



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Challis Field Office
1151 Blue Mountain Road
Challis, Idaho 83226



RECEIVED

APR 27 2010

Department of Water Resources
Eastern Region

In Reply Refer To:
H-2801-1/IDI-034604 (IDI030)

April 23, 2010

Judd Whitworth
Whitworth Ranches
P.O. Box 126
Ellis, Idaho 83235

Dear Mr. Whitworth:

For your review, I've enclosed a Decision Record (DR) and Finding of No Significant Impact (FONSI). We drafted these documents following our analysis of potential impacts stemming from your request for a pipeline right-of-way (ROW) on public lands, (Bureau of Land Management (BLM) serial number IDI-34604).

As you will see in the DR and FONSI, my decision is to grant you the ROW as you described in your application IDI-34604. However, prior to offering you a grant, we will send a copy of this FONSI and DR to interested members of the public. From the time of receipt of this decision, there is a 30 day appeal period for you and the interested publics. If no appeal is received within the 30 day appeal period, I will offer you the grant. At that time, I will also issue you a decision determining your monitoring fee category and notify you what you owe the BLM for advance rental. We will present you with one bill for both of these charges. BLM Challis Field Office Realty Specialist, Tim Vanek will contact you regarding the monitoring fee and advance rental before the end of the appeal period.

If you have any questions regarding the enclosed DR and FONSI, please contact Mr. Vanek at (208) 879-6218 or by email at timothy_vanek@blm.gov. You may also contact me at (208) 879-6200. Thank you for your interest in public lands administered by the BLM.

Sincerely,

Roggy Suerdick
for
David Rosenkrance
Field Manager

Enclosures

FINDING OF NO SIGNIFICANT IMPACT AND DECISION RECORD

J. WHITWORTH- GOLDBURG CREEK DIVERSION PROJECT PAHSIMEROI RIVER WATERSHED, CENTRAL IDAHO ID-330-2009-EA-3584 IDI-034604

Proposed Action: The action is for the BLM to issue a 30-year-renewable term, irrigation pipeline right-of-way (ROW) grant for approximately 1 mile and varying in width from 24-35 feet, totaling approximately 3 acres. The ROW holder would also install a new point of diversion on Goldburg Creek subject to Idaho Department of Water Resources approval.

Applicant: Judd Whitworth

EA No.: ID-330-2009-EA-3584

Location of Action: The proposed action would occur along Goldburg Creek, a tributary to the Pahsimeroi River, approximately 30 miles southeast of the confluence of the Pahsimeroi and Salmon River at Ellis, Idaho. The project is in Custer County; legal description is B.M., T. 12 N., R. 24 E., sections 5 and 8.

Finding of No Significant Impact (FONSI)

I have reviewed the Environmental Assessment ID-330-2009-EA-3584 including the explanation and resolution of any potentially significant environmental impacts. I have determined that the Proposed Alternative will not have any significant impacts on the human environment and that an Environmental Impact Statement is not required.

Implementing regulations for National Environmental Policy Act (NEPA) (40CFR 1508.27) provide criteria for determining the significance of effects. 'Significant', as used in NEPA, requires consideration of both context and intensity. The bold and italicized text are repeated from 40CFR 1508.27 for completeness and an explanation follows for relevance to the decision.

(a) Context. This requirement means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant (40 CFR 1508.27):

This project is a site-specific action that by itself does not have international, national, region-wide, or statewide importance. The analysis has shown that the project significance is local in

nature and that the ROW and new point of diversion would have no significant impact on existing resource values.

(b) Intensity. This requirement refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following are considered in evaluating intensity (40 CFR 1508.27).

(1) Impacts that may be both beneficial and adverse.

- The analyses documented a potential benefit of approximately 4 ft³/sec water savings as a result of the pipeline installation ROW for a gravity irrigation system. This water efficiency benefits the applicant, and potentially downstream water resource uses, including fisheries and junior water right irrigation users. The applicant's reliance on a diesel pump would cease, pump noise would cease, and an economic and small air quality benefit would be realized. Adverse impacts will be the disturbance to native vegetation, soil, potential colonization by non-native invasive plants and a reduction in water volume in an approximate one mile stream reach on Goldburg Creek during the irrigation season. The analysis showed that this flow reduction would not be expected to affect resource values. A gravity fed irrigation system is perceived as a social, environmental and economic benefit by most county residents.

(2) The degree to which the proposed action affects public health or safety.

- Neither public scoping nor the analysis conducted in the EA identified any threats to public health and safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

- No significant effects on unique geographic characteristics of the area, cultural or historical resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas were identified in the EA.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

- The BLM-CFO posted the project to the BLM on-line NEPA database on January 14, 2009 and also posted a scoping letter to the same database on November 18, 2009. Western Watershed Project sent a letter to IDWR to protest the applicant's point of diversion request on March 3, 2008. BLM also protested the change of point of diversion, dependent on our processing the ROW application prior to an IDWR decision. Western Watershed Project was sent a scoping letter on November 20, 2009. To date, the BLM-CFO has not received any public comments concerning the project.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

- The EA disclosed that although the proposed action represents a potential water savings of approximately 4 ft³/sec and irrigation efficiency to the applicant, there is no guarantee of water use savings downstream from the project area. The BLM does not hold the water right, and has no ability to guarantee the saved water would not be used downstream by a junior water right holder.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

- Implementation of this decision would not trigger other actions, nor is it a part of a larger action in the project area encompassed by this decision. The CFO has granted numerous irrigation rights-of-way and nothing in the analysis indicated that this proposal is appreciably different and is therefore not precedent setting.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

- The cumulative analysis in the EA disclosed that for the foreseeable future, the Pahsimeroi River will continue to be heavily diverted and hydrologic disconnection in the upper Pahsimeroi River watershed will continue to be exacerbated. That being said, the recent and foreseeable trend from flood to sprinkler irrigation has resulted in some water savings. As noted in (5) there is uncertainty regarding water savings with junior water right withdrawals from Goldburg Creek.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

- The results of a Class II cultural resource inventory demonstrated that the alternatives would not result in adverse effects to cultural or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its critical habitat that has been determined under the Endangered Species Act of 1973, as amended

The BLM engaged in Section 7 consultation in connection with the proposed action and submitted a final Biological Assessment to United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) on September 29, 2009. The BLM received concurrence from USFWS, in a letter dated October 6, 2009 that the proposed action “may affect”, but is “not likely to adversely affect” Columbia Basin bull trout. The BLM has determined that the proposed action would have “no effect” on Snake River spring/summer Chinook salmon, Snake River Basin steelhead, Snake River sockeye salmon, and designated critical habitats for Snake River Basin steelhead and sockeye salmon. The BLM has determined that the proposed action would be “likely to adversely affect” designated, but

unoccupied, critical habitat for Snake River spring/summer Chinook salmon. Because of the likely to adversely affect determination, the BLM received a Biological Opinion from NMFS on March 3, 2010.

In the biological opinion NMFS determined that the action is not likely to destroy or adversely modify designated crucial habitats for spring/summer Chinook salmon. The degree to which the action would adversely affect designated critical habitat for Chinook salmon was based on the following considerations (biological opinion, NMFS No: 2009/05333 (BLM) February 26, 2010):

Baseline conditions prevent ESA-listed anadromous fish from accessing and occupying the action area, and there is no information to suggest that recolonization will occur during the proposed action. Therefore adverse effects to listed fish are not likely to occur.

The proposed action does not affect the likelihood of recolonization as the quantity of water diverted from the Pahsimeroi River, applied to irrigated crops, and exiting Goldburg Creek will not change as a result of the action.

Although the proposed action will reduce discharge by up to approximately 4 ft³/sec in the approximately 1 mile of Goldburg Creek, the reduction moves stream flow regimes closer to natural conditions in the action area, the stream is unoccupied, and baseline conditions downstream of the action area present a reasonable expectation that imminent colonization will not occur. Therefore, the action area is expected to retain its current ability to function or to become functionally established to serve the intended conservation role for the species.

Information presented in the baseline indicated that Goldburg Creek is functioning at unacceptable risk for water temperature, changed peak/base flows, and physical barriers. The proposed action will slightly increase the water temperature and reduce baseflows from existing conditions in a short stream reach. However, the proposed action will remove only water imported from the Pahsimeroi River and will therefore return the action area to a more natural hydrograph. In addition, the affected reach is a very small portion of the critical habitat within the population boundary. Therefore, effects to critical habitat in the action area are not expected to reduce the conservation value at the Pahsimeroi River Basin scale.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

- The analysis in the EA shows that the alternatives are consistent with Federal, State, and local laws or requirements imposed for protection of the environment.

