable Land Use Plan (LUP) because it is specifically provided for in the following LUP decision(s):

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

The Paradise-Denio MFP is silent on ROWs. In accordance with Section 501(1) of FLPMA, the BLM is authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands...

**Part II: NEPA Review**

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:

- 43 CFR 46.210 DOI Implementation of NEPA of 1969, Listing of Departmental Categorical Exclusions (*formerly 516 DM2 Appendix 1*)
- 516 DM 11.9, (BLM) E. Realty #9: Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

**ESA and BLM Sensitive Status Species**

Evaluation Criteria	Yes	No
1. Are species listed under the Endangered Species Act likely to occur in the project area? If yes, list the species in Table 1 below. Verify with USFWS or use approved list.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Are BLM NV Sensitive Species, based upon the current IM, likely to occur in the project area? If yes, list the species in the Table 1 below.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the proposed action result in “take” under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Table 1. Special Status Species that may occur in the project area:**

ESA	BLM	Common (Scientific) Name	May Be Affected?	Mitigation for BLM Sensitive Species (The following stipulation(s) is/are recommended to be applied to the authorization) (Attach ESA Section 7 Compliance to Form, if applicable)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Greater sage-grouse ( <i>Centrocercus urophasianus</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Restrict pipeline maintenance activities from March 1 <sup>st</sup> through June 30 <sup>th</sup> , during early morning (before 10am) and late evening (after 4pm).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Migratory Birds – see Table 2	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See MBTA Table 2.
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

**Table 2. Migratory Bird Treaty Act Consideration**

Potential MBTA Species w/in the Project Area Common (Scientific) Name	May Be Affected?	Recommended Mitigation (The following stipulation(s) is/are recommended to be applied to the authorization)
(This list is representative of species found near this site. It may not be comprehensive.)  Red-tailed hawk ( <i>buteo jamaicensis</i> ), northern harrier ( <i>Circus cyaneus</i> ), California quail ( <i>Callipepla californica</i> ), mourning dove ( <i>Zenaida macroura</i> ), common nighthawk ( <i>Chordeiles minor</i> ), ash-throated flycatcher ( <i>Myiarchus</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	In order to avoid potential impacts to breeding migratory birds, a careful visual inspection of habitat in the project area should be made prior to any surface disturbance (including cross-country routes, turn-around areas and parking areas) during the avian breeding season (March 1 <sup>st</sup> through August 31 <sup>st</sup> ). Nesting activities may include eggs or young present in nest, adult behavioral displays (e.g. dive-bombing, faking injury, won't leave the area, agitated calling, etc.). If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established.

<p><i>cinerascens</i>), horned lark (<i>Eremophila alpestris</i>), western scrub jay (<i>Aphelocoma californica</i>), common raven (<i>Corvus corax</i>), spotted towhee (<i>Pipilo maculatus</i>), vesper sparrow (<i>Pooecetes gramineus</i>), black-throated sparrow (<i>Amphispiza bilineata</i>), sage sparrow (<i>Amphispiza belli</i>), western meadowlark (<i>Sturnella neglecta</i>), Brewer's blackbird (<i>Euphagus cyanocephalus</i>), Cassin's finch (<i>Carpodacus cassinii</i>), golden eagle (<i>Aquila chrysaetos</i>), northern goshawk (<i>Accipiter gentilis</i>), peregrine falcon (<i>Falco peregrinus</i>), loggerhead shrike (<i>Lanius ludovicianus</i>), sage thrasher (<i>Oreoscoptes montanus</i>), Brewer's sparrow (<i>Spizella breweri</i>)</p>		
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

*Mitigation Measures/Remarks (The following stipulation(s) is/are recommended to be applied to the authorization):*

Sage-grouse lek(s) are present within 0.6 miles of the project area. Restrict pipeline maintenance activities from March 1<sup>st</sup> through June 30<sup>th</sup>, during early morning (before 10am) and late evening (after 4pm).

In order to avoid potential impacts to breeding migratory birds, a careful visual inspection of habitat in the project area should be made prior to any surface disturbance (including cross-country routes, turn-around areas and parking areas) during the avian breeding season (March 1<sup>st</sup> through August 31<sup>st</sup>). Nesting activities may include eggs or young present in nest, adult behavioral displays (e.g. dive-bombing, faking injury, won't leave the area, agitated calling, etc.). If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established.