I find that implementing the Proposed Action does not constitute a major federal action that would significantly affect the quality of the human environment in either context or intensity. I

have made this determination after considering both positive and negative effects, as well as the direct, indirect and cumulative effects of this action and reasonably foreseeable future actions. I have found that the context of the environmental impacts of this decision is limited to the local area and I have also determined that the severity of these impacts are not significant.

Decision Record

After careful consideration, it is my Decision to implement the Proposed Action of the attached Environmental Assessment EA #ID-330-2009-EA-3584. A 30-year renewable irrigation pipeline ROW will be issued, when the Idaho Department of Water Resources approves the applicant's point of diversion, and would end on December 31, 2039. The following BLM Rights-of-Way Stipulations will be included in the grant:

- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- 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 40 CFR, Part 2800, Subpart 2807, §2807.19, or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th 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 this assessment and the map of the staging areas are incorporated into and made a part of this 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 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.
- g. All ground disturbing activities shall be located as far away from a stream as possible. All efforts shall be taken to avoid introducing sediment into a stream channel.

- h. Piles of fill and/or unvegetated soils adjacent to the stream will require sediment retention fence to prevent mobilization of sediment during subsequent precipitation events.
- i. Staging of equipment and materials will be conducted on private land outside of riparian areas. Equipment fueling shall not be conducted in any riparian area to avoid potential impacts to water quality. No refueling, equipment repair, or petroleum based lubricating will be allowed within 100 feet of a stream.
- j. Heavy equipment shall be cleaned of all materials that may contain noxious weed seeds before beginning work on public lands. Heavy equipment shall be cleaned on-site after working in an area infested with noxious weeds or cheatgrass.
- k. Any petroleum products in excess of 50 gallons shall be stored in constructed containment structures with an impervious liner of volume equal to or larger than the storage container. Spill containment kits of appropriate size for the equipment to be used shall be present during construction. Adherence to BLM and State of Idaho guidelines in the event of a petroleum spill shall be required.
- l. If at any time during project implementation, cultural artifacts, archaeological sites, or other cultural resources are located, all work in the area will cease and the grantee/representative will immediately contact the Challis Field Manager or authorized officer. Work in the area will remain suspended until a qualified BLM archaeologist visits the site, determines the significance of the resource, and develop appropriate mitigation actions in consultation with SHPO and, if appropriate, the Shoshone-Bannock Tribes. If appropriate, the authorized officer will then provide the grantee written permission to resume work.
- m. The holder shall re-contour disturbed areas, or designated sections of the right-of-way, by grading to restore the site to approximately the original contour of the ground. All disturbed areas shall be re-seeded with a BLM approved seed mix, as determined by the authorized officer, during the appropriate season (early spring or fall).
- n. In areas where vegetation is completely removed (e.g. pipeline trench, inlet ditch, streambank removal) the grantee will preserve intact groups of upland shrubs or riparian shrubs. To the greatest extent possible, the grantee will use viable, preserved vegetation to assist re-vegetation efforts of disturbed areas.
- o. If it becomes necessary to construct a weir to raise the surface water elevation and ensure sufficient flow into the inlet ditch, per National Marine Fisheries Service (NMFS) passage criteria, the structure would be required to NOT impede fish movement. For

example, to ensure the weir is not a passage impediment, the hydraulic drop over the weir cannot exceed 1.5-feet, or the weir cannot produce a depth of less than 10-inches, or create a flow velocity greater than 12 feet/sec over 90% of the channel cross section (NMFS 2008; USDI-BOR, 2007 see EA). The proposed weir would be placed and removed annually, and would consist of hand placed rocks from Goldburg Creek, or rip-rap (24"-minus) if necessary. The rock weir would be removed in conjunction with winterization of the ditch and bubble screen. The weir would create approximately a 6" hydraulic drop. Upon installation of a weir the operator would be required to contact the BLM, at which point a fisheries biologist or hydrologist would inspect and ensure passage criteria.

- p. During the term of this Right-of-Way, if Chinook salmon or Snake River steelhead are documented to occur in Goldburg Creek, then the grantee shall install a NMFS criteria screen.
- q. The grantee shall file, and be granted a water right transfer with IDWR, pursuant to Idaho Statute 42-222. Prior to any ground disturbing activity on the ROW, the grantee shall install (if not currently present) an approved flow measurement device at the point of injection where the appropriate Pahsimeroi River cross-valley ditch injects flow into Goldburg Creek (T12N, R24E, Sec16. SW, SW, NW). This device is in addition to an approved lockable and measureable structure at the POD.

If acceptable to IDWR, the measuring device located at the Pahsimeroi River injection point into Goldburg Creek will be used to determine water availability for the POD. Because the injection point conveys Pahsimeroi River water into Goldburg Creek for re-diversion at points downstream. This includes the proposed POD in water transfer #72799, for water right #73-146 from the Pahsimeroi River. When the cross-valley injection ditch is flow limited, the measuring device would determine availability of Pahsimeroi River water in Goldburg Creek.
- r. Upon request, the grantee shall submit to the BLM, the basin 73 water master report, specifically, sections relevant to the Pahsimeroi River cross valley ditches and Goldburg Creek diversions.

Rationale for Decision

Section 7 of the ESA outlines the procedures for Federal interagency cooperation to conserve federally listed species and designated habitat. Section 7(a)(2) states that each Federal agency shall, in consultation with the Secretary of the Department of Interior, insure that any action they authorize, fund, carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of their designated, proposed, critical, or essential habitat. The BLM-CFO has prepared a Biological Assessment, consulted with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS), and received concurrence from the USFWS on October 6, 2009. Consultation with NMFS resulted in

a Biological Opinion, received March 3, 2010, that determined the proposed action is not likely to result in the destruction or adverse modification of designated critical habitat for Chinook salmon.

This ROW will allow the applicant a more energy efficient irrigation system. After initial expenses, the proposed action would have an economic benefit to the applicant because the irrigation system would be gravity fed and no pumping costs would be expected. The use of gravity to irrigate would also reduce noise from pumping and pollution created by the diesel pump.

A potential benefit of increased irrigation efficiency is more water will be left in the stream downstream from the existing diversion structures. In this instance, the BLM estimated that the existing irrigation system requires approximately 10.8 ft³/sec to irrigate at maximum capacity (including flood and 2 pivots). Under the proposed action, irrigating at maximum capacity, the system would require approximately 4 ft³/sec to run 2 pivots, and 2.9 ft³/sec for remaining flood irrigation. A net reduction in withdrawal by the applicant would result in a water savings of approximately 4 ft³/sec and convey some additional surface water to downstream reaches of Goldburg Creek, and potentially improve connectivity for fish passage and occupancy within the flow limited reaches downstream of the proposed project reach. However this outcome is not guaranteed due to the possibility of any water savings being used by junior water right holders.

The consequence of a new point of diversion is that less water would be in Goldburg Creek for approximately one mile when the irrigation system is in use. This will reduce water quantity in this reach, and potentially increase water temperatures. Direct contribution of sediment to Goldburg Creek would occur during construction, but is not anticipated to prevent attainment of TMDL sediment load allocations and bank stability objectives. Support of beneficial uses for Goldburg Creek is anticipated to continue.

Vegetation would be destroyed within the pipeline ROW and at the area of the new point of diversion. The total area would be approximately 3 acres. After the re-seeding with native plant species, the probability of successful seedling survival and plant establishment is dependent on the amount and timing of precipitation. Re-vegetation efforts may not be successful, increasing the chances of weed infestation, though with time, native species may become established.

Despite reclamation and weed control efforts, there is the possibility of establishment of invasive species as a result of this disturbance. The applicant would be responsible for weed control and seeding with a BLM approved seed mix to increase competition with, and aid in the elimination of non-native invasive plants.

Riparian habitat removed by the proposed project would be small in scale (approx. 0.1 ac) and would not equate to a substantial loss of migratory bird habitat within the vicinity, though some individuals could be disturbed or harmed during construction activities.

Re-vegetation with a BLM approved species should help to make soil impacts short-term (2-5 years).

The proposed action would result in temporary or short-term impacts to some of the natural resources that the Tribes require to exercise their treaty rights.

The project would remove approximately 15-lineal feet of streambank. Direct contribution of sediment and short duration turbidity would occur as a result of this action. Measureable increases in surface fines downstream of the POD are not anticipated. Substrate composition near the POD would be altered as a result of 24-inch minus rip-rap used to stabilize the ditch inlet and bypass outlet. Indirect contributions of sediment would result from the ditch fill left in place as a berm. Also contributions of sediment from portions of the pipeline within 50-feet of Goldburg Creek (approximately 127-lineal feet) would be expected to occur until re-vegetation occurs and reduces overland flow and mobile sediment.

The reduction in volume of water in Goldburg Creek would occur during the growing season and may alter riparian vegetation abundance and composition along the stream bank in the approximately 1-mile long project area. However, the flow-gaining nature of Goldburg Creek may negate any impacts to riparian vegetation as a result of flow diversion. For example, riparian vegetation along flow-losing reaches is more sensitive to flow reductions than along gaining reaches (Kondolf 1989; Rood et al. 2003). In comparisons of riparian vegetation among flow losing and flow gaining reaches, it has been demonstrated that flow gaining reaches support more abundant stands of willow, alder, and red osier dogwood (Harner and Stanford 2003). As a result of the proposed action and subsequent flow diversion, changes to riparian vegetation could occur, however, impacts are expected to be insignificant based on several factors: 1) the project reach is a flow-gaining reach that receives sub-surface contribution from ground water, which should mediate any effects of surface-flow removal on the saturation zone that sustains willows and other riparian vegetation; 2) the current amount of surface flow in Goldburg Creek is not natural, since it receives substantial flow from the Pahsimeroi River via ditches, and the proposed action will create a more natural flow regime; 3) the proposed action will not dewater Goldburg Creek or fragment reaches of perennial surface water; 4) as an indirect effect, surface water may persist further downstream where diversions currently dewater the channel, and extend the distribution of some riparian vegetation.

This action is in conformance with the Challis Resource Management Plan, dated July, 1999. The proposed action meets the guidelines found in Section II, Land Tenure and Access, Goal 3, Rationale #1, page 35. The Proposed Action is also in compliance with the conditions under which new rights-of-way for water diversions from public lands would be granted:

“New rights-of-way for water to be diverted from public land by a private claimant would only be granted if (a) the diversion facility is controllable, measurable, and/or designed to divert, at most, that amount of water permitted in the water right, and (b) the diversion would have no significant impact on existing resource values, and (c) granting the right-of-way would not adversely affect achievement of riparian management or aquatic objectives, and (d) when appropriate, the diversion facility is designed and constructed in accordance with the latest fish screening and bypass criteria. (USDI-BLM 1999:35 Goal 3, #8)”

The action will not have significant direct, indirect or cumulative impacts to the human environment.

Authority

The authority under which this decision is made is found in Federal Land Policy and Management Act of 1976 Title V. Section 501. Regulations are found in 43 CFR Part 2800.

Appeal Procedures

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If you appeal, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2801.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

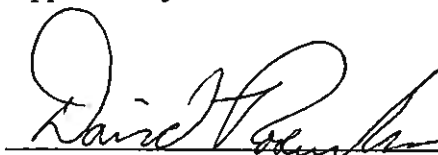
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall 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.

If you decide to also submit a petition for stay of the decision, a copy of the notice of appeal, statement of reasons, and petition for stay should be simultaneously filed.

Approved by:



David Rosenkrance
Field Manager
Challis Field Office

Date

21 APRIL 2010

ENVIRONMENTAL ASSESSMENT
J. Whitworth- Goldburg Creek Diversion Project
Pahsimeroi River Watershed, Central Idaho
ID-330-2009-EA-3584
IDI-034604
Challis Field Office
1151 Blue Mountain Rd.
Challis, Idaho 83226
April 20, 2010

ENVIRONMENTAL ASSESSMENT	1
J. Whitworth- Goldburg Creek Diversion Project.....	1
Background	4
Purpose of and Need for Action.....	4
Location of Proposed Action:	4
Conformance with Applicable Land Use Plan:.....	4
Relationship to Statutes, Regulations, or Other Plans:	5
THE PROPOSED ACTION AND ALTERNATIVE(S)	7
Description of Proposed Action.....	7
Bubble Screen and Bypass Outlet Installation.....	8
Pipeline Installation:	8
Description of Alternatives	9
Alternatives Considered but not Analyzed in Detail:	9
AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES	9
General Setting:	9
PROPOSED ACTION and NO ACTION ALTERNATIVES	13
Air Quality:	13
Affected Environment:	13
Environmental Consequences.....	13
Proposed Action:	13
<i>No Action alternative:</i>	13
Economic and Social Values:	13
Affected Environment:	13
Environmental Consequences:	14
Proposed Action:	14
No Action alternative:	14

Existing and Potential Land Uses:	14
Affected Environment:	14
Environmental Consequences:	14
No Action alternative:	15
Threatened/Endangered Fish; Sensitive Fish; Fisheries:	15
Affected Environment:	15
Environmental Consequences:	17
Proposed Action:	17
No Action alternative:	19
Invasive and Non-native Species:	19
Affected Environment:	19
Environmental Consequences:	19
Proposed Action:	19
No action alternative.....	19
Migratory Birds:.....	20
Affected Environment:	20
Environmental Consequences:	20
No Action alternative:	20
Soils:	20
Affected Environment:	20
Environmental Consequences:	20
No Action alternative:	21
Tribal Treaty Rights and Interests:.....	21
Affected Environment:	21
Environmental Consequences:	21
No Action alternative:	21
Vegetation:	22
Affected Environment:	22
Environmental Consequences:	22
No Action alternative:	22
Water Quality:.....	22
Affected Environment:	22

Environmental Consequences:	23
Wetland and Riparian Zones:.....	24
Affected Environment:	24
Environmental Consequences:	24
Proposed Action:	24
No Action alternative:	24
CUMULATIVE IMPACTS	25
Cumulative Impact Assessment Area	25
Threatened/Endangered Fish; Sensitive Fish; Fisheries- Cumulative Impact:	28
Water Quality Cumulative Impacts:	29
CONSULTATION AND COORDINATION	29
Preparers:	29
List of BLM Contributors:.....	30
References:.....	30

INTRODUCTION

Background:

The Bureau of Land Management (BLM) – Challis Field Office (CFO) received an application for a new water pipeline right-of-way (ROW) which would include a point of diversion (POD) on Goldburg Creek, a tributary to the Pahsimeroi River, from Pahsimeroi Valley resident and rancher, Judd Whitworth (hereinafter referred to as “the applicant”) on July 23, 2007. It included location and design specifications. The applicant has been working with Natural Resources Conservation Service (NRCS) to pursue funding for this proposed project. NRCS provided cost share funding under the Environmental Quality Incentives Program (EQIP).

The applicant currently diverts water from Goldburg Creek, approximately 1-mile downstream of the proposed new diversion point, with an existing diversion structure and ditch. The applicant uses the diverted water for flood irrigation and to run an irrigation pivot on private land. The existing pivot uses a diesel pump to provide enough hydraulic pressure to operate. The proposed pipeline ROW and POD met funding criteria as an energy conservation project because under the proposed project a diesel pump would no longer be needed to run the pivot. The new point of diversion for this project is pending approval from Idaho Department of Water Resources (IDWR). The BLM would not issue a ROW until the point of diversion is approved by IDWR.

The BLM-CFO posted the project to the BLM on-line NEPA database on January 14, 2009 and also posted a scoping letter to the same database on November 18, 2009. Western Watershed Project sent a letter to IDWR to protest the applicant’s point of diversion request on March 3, 2008. BLM also protested the change of point of diversion, dependent on our processing the ROW application prior to an IDWR decision. Western Watershed project was sent a scoping letter on November 20, 2009. To date, the BLM-CFO has not received any public comments concerning the project.

Purpose of and Need for Action:

The purpose of this action is for the BLM-CFO to issue a pipeline ROW to the applicant. The need for the action is for the BLM-CFO to fulfill its multiple-use, Federal land managing agency mandate, as established by the Federal Land Policy and Management Act (FLMPA). This mandate obligates the BLM to consider applications for rights-of-way. The applicant’s need is to increase irrigation efficiency by using a gravity flow system

Location of Proposed Action:

The proposed action would occur along Goldburg Creek, a tributary to the Pahsimeroi River, approximately 30 miles southeast of the confluence of the Pahsimeroi and Salmon River at Ellis, Idaho (Map A). The project is in Custer County; legal description is B.M., T. 12 N., R. 24 E., sections 5 and 8.

Conformance with Applicable Land Use Plan:

The BLM-CFO has reviewed the proposed action for conformance with the Challis Resource Management Plan (RMP) (USDI-BLM 1999). The action is in conformance with the Land Use Plan (LUP) decision to:

“Consider public needs for use authorizations, such as rights-of-way, leases, permits and withdrawals. (USDI-BLM 1999:35, Goal 3)”

The Proposed Action is also in compliance with the conditions under which new rights -of -way for water diversions from public lands would be granted:

“New rights-of-way for water to be diverted from public land by a private claimant would only be granted if (a) the diversion facility is controllable, measurable, and/or designed to divert, at most, that amount of water permitted in the water right, and (b) the diversion would have no significant impact on existing resource values, and (c) granting the right-or-way would not adversely affect achievement of riparian management or aquatic objectives, and (d) when appropriate, the diversion facility is designed and constructed in accordance with the latest fish screening and bypass criteria. (USDI-BLM 1999:35 Goal 3, #8)”

Relationship to Statutes, Regulations, or Other Plans:

The statutes that affect assessment of this project include the Federal Clean Water Act (CWA) (33 USC §1251 et seq.), Endangered Species Act (ESA) (16 USC §1531 et seq.), Federal Land Policy and Management Act (FLPMA) (43 USC §1733 et seq.), and National Environmental Policy Act (NEPA) (42 USC §4321 et seq.). The Idaho Statute that affects assessment of this project is Idaho Code §42-222 *Change in Point of Diversion, Place of Use, Period of Use, or Nature of Use of Water under Established Rights --- Forfeiture and Extensions --- Appeals*. The Idaho Administrative Code that affects assessment of this project is the Stream Channel Alteration Rules (Idaho Administrative Procedures Act [IDAPA] 37.03.07).