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The Proposed Action has been reviewed to determine if any exceptions described in 43 CFR 46.215 Categorical Exclusions: Extraordinary Circumstances apply. (See attached page)

### **Part III: DECISION:**

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no other environmental analysis is required.

Project authorization is subject to mitigation measures identified above. (This is a NEPA Decision. A separate program implementation decision is necessary.)

Based on regulatory authority or law that allows BLM to take action, it is my decision to allow for implementation of the project, as described, with the mitigation measures identified above and attached as stipulations, conditions of approval, terms of conditions, etc. This is a combined NEPA and program implementation decision.

Authorized Official /s/Mark E. Hall acting for William Mack Jr. Date: 4/28/2015  
(Signature)

#### Administrative Review or Appeal Opportunities

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to William Mack, Field Manager, Black Rock Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

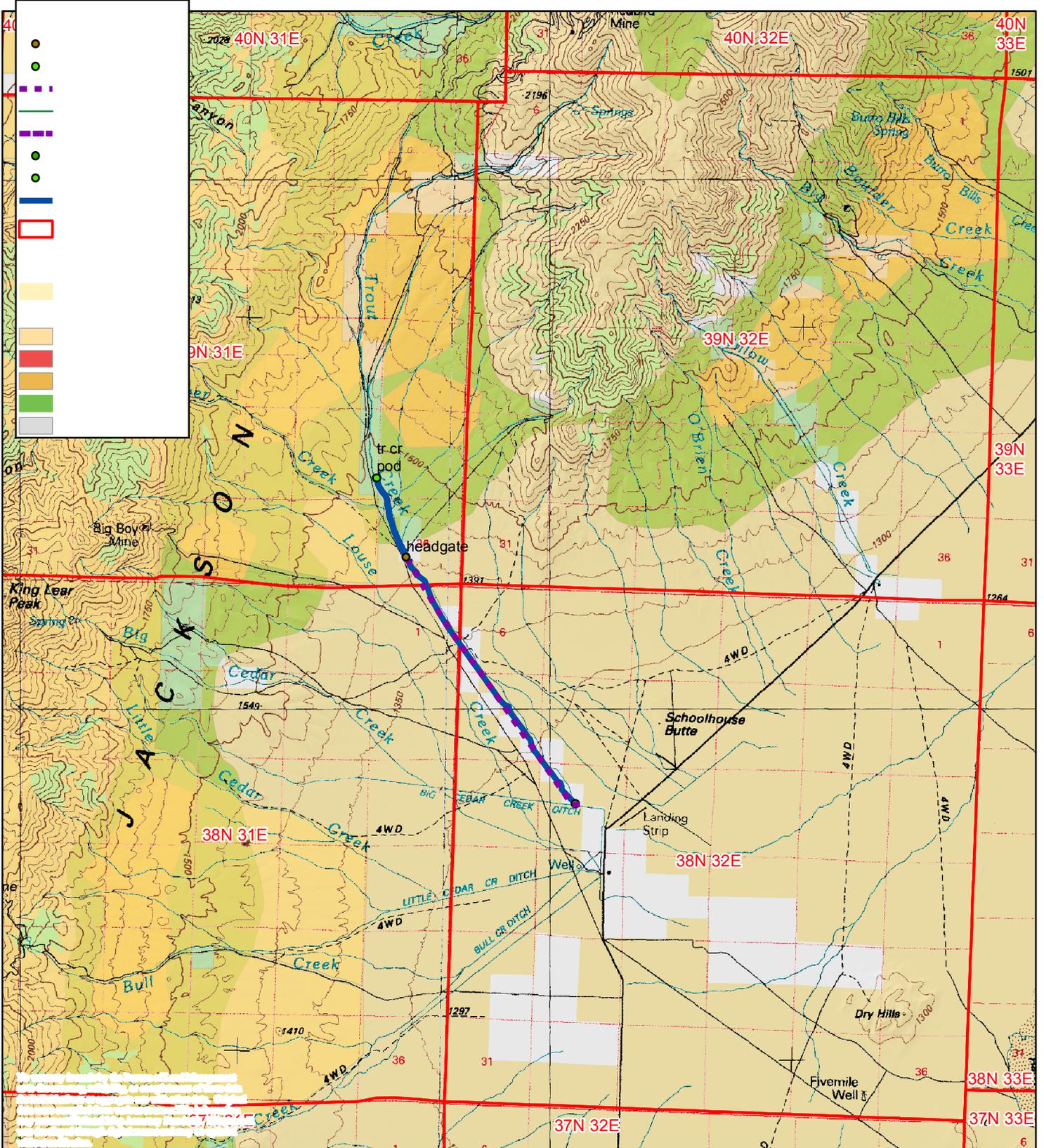
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).