The CWA requires that states and tribes restore and maintain the chemical, physical, and biological integrity of the nation's waters. States and tribes must adopt water quality standards necessary to protect fish, shellfish, and wildlife while providing for recreation in and on the waters whenever possible.

Section 303(d) of the CWA establishes requirements for states and tribes to identify and publish a prioritized list of water bodies which are impaired (not fully supporting their designated beneficial uses), every two years.). The most recent publication for Idaho was in 2008 by the Idaho Department of Environmental Quality (IDEQ).For waters identified on this list, the State must define total maximum daily loads (TMDLs) for each pollutant causing the water body not to fully support its designated beneficial uses. The TMDL is the amount of pollutant which could be added to the water body per day and the given water body would still fully support all of its designated beneficial uses. This is then used to establish allowable pollutant loads set at levels to achieve water quality standards required for the designated beneficial uses.

While the reach of Goldburg Creek which the proposed action could affect is not listed on the State of Idaho 303(d) list of streams, the majority of its tributaries are 303(d) listed for not supporting secondary contact recreation (any activity in which partial or incidental, protected bodily contact occurs with water). Fecal coliform is the pollutant listed as the cause for these streams not fully supporting this beneficial use. Goldburg Creek is a tributary to the Pahsimeroi River, which from the headwaters to the confluence with the Salmon River, is also 303(d) listed. The reach of the Pahsimeroi River containing the confluence with Goldburg Creek is 303(d) listed for not fully supporting cold water aquatic life. Siltation and

sedimentation are listed as the causes for this reach not fully supporting this beneficial use.

Section 404 of the CWA Permits for Dredged or Filled Material states under paragraph (f) excepted item 1(C) "for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;" and under section 1(E) "(E) for the purpose of construction or maintenance of farm roads or forest roads..." Therefore a 404 permit will not need to be obtained by the applicant.

Idaho Code 42-222 requires water right owners to file a transfer application with the IDWR to add a point of diversion to an existing water right. The applicant has filed an application for transfer given the number 72799 by IDWR. This application is currently subject to protest by the BLM Challis Field Office. The protest was filed by the BLM because the applicant did not have a ROW for the portion of the work to be conducted on BLM administered land. The state regulations for in-stream construction are from the Idaho Stream Channel Alteration Rules which state:

Cleaning, Maintenance, Construction or Repair Work – No permit is required of a water user or his agent to clean, maintain, construct or repair any diversion structure, canal, ditch, or lateral, or to remove any obstruction from a stream channel which is interfering with the delivery of any water under a valid existing water right or water right permit (IDAPA 37.03.07.025.03.).

Pursuant to IDAPA the rules stated above require no permit or stream channel alteration oversight would be associated with this action by the state of Idaho.

Section 7 of the ESA outlines the procedures for Federal interagency cooperation to conserve federally listed species and designated habitat. Section 7(a)(2) states that each Federal agency shall, in consultation with the Secretary of the Department of Interior, insure that any action they authorize, fund, carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of their designated, proposed, critical, or essential habitat. The BLM-CFO has prepared a Biological Assessment, consulted with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS), and received concurrence from the USFWS on October 6, 2009. Consultation with NMFS resulted in a Biological Opinion, received March 3, 2010, that determined the proposed action is not likely to result in the destruction or adverse modification of designated critical habitat for Chinook salmon. Species under ESA consideration for this project, include bull trout and Chinook salmon. Designated critical habitat for Chinook salmon is also under ESA consideration for this project.

The BLM-CFO has conducted consultation with BLM's National Programmatic Agreement and the implementing protocol agreement between Idaho BLM and the Idaho State Preservation Office under the National Historic Preservation Act of 1966 (as amended). This project would have no effect on cultural resources.

The 1868 Fort Bridger Treaty, between the United States and the Shoshone and Bannock Tribes, reserves the Shoshone-Bannock Tribes' right to hunt, fish, gather, and exercise other traditional uses and practices on unoccupied federal lands. Under this treaty and other statutes and executive orders, BLM has a responsibility and obligation to consider and consult on potential effects to resources related to the Tribes' treaty rights or cultural uses. The Shoshone-Bannock Tribes' Fort Hall Business Council and tribal

technical staff were informed of the BLM's intent to consider the applicant's request for ROW, in addition to other proposals the BLM-CFO was considering, in a letter dated February 18, 2009. The Shoshone-Bannock Tribes' tribal technical staff was briefed on the status of this project at a meeting held on Feb. 26, 2010

THE PROPOSED ACTION AND ALTERNATIVE(S)

Description of Proposed Action:

The proposed action is for the BLM to issue a 30-year (renewable) term irrigation pipeline ROW grant for approximately 1 mile and varying in width from 35 to 24-feet, totaling approximately 3 acres. The ROW holder would also install a new point of diversion open ditch channel, bubble-screen (to keep fish and debris out of the pipeline), a buried bypass pipe to return excess water to Goldburg Creek and possibly a rock weir. The irrigation water pipeline and associated facilities would convey 3.7-ft³/sec of water across BLM administered lands (Map B).

The portion of the ROW closest to Goldburg Creek is for an open ditch that would be 85-feet long and approximately 35-feet wide (0.10 acres) that would convey water to the pipeline. The pipeline layout, and associated diversion structures are depicted in Map B; design specifications are described in the following paragraphs. Best management practices (BMPs) to minimize impacts from construction activities are described in Appendix A.

Upon completion of the project, the applicant would re-contour all disturbed areas and seed these areas using a BLM-approved seed mix (Appendix B). Staging areas for construction equipment and bubble-screen materials would be located outside of the riparian area, on private lands, and would also be re-seeded following project completion. Travel from the staging areas to the construction sites would occur on existing roads and along the new pipeline corridor. Point of Diversion (Headgate, Ditch, and Weir Installation):

A point of diversion (POD) would be constructed at the location depicted on Map B and designed as drawn in Appendix A. The proposed point of diversion would require the removal of approximately 15-feet of streambank to install an open ditch inlet and flow bypass pipe outlet (Appendix A). The new POD structure would be lockable and measurable to comply with IDWR requirements and the Challis RMP (USDI-BLM 1999). At the widest point, the ditch would be 14-feet wide and neck down to 3-feet width for the majority of the length. The open ditch channel would be constructed adjacent to Goldburg Creek and be 85-feet long, 3-feet wide and 1.5-feet deep. The fill material near the point of diversion would require 10-feet of fill space and room for equipment operation and maneuvering. As a result, the ROW width would be 35-feet to accommodate the construction at the widest location. Ditch construction would be performed with a backhoe including the removal of the 15-feet of stream bank. Fill from excavation of the ditch would be piled between the ditch and the stream. This would create a berm to protect the diversion structure during high-water. The fill left in place as a berm would be next to the stream at the head of the ditch inlet, and then diverge away from the active channel, following the course of the ditch. The berm would be seeded with a BLM-approved seed mix to prevent erosion.

One of the purposes of the berm is to prevent erosion which may result from the installation of the ditch inlet at the point of diversion. When the headgate is closed (even partially), the berm would stop the water being backed up by the headgate from blowing out the ditch between the headgate and the mouth of the ditch. In order to prevent erosion of the stream bank as a result of the creation of a new ditch, rip-rap (24-inch minus) would be used to stabilize the sides and bottom of the ditch adjacent to Goldburg Creek. All rock would conform to the existing lines and grades of the natural channel and would not obstruct the natural stream's cross section. Winter maintenance requires filling a small portion of the ditch with rock and dirt (Appendix A, Site Plan), which is referred to as an earthen plug and is done for the purpose of minimizing water input and ice damage. The earthen plug would be placed by hand; no mechanical equipment would be used for this task.

A weir is an engineered structure consisting of an over flowing obstruction placed in a water way. Weirs can be used to raise the elevation of the surface water in the stream increasing the quantity of water diverted into a ditch. The proposed diversion structure design is not anticipated to require a weir. However, in the event of low-flows, or a lack of water delivery into the ditch, the surface water elevation may need to be elevated to increase the amount of water diverted. If necessary, hand-placed rock would be stacked in the stream. This would result in an approximate difference in water surface elevation (i.e. hydraulic drop) of 6". Rocks native to Goldburg Creek would be used; but if needed, additional rip-rap rocks (24-inch minus) would be used. Installation and removal of the rock-weir would be conducted annually as part of the "winterization" process. No machinery would be used to place or remove rock.

Bubble Screen and Bypass Outlet Installation:

The ditch would convey water into a Gooby Flat Plate Screen structure (a modified type of bubble-screen structure). The purpose of this structure is to transfer the water from an open ditch into a pipe. In order for the water to be transferred it must be filtered and the pressure entering the pipe must be regulated. The bubble-screen structure (25-ft²) would be constructed adjacent to Goldburg Creek and would be partially buried allowing it to fully capture the water in the excavated open ditch. A lockable and measureable headgate would be installed as required (IDWR 2008 and Challis RMP 1999) where water enters the bubble screen structure. The approach velocity of flow as it enters the headgate / bubble screen structure would be approximately 0.2 feet/sec. This water flows into a vertical riser which pipes up water onto the screen surface, separating fish and debris. Debris and fish are conveyed off of the screen and back to Goldburg Creek via the bypass pipe. The location or height of the bypass pipe in the bubble screen structure fixes the maximum pressure at which water can enter into the irrigation pipe underneath the screen at the bottom of the structure. The mesh-size of the screen will be 3/32-inches, consistent with NMFS criteria. Additionally, fish of sufficient swimming ability can travel back through the vertical riser pipe and ditch to return to the stream. The 6-inch buried bypass pipe would be approximately 30-feet long, and drain into Goldburg Creek. At the location of the bypass pipe discharging into Goldburg Creek rip-rap (24-inch minus) would be used to reinforce the stream bank for the purpose of preventing erosion associated with water flowing out of the outlet (Appendix A).

Pipeline Installation:

The upper reach of the proposed pipeline would parallel Goldburg Creek and the county road on BLM administered lands, then cross underneath the county road and continue on BLM administered lands for a

total of approximately one mile (Map B). Beyond this point, the pipe would enter onto the applicant's private land and extend for an additional 70 feet. The proposed pipeline would total 4,426 feet (15" PVC pipe) and extend from the proposed bubble screen to the existing bubble screen on private lands where it would tie into the existing mainline. Equipment used to install the pipeline would include an excavator and/or backhoe and a dump truck. Staging areas for equipment and material storage would be located at least 100-feet away from riparian areas on private land. Construction of the pipeline is anticipated to take approximately 10 days.

Description of Alternatives:

The no action alternative would be to deny the application for a pipeline ROW and a new point of diversion. No construction activities would occur.

Alternatives Considered but not Analyzed in Detail:

An alternative that would route the pipe line in an existing two track road was considered because there would be less vegetation disturbed. However, it was not considered further because this ROW would have occurred entirely within the Riparian Habitat Conservation Area of Goldburg Creek. Riparian Habitat Conservation Areas are buffer areas for riparian systems that were established under PACFISH, and adopted in the Challis RMP, to mitigate inputs of non-point source pollutants, including sediment. Moreover, the alignment in a two track would have needed numerous bends and been more complex to design.

AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

This section provides a description of the general environmental setting and resources within that setting that could be affected by the proposed action and alternative(s). In addition, the section presents an analysis of the direct, indirect, and cumulative environmental impacts likely to result from the implementation of the various alternatives.

General Setting:

The project area near Goldburg Creek is in the upper reaches of the Pahsimeroi River watershed approximately 29 miles from the confluence of the Pahsimeroi and Salmon rivers at Ellis, Idaho. The Pahsimeroi is 845 square mile subbasin that is further divided into 27 watersheds. During the Interior Columbia River Basin Assessment, the Pahsimeroi sub-basin was given a low rating for hydrologic integrity as compared to other sub-basins in the interior Columbia River Basin (USDA/USDI, June 1997, GTR 405, pp. 259-264). This means that the Pahsimeroi sub-basin generally does not have a well-connected network of streams and groundwater (USDI-BLM, USDA-FS 2001 pp. 46.). Two issues were discussed in the Pahsimeroi River Sub-Basin Review (USDI-BLM, USDA-FS 2001. Pp46-60): reduced stream flows and water quality. Status, Risk and Opportunity Ratings by each of the 27 watersheds was provided. Upper Goldburg Creek in the Donkey Hills Watershed Group in the vicinity of the project area had a Status of Low, which meant that that watershed contained de-watered stream segments that are not salmonid fish passable. Risk was rated High, which meant that an increase deficit to ground water recharge was affected by diversions on Goldburg Creek and likely also impacted the base flow of the

Pahsimeroi River. Opportunity ratings were Medium; annotated: "Landowner may be willing to restore water in stream (USDI-BLM, USDA-FS 2001 Table 7, pp.53)

Goldburg Creek is known to contain brook trout (*Salvelinus fontinalis*) in the reach of the project; however, upstream reaches of Goldburg Creek and Big Gulch contain bull trout (*Salvelinus confluentus*). Bull trout, listed as Threatened under the Endangered Species Act and may occupy this reach some time during the year.

Goldburg Creek was designated critical Chinook salmon (*Oncorhynchus tshawytscha*) by NMFS. The accepted upstream distribution of Chinook salmon is near the confluence of Morse Creek approximately 15 miles from the project area. The designation as critical was based on assumed historical distribution of the species. Currently, aquatic habitat has been altered by irrigation diversions, flow-losing reaches, and grazing.

The area is flat to gently sloping, sagebrush plant community with elevations ranging from 6,100 feet at the proposed diversion point to 6,010 feet near the applicant's private land. The climate of the region is semi-arid high desert typical of the Rocky Mountains in Central Idaho. This climate is characterized by cold winters and hot dry summers which are affected by the Pacific Ocean maritime masses. Elevations, topography and aspect (angle at which a landform faces) result in high variability in microclimates throughout the valley. Mean annual precipitation ranges from less than 8 inches on the valley floor to more than 30 inches in the higher elevations of the Lemhi and Lost River Mountain Ranges (Young and Harenberg, 1973). Most of the precipitation in the mountains occurs as snow during the winter months. Mean annual precipitation for the period 1934-2008 as recorded at the National Weather Service Station in May, Id was 7.76 inches (Western Regional Climate Center, <http://www.wrcc.dri.edu/>).

The project would occur in the River pasture of the Upper Pahsimeroi grazing allotment. To the present time, the primary use of this area is for livestock grazing, wildlife habitat and irrigation of private and leased lands for hay production. There is no indication that these current land uses are likely to change, either in kind or intensity, in the foreseeable future.

Goldburg Creek is sourced from streams which drain from the Donkey Hills and the Lemhi Mountains as well as water from Graves Springs. The reach of Goldburg Creek from the mouth of Hillside Creek to the confluence of Goldburg Creek with the Pahsimeroi River has 8 diversion structures. The water rights associated with these diversions authorize a total of 7.716 ft³/sec to irrigate up to 389.5 acres of privately owned cultivated agricultural fields. The primary crop grown on these acreages is grass hay and results in a total of loss of approximately 880 acre-feet of water to evaporation and transpiration of an approximate total of 1,360 acre-feet diverted during an irrigation season. Furthermore, three ditches were constructed by 1908 which convey water from the upper Pahsimeroi River and deliver it to Goldburg Creek. This water is then re-diverted from Goldburg Creek. One of the deficiencies of this system is that the water is not measured at the point of injection into Goldburg Creek; therefore the water user is allowed to divert the same amount of water diverted from the upper Pahsimeroi River, not the amount delivered to Goldburg Creek.

Impacts associated with water diversions are cumulative to those associated with agricultural activity that

occurs in the Pahsimeroi Valley. These activities have resulted in the replacement of native vegetation species with cultigens, primarily grass and grass/alfalfa hay. This replacement has resulted in direct and indirect wildlife habitat loss, and herbicide use may have affected surface waters. While these impacts have been relatively intensive, they are restricted to private land holdings which dominate the Pahsimeroi watershed. In the Pahsimeroi Valley the major limiting factor in future development is the availability of water. The State of Idaho and the United States Government entered into an agreement with the Nez Perce Tribe in 2004 regarding water management in Idaho known as the Nez Perce Agreement. As a part of this agreement minimum stream flows were established on waterways in the Salmon River watershed. A result of this agreement is that future water development will be limited in the Pahsimeroi Valley and therefore agricultural activity and its associated impacts, are expected to remain static into the foreseeable future.

“The results of the assessment indicate that not all of the resources considered are present or would be impacted by the Proposed Action and No Action alternatives (Table 1). Only those resources that are present and affected are discussed in the following narratives. An analysis of the No Action alternative is included for those affected resources”.