# DeLong Pipeline ROW Renewal & Amendment N28749



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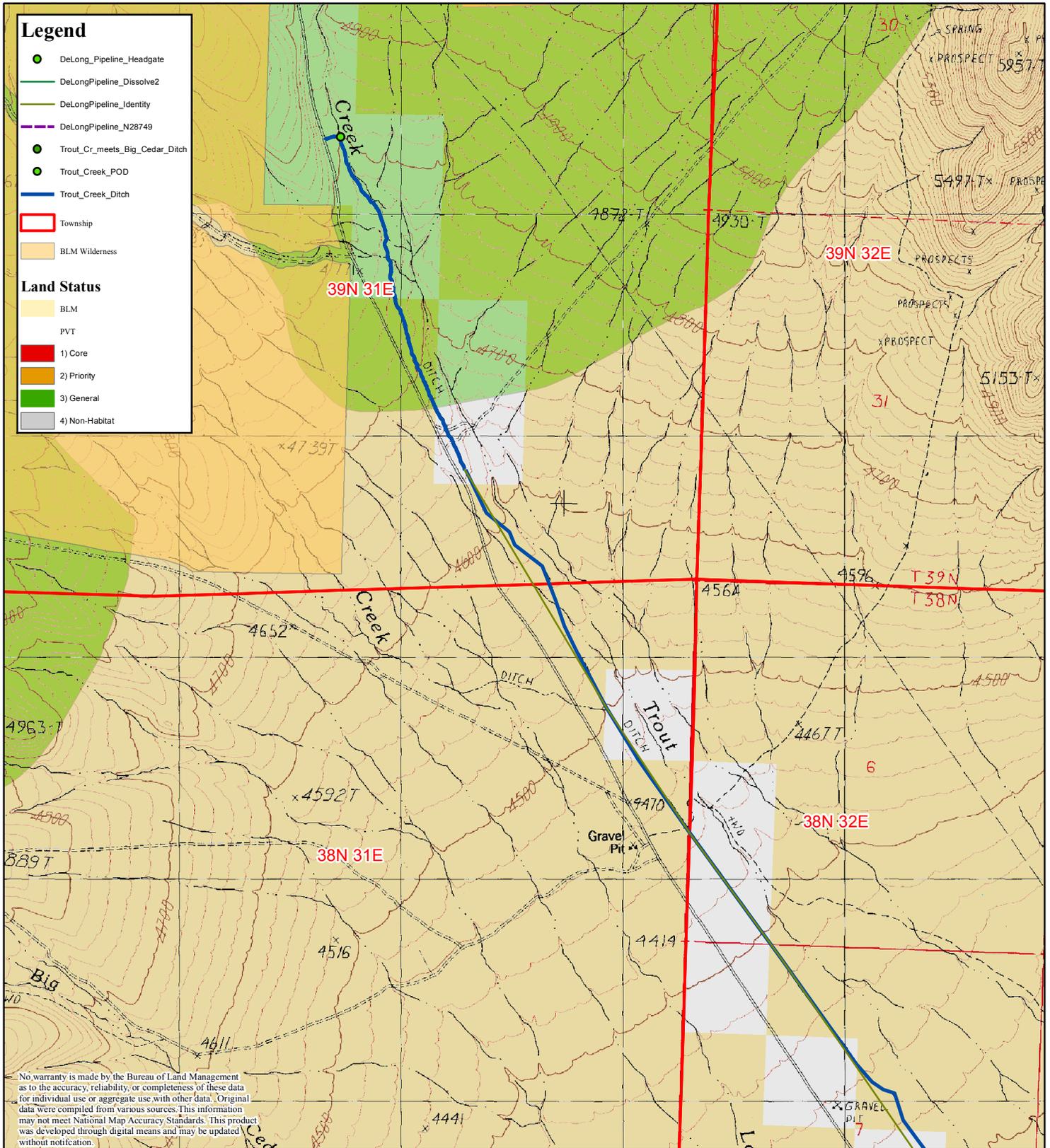
Jackson Mtn.  
 USGS 100k  
 T.39 N., R.31 E., sec. 36  
 T.38 N., R.31 E., sec. 1  
 T.38 N., R.32 E., sec. 6, 7, 17