<i>Table 1. Resources Considered in the Analysis*</i>				
Resource	Not Present	Present Not Affected	Present Affected	Rationale
Access		X		The proposed action would not result in changes in access to the area.
Air Quality			X	Impacts are disclosed under air quality.
Areas of Critical Environmental Concern (ACEC's)	X			The proposed project area is not located within or near an ACEC.
Cultural Resource	X			The results of Class III inventory indicate that there are no National Register-eligible cultural resources present in the proposed project area.
Economic and Social Values			X	Impacts are disclosed under Economic and Social Values
Environmental Justice	X			There are no minority or low income populations residing near the proposed project area.
Existing and Potential Land Uses			X	Impacts are disclosed under <u>Environmental Justice</u>
Floodplains	X			Based on the FEMA Flood Insurance Study, this allotment occurs in Zone D, an area where no floodplains have been delineated and no flood hazards have been identified (FEMA 1988).
Forest Resources	X			There are no forest resources in the project area.
Invasive, Non-Native Species			X	Impacts are disclosed under <u>Invasive, Non-native Species</u>
Mineral Resources	X			There are no mineral resources known to exist in the project area.
Migratory Birds			X	Impacts are disclosed under <u>Migratory Birds</u> .
Native American	X			There are no known ceremonial sites or resources

Religious Concerns				associated with ceremonial practices in the proposed project area.
Paleontological Resources	X			There are no known paleontological resources located in the area.
Prime and Unique Farmlands	X			There are no prime or unique farmlands located within or near the proposed project area.
Range Resources		X		The proposed project is located in the River Pasture of Upper Pahsimeroi allotment. No impacts to grazing management are expected because the area impacted is less than 1% of the allotment area.
Soils			X	Impacts are disclosed under <u>Soils</u>
Threatened, Endangered, and Sensitive Plants	X			There are no threatened, endangered, or sensitive plants or their habitat within the proposed project area.
Threatened, Endangered, and Sensitive Animals		X		There are no threatened, endangered, or sensitive animals or their habitats within the proposed project area. Although the project area occurs in designated "key sage grouse habitat", the project is not included in sage grouse habitats identified in the Challis RMP or by the Challis Sage Grouse Local Working Group. Therefore sage grouse will not be discussed further in the EA.
Threatened, Endangered, and Sensitive Fish; Fisheries			X	Impacts are disclosed under <u>Threatened, Endangered, and Sensitive Fish; Fisheries</u>
Recreational Use		X		Recreation use is present in the area, but not affected by any actions analyzed in this document.
Tribal Treaty Rights and Interests			X	Impacts are disclosed under <u>Tribal Treaty Rights and Interests</u> .
Vegetation			X	Impacts are disclosed under <u>Vegetation</u>
Visual Resources		X		The anticipated visual contrasts are within the allowable limits for VRM class II areas and are not out of character for the site.
Wastes, Hazardous and Solid	X			There are no solid or hazardous wastes in the project area and none would be created during the implementation of the proposed action or no action alternative.
Water Quality (Surface and Ground)			X	Impacts are disclosed under <u>Water Quality</u>
Wetland and Riparian Zones			X	Impacts are disclosed under <u>Wetland and Riparian Zones</u>
Wild and Scenic Rivers	X			There are no wild and scenic rivers near the project area.
Wild Horse and Burro HMAs	X			There are no wild horse and burro HMAs in the region.
Wilderness	X			There are no wilderness areas or WSAs within or near the proposed project area.
Wildlife		X		There is no designated wildlife habitat within the

				project area. Any displacement of wildlife during construction activities would be short term.
--	--	--	--	--

Under the proposed and no action alternative section below, three subsections describe the *Affected Environment*, *Environmental Consequences-Proposed Action*, and *Environmental Consequences-No Action*.

PROPOSED ACTION and NO ACTION ALTERNATIVES

The affected environment is the baseline condition for all resources and is the same for both the proposed and no-action alternatives. Environmental consequences are described for both alternatives.

Air Quality:

Affected Environment:

Air Quality was described in the Pahsimeroi River Sub-Basin Review (USDI-USDA, 2001). This review suggests air quality within the Pahsimeroi River Watershed is generally excellent due to the remoteness of the geographical area in East-Central Idaho. Degradation to air quality is often short-term and/or seasonal; degraded air quality most often results from smoke haze from forest fires and private farmland burns. Other sources of degraded air quality include airborne dust from unpaved roads (USDI-USDA, 2001). Exhaust from diesel pumps used to run irrigation pumps was not identified as an air pollutant in the Pahsimeroi Watershed, but the use of these pumps contributes incremental increases in emissions. Custer County is designated as an 'attainment area' and does not currently have any air quality areas of concern (IDEQ 2006a).

Environmental Consequences

Proposed Action:

As a result of the proposed action, the applicant would cease operation of a diesel pump that is currently used to run a pivot on adjacent private land. This would result in an incremental decrease in emissions generated in the Pahsimeroi Valley.

No Action alternative:

Custer County is designated as an attainment area and does not currently have any air quality areas of concern (IDEQ 2006a). The diesel pump would continue to operate and produce incremental pollutants to the air.

Economic and Social Values:

Affected Environment:

Ranching is the primary economic activity in the Pahsimeroi Valley where the project occurs. Increasingly ranches are being sold and the culture is shifting to a mix of ranching, retirement, tourism and dependence on government jobs (Idaho Department of Labor and Commerce, 2003; Rasker and Alexander, 2003; U.S. Census Bureau, 2006). A diesel powered irrigation pump is an annual energy expense to the applicant.

Environmental Consequences:**Proposed Action:**

After initial expenses, the proposed action would have an economic benefit to the applicant because the irrigation system would be gravity fed and no pumping costs would be expected. The use of gravity to irrigate would also be perceived as a social or environmentally friendly benefit by reducing noise from pumping and pollution created by the diesel pump.

No Action alternative:

The applicant would continue to irrigate his private land at his cost to pump water.

Existing and Potential Land Uses:**Affected Environment:**

The primary land use for the area of the proposed ROW is for cattle grazing which would not be affected by the proposed action. However, there are several rights-of-way issued by the BLM to Custer County, Idaho, Custer Telephone Cooperative Inc. (CTCI) and Salmon River Electric Cooperative Inc (SREC), which could be affected by the proposed action. Custer County holds a 50-foot wide road ROW for the County road approximately 30-yards west of the proposed point of diversion. CTCI holds a 20-foot wide buried fiber optic cable ROW which lies adjacent to the County road. SREC holds a 20-foot wide, overhead powerline ROW which also lies adjacent to the County road.

Potential land uses for the immediate and surrounding area can be other developments which require rights-of-way or alternate use authorizations such as lease or permit for commercial or residential development. In such a removed, rural area these use authorizations would typically authorize roads, pipelines, communication sites, or overhead telephone and power lines. Energy development proposals can involve long-term lease for wind (power) generation, solar (power) generation, thermal energy, or oil and gas development. However, given the climate and geologic conditions at the proposed action site and the current level of technology in the energy development field, it is unlikely energy development will occur at the proposed action site in the near future. Residential development in the proposed action area has been limited in the last ten years and we are uncertain if that trend will continue.

Environmental Consequences:

The excavation of the County road west of the ROW to install the proposed 18" irrigation pipe would most likely result in temporary disruption of the road for several hours if the road is excavated to install the pipe. Custer County Road Department may request that the proponent bore underneath the road to install the pipe. If the proponent utilizes the boring method to cross the County road there may be no disruption in the use of the road. Conversely, excavation of the County road could result in damage to the fiber optic line adjacent to the County road owned and operated by CTCI. Again, boring the irrigation trench may be necessary to reduce the threat of damage to the fiber optic line. Excavation equipment working near the County road could accidentally damage the overhead powerline owned and operated by SREC. To mitigate any potential for damage to existing rights-of-way near the proposed action, the BLM Challis Field Office would notify the Custer County Road Department, CTCI and SREC about this proposed action and provide them with a copy of the Environmental Assessment as soon as it is ready for

public dissemination. Furthermore, the BLM CFO would require the proponent to coordinate with the above rights-of-way holders prior to initiating any construction to ensure the proponent has made every effort to eliminate the threat of damage to existing ROW improvements.

The BLM reserves the right to grant additional rights-of-way within any given project area, potential land uses would not be affected by the proposed action. This right appears in Code of Federal Regulations Title 43, Part 2800, Subpart 2805, §2805.15 (b).

No Action alternative:

There would be no threats to existing power lines or fiber optic and telephone lines because no ground disturbance would occur.

Threatened/Endangered Fish; Sensitive Fish; Fisheries:

Affected Environment:

There are no anadromous salmonids (e.g. sockeye and Chinook salmon, and steelhead) in Goldburg Creek and the upper Pahsimeroi River watershed because of a combination of natural dewatering, flow diversion, and man-made diversion structures that impede fish movement (USDI-USDA 1999).

Designated critical habitat for Snake River steelhead *does not* exist in the upper Pahsimeroi Watershed, including Goldburg Creek. Unoccupied designated critical habitat for Snake River spring/summer Chinook salmon *does* exist; Goldburg Creek and its tributaries are listed as designated critical habitat for Chinook salmon. Proposed critical habitat for bull trout *does exist* in Goldburg Creek, and tributaries Ditch Creek and Big Gulch; and these creeks are anticipated to be included in the final designation (a determination made by the U.S. Fish and Wildlife Service)

Fish Presence and Distribution - This section summarizes fisheries survey information (1994 – 2007) collected by the BLM – Challis and Salmon Field Offices, the Idaho Department of Fish and Game (IDFG, 2008), and U.S. Forest Service– Salmon-Challis National Forest (USDA-USFS, 2004). Methods included electro-fishing and snorkel surveys. Documented presence of salmonids within streams of the Goldburg Creek subwatershed on BLM, USFS, and State administered lands are summarized in Table 2.

Table 2. Documented presence of salmonids within perennial fish bearing stream reaches in the Goldburg Creek Subwatershed. UP = upstream, C= Creek, R=River			
Stream	Stream Reach Relationship	Fish Presence	Species
Goldburg Creek	UP Tributary of Pahsimeroi R.	Yes	Rainbow Trout, Westslope Cutthroat Trout, Brook Trout,

			Bull Trout
Big Gulch	UP Tributary of Goldburg C.	Yes	Bull Trout
Donkey Creek	UP Tributary of Goldburg C.	Yes	Rainbow Trout, Westslope Cutthroat Trout
Ditch Creek	UP Tributary of Big Gulch	Yes	Bull Trout
Bear Creek	UP Tributary of Big Gulch	No	
Hillside Creek	UP Tributary of Big Gulch	No	
Snowslide Creek	UP Tributary of Big Gulch	No	

In Goldburg Creek, approximately 1-mile upstream of the proposed POD, Idaho Department of Fish and Game (IDFG) documented the presence of brook trout and three bull trout on 7/8/1999.(IDFG unpublished database). This 1999 IDFG sample represents the closest point to the proposed project where bull trout have been documented in Goldburg Creek. Within the proposed project area, recent sampling in July of 2008 documented only non-native brook trout. Elevated water temperatures limit the potential of Goldburg Creek to support bull trout within the project area. Elevated water temperatures in Goldburg Creek likely result from Pahsimeroi River water being diverted, ditched across the valley, and delivered downstream via Goldburg Creek. Temperatures above 59°F are not considered adequate for bull trout holding or migration. Typically summertime temperatures would prevent occupancy by bull trout (Table 3). Given the presence of bull trout and other native salmonids upstream of the project area, these species may occupy Goldburg Creek in the project area at some time during the year.

Bull Trout Spawning - In Goldburg Creek, limited information regarding bull trout spawning exists. A bull trout redd survey was conducted August 26, 2004, just downstream of the county road bridge, no redds or spawning activity was observed. A 1-mile redd survey within the proposed project area was conducted on October 19, 2007, with a water temperature of 46.4°F that could support spawning, but no redds or bull trout were observed.

Water Temperature - A monitoring location for water temperature has been established in Goldburg Creek, to determine baseline conditions, assess habitat suitability, and monitor progress toward desired future conditions (USDI-BLM 1999). This monitoring location exists within the proposed project area, and occurs downstream of the proposed POD at the County road crossing of Goldburg Creek (Table 3). The number of days, between the end of July and end of August that exceed the temperature threshold of 59 °F for bull trout (holding) averages 28 days or approx. 87% of the time period (Table 3). During that

time water temperature always exceeded threshold for rearing by juvenile bull trout.

Table 3. Number of days that maximum-daily water temperatures exceeded PACFISH/INFISH temperature thresholds for Chinook salmon and bull trout. The dates were standardized for comparison (7/26 – 8/31, N= 31 days).

Year	Chinook salmon		Bull trout			Average maximum Temperature (F°)
	Rearing / Migration	Spawning (after 8/15)	Holding	Rearing	Spawning (after 8/15)	
2002	0	9	26	31	17	60.9
2004	3	7	25	31	17	61.3
2006	0	6	26	31	17	60.8
2007	3	13	31	31	17	61.3
2008	0	16	31	31	17	60.6
2009	4	13	30	31	17	61.5

Environmental Consequences:

Proposed Action:

Habitat disturbance, in-stream structures, and flow removal associated with water diversion can impact fish and fish habitat in a several ways, including: 1) altered flow, sediment, and temperature regimes can render habitat unsuitable; 2) diversion structures can inhibit fish movement and fragment habitat; and 3) points of diversion can cause mortality as fish are entrained in the ditch or impinged on debris screens. Under the proposed action, operation of the POD within the ROW would decrease flows by 3.7-ft³/second in the stream reach (approximately 1 mile) between the existing diversions (Map B) and the new POD. The diversion of up to 3.7-ft³/second would occur during the irrigation season, April 1 to October 31, with the greatest impact on stream-flow occurring during low-flow conditions of August – October. However the proposed POD would not dewater the proposed stream reach upstream of the existing diversions. For example, in September of 2007 stream-flow near the proposed POD was 9.7-ft³/sec, and at these flows, the withdrawal of 3.7- ft³/sec would constitute approximately a 38% reduction. This is not anticipated to prevent fish occupancy or migration.

A potential benefit of increased irrigation efficiency is more water will be left in the stream downstream from the existing diversion structures (Map B) In this instance, the BLM estimated that the existing irrigation system requires approximately 10.8 ft³/sec to irrigate at maximum capacity (including flood and 2 pivots). Under the proposed action, to irrigate at maximum capacity, the irrigation system would require approximately 4 ft³/sec to run 2 pivots and 2.9 ft³/sec for remaining flood irrigation. A net reduction in withdrawal by the applicant would result in a water savings of approximately 4 ft³/sec and convey some additional surface water to downstream reaches of Goldburg Creek, and potentially improve

connectivity for fish passage and occupancy within the flow limited reaches downstream of the proposed project reach.

Increases in fine sediments can have negative impacts on spawning habitat and quality of pools. Elevated levels of fine sediments are present in Goldburg Creek, probably due to excessive introductions during construction and maintenance of the cross-valley irrigation ditches. The proposed project would remove approximately 15-lineal feet of streambank to install the ditch and bypass pipe outlet. Direct contribution of sediment and short duration turbidity would occur as a result of this action. To reduce the amount of sediment, delivery machinery would only operate from the top of bank and the bucket excavation below the water line would be minimized to the extent necessary to achieve project objectives. Measureable increases in surface fines downstream of the POD are not anticipated. Reoccurring direct contributions of sediment would occur during installation and removal of the earthen plug (4' x 4' x 1.5'), located in ditch channel, in front of the screen and pipeline intake. However, a substantial portion of this sediment would end up in the pipeline, and not bypass flow to Goldburg Creek (D. Gooby, NRCS, personal comm.). Following short term bursts of turbidity, a measureable increase in surface fines is not anticipated. Sediment input resulting from hand placing and removing native rocks or rip-rap composing a weir (if necessary), would be negligible.

Regarding the projects effect on water temperature, it is anticipated that diversion during low flow periods could exacerbate already elevated water temperatures within the project reach (Table 3). However a significant increase in temperature is not anticipated. This is due to groundwater expression in the flow gaining stream reach of the project area, which can mediate the effect of ambient air temperature (Constantz, 1998).

Irrigations diversions and associated infrastructure can impede fish movement and fragment habitat by making conditions unsuitable (temperature and volume) or even completely dewatered. The proposed POD is not anticipated to include an in-channel weir, so no physical impediments to movement would result. And the extent of flow withdrawal would not reduce flow volume enough to prevent fish passage. A downstream water savings, if realized, would have a beneficial impact of fish passage within reaches currently subject to dewatering for portions of the irrigation season. However, movements by fish that enter the ditch and interact with the proposed POD would be impeded temporarily. Design features, including the bypass pipe, are intended to return fish and debris to Goldburg Creek.

As fish interact with the proposed POD there is a potential for fish to be impinged on the screen-face, which can result in injury or mortality. For example, in an evaluation of the proposed bubble screen, NMFS fish passage engineers reviewed it compared to NMFS criteria screens, as an alternative technology fish screen (NMFS 2006). Their test fish was a 75-mm brook trout, and the test did not assess the screen for substantially larger or smaller fish. It was determined that only 18% of the test fish were able to successfully exit the bubble screen via the bypass system without contacting the screen face. It was also noted that the screen configuration did not allow fish to leave the screen within 60 seconds, a NMFS criterion for canal screens. NMFS also indicated there were areas of wide ranging velocities on the screen face that often exceed NMFS criteria approach velocities of 12.2 cm/s; this can result in fin injury or impingement. Brook trout known to occupy the action area could be harmed or impinged on the screen face. Given the potential for brook trout and bull trout hybridization, any injury or mortality of brook trout would be a potential benefit.