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 Date: 4/28/2015



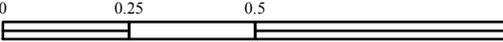
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USGS 24k Quadrangles  
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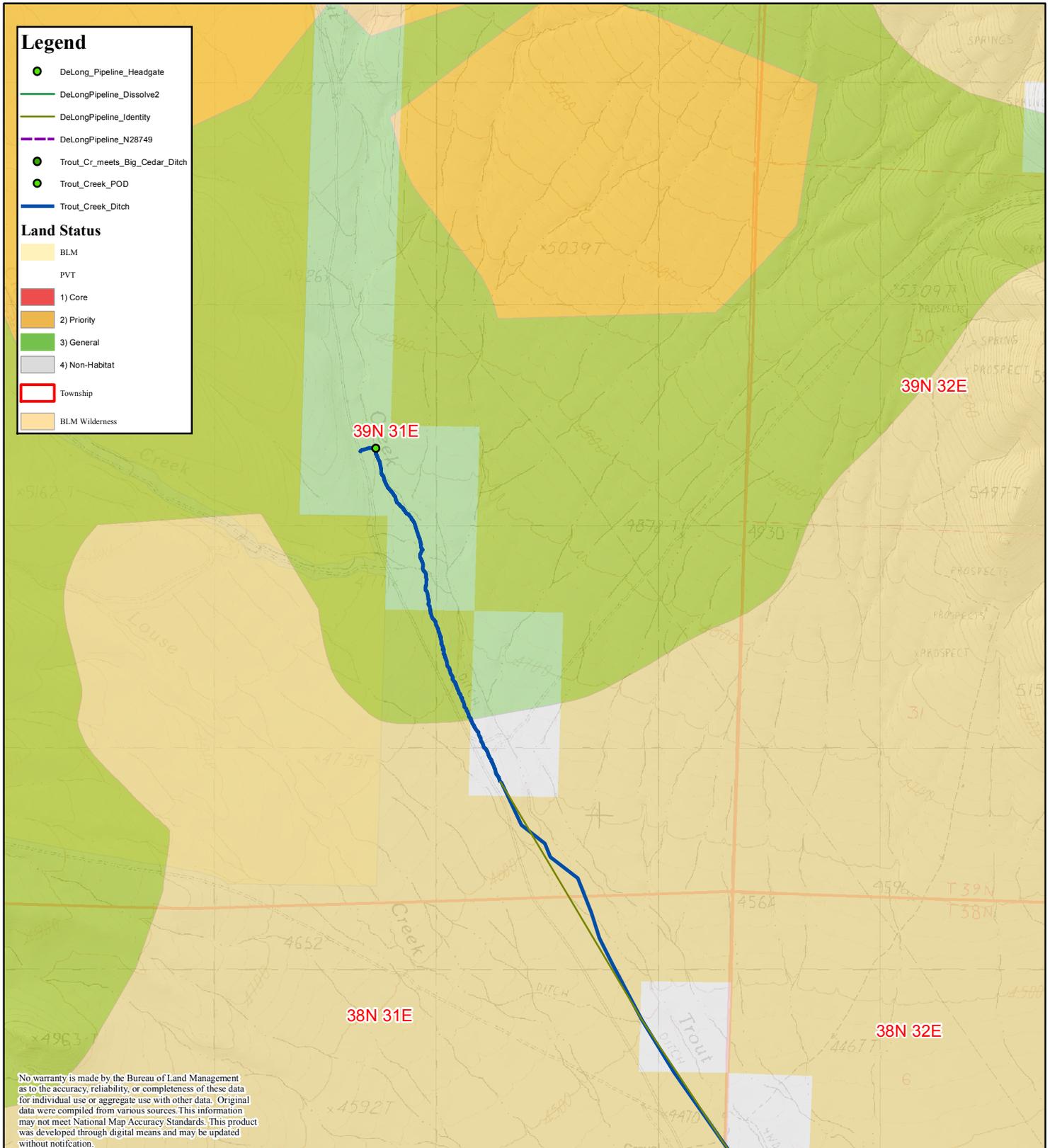
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Date: 4/28/2015



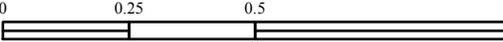
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