There is limited potential for threatened bull trout or sensitive westslope cutthroat trout to interact with the bubble-screen in a negative fashion, and this is based on several factors, including: 1) an apparent absence or sparse distribution of these species in the project area makes it unlikely that individuals would end up in the ditch and interact with the screen and bypass outlet; 2) It is unlikely that fish returned to Goldburg Creek via the bypass outlet would be harmed by entering a dry channel (e.g. sufficient flow would exist downstream of the POD); 3) Although the proposed screen does not meet all NMFS criteria, it does serve to prevent fish entrainment in the pipeline, and return fish to Goldburg Creek via bypass flow.

No Action alternative:

Under the no action alternative, water temperatures would continue to limit occupancy by bull trout during portions of the irrigation season (Table 3). Currently, three existing diversions near the BLM-Private lands boundary at the downstream end of the project area nearly dewater the channel during low-flow conditions in late-summer and fall. This would continue under the no action alternative. Direct impacts to fish and habitat as described under the proposed action would not occur. Because the point of diversion would not be moved upstream, water would remain in the Goldburg channel until it reached the applicants current points of diversion.

Invasive and Non-native Species:

Affected Environment:

There are no noxious weeds (Idaho State Department of Agriculture- Noxious Weed List <http://www.idahoag.us/Categories/PlantsInsects/NoxiousWeeds/watchlist.php>) in the project area. Halogeton, and cheatgrass, non-native invasive plants, have been inventoried within the project area. Black henbane (*Hyoscyamus niger*) a noxious weed species has been observed on the Whittier pipeline ROW approximately ½ mile from the proposed project area.

Environmental Consequences:

Proposed Action:

Although there are no noxious weed species in the immediate vicinity of the project area, ground disturbance is one of the major factors that permit weed establishment. Cheatgrass and halogeton, would be expected to colonize disturbed areas. Black henbane could also occur in the disturbed ROW. Despite reclamation and weed control efforts, there is the possibility of establishment of invasive species as a result of this disturbance. The applicant would be responsible for weed control and seeding with a BLM approved seed mix to increase competition with, and aid in the elimination of non-native invasive plants.

No action alternative

No ground disturbance would occur therefore, the site would not be conducive to the colonization by weeds.

Migratory Birds:

Affected Environment:

The proposed project area includes both sage brush and riparian habitat types. Migratory birds are known to use these types of habitat for nesting, cover, and foraging. Office files were reviewed and there are no known surveys within the project area. Vegetation along Goldburg Creek and in the vicinity of the proposed ROW is suitable habitat for numerous migratory birds and is described in the vegetation section.

Environmental Consequences:

Proposed Action:

The point-of-diversion is closely associated with well-traveled roads which would reduce habitat suitability to some extent due to disturbances. The upland habitat where the pipeline would be laid could be used by some avian species. However, the sagebrush component is widely dispersed, so nest site suitability associated with denser stands of vegetation is lacking. Riparian habitat removed by the proposed project would be small in scale (approx. 0.1 ac) and would not equate to a substantial loss of habitat within the vicinity. Some individuals could be disturbed or harmed during construction activities. The proposed action would not lead to the listing of a migratory bird species.

No Action alternative:

There would be no change to the affected environment under the no action alternative. Uses of the proposed project area by migratory bird species would continue as currently used.

Soils:

Affected Environment:

Soils in the area have been classified as Snowslide-Gravelly loam, dry, 1-10 percent slope. Parent material is mixed alluvium and/or colluvium derived from limestone and/or quartzite. This means that it is well drained, slow runoff and moderate permeability (NRCS 2006).

Environmental Consequences:

Proposed Action:

Soils would be mechanically disturbed and soil profiles inverted and altered. The re-contouring and re-filling of the pipeline would make the surface appear smooth. The success of seeding native species is primarily dependent on timing of seed placement and the amount of precipitation received in the area. Disturbed soils are easily colonized by non-native invasive plants and annuals.

Impacts would consist of compaction adjacent to the trench from heavy equipment travel, soil displacement, and excavation for the trench. Construction of the project would take place when soils are relatively dry to limit soil disturbance. Re-vegetation with a BLM approved species should help to make soil impacts short-term (2-5 years).

No Action alternative:

There would be no ground disturbance to soils which would preserve soil horizon integrity.

Tribal Treaty Rights and Interests:**Affected Environment:**

The 1868 Fort Bridger Treaty between the United States and the Shoshone and Bannock Tribes reserves the Tribes' right to hunt, fish, gather, and exercise other traditional uses and practices on unoccupied federal lands.

The federal government has a unique trust relationship with federally-recognized American Indian Tribes including the Shoshone-Bannock Tribes. BLM has a responsibility and obligation to consider and consult on potential effects to natural resources related to the Tribes' treaty rights or cultural use. Resources or issues of interest to the Tribes that could have a bearing on their traditional use and/or treaty rights include: tribal historic and archaeological sites, sacred sites and traditional cultural properties, traditional use sites, water, fisheries, traditional use plant and animal species, vegetation (including noxious and invasive, non-native species), air and water quality, wildlife, access to lands and continued availability of traditional resources, land status, and the visual quality of the environment.

The project area would be located on unoccupied federal lands within the Tribes' aboriginal territory. Therefore, tribal treaty rights, as defined, are applicable to the project area. The current condition and nature of affected resources associated with these tribal rights and interests are described in the following sections: Fisheries note fisheries is combined with T&E and sensitive fish, Vegetation, Wildlife, and Visual Resources.

Environmental Consequences:**Proposed Action:**

There would be no changes in land status or access associated with the proposed action, and the project area would retain its unoccupied Federal land status. Therefore, the Shoshone-Bannock Tribes' right to access the lands for treaty and traditional uses would be unaffected. The proposed action would, however, result in temporary or short-term impacts to some of the natural resources that the Tribes require to exercise their treaty rights.

No Action alternative:

Under the no action alternative, there would be no direct adverse impacts to tribal rights and interests.

See also discussions presented under Fisheries, Vegetation, Wildlife, and Visual Resources.

Vegetation:

Affected Environment:

Existing vegetation consists primarily of Wyoming sagebrush (*Artemisia tridentata wyomingensis*), low sage (*Artemisia arbuscula*), fringed sage (*Artemisia frigida*), shadscale (*Atriplex confertifolia*), Sandberg's bluegrass (*Poa sandbergii*), and needle-and-thread grass, (*Hesperostipa comata*). NRCS has classified the vegetation of the project area as a saline, gravelly, 7-9 inch, shadscale/Indian ricegrass/needle-and-thread grass ecological site. Riparian vegetation includes willow species and rose species, sedges, bluegrass, and rushes.

Environmental Consequences:

Proposed Action:

Vegetation would be destroyed within the pipeline ROW and at the area of the new point of diversion. The total area would be approximately 3 acres. After the re-seeding with native plant species, the probability of successful seedling survival and plant establishment is dependent on the amount and timing of precipitation. The basic principles of restoration efforts to assure establishment of indigenous and planted species note that: "Generally revegetation efforts should not be initiated in areas receiving less than 9 inches (230mm) of annual precipitation" (USDA-FS-RMRS, 2004 pp. 21). The nearest meteorological station at May, Idaho reports average annual precipitation for the 1934-2008 period as 7.74 inches. These data suggest that re-vegetation may not be successful, increasing the chances of weed infestation. In contrast observations of nearby pipelines suggest that with time, native species may become established. Therefore, timing of re-establishment is uncertain.

No Action alternative:

There would be no disturbance to upland or riparian vegetation.

Water Quality:

Affected Environment:

The flow and temperature regime in Goldburg Creek has been altered because water from the Pahsimeroi River has been diverted into the Goldburg Creek channel via the cross valley ditch for irrigation. The reach of the Pahsimeroi River containing the diversions into the cross valley ditches is 303(d) listed for not fully supporting cold water aquatic life and salmonid spawning. The cause of this reach not meeting this beneficial use is suspected nutrients impairment, low flow alteration and sedimentation/siltation. In the document, Pahsimeroi River Subbasin Assessment and TMDL (IDEQ 2001) it was determined that the Pahsimeroi River is water quality limited throughout its length, and surface water of the Pahsimeroi River was assigned load allocations for sediment and temperature. The temperature TMDL requires an 18% overall temperature reduction in the Pahsimeroi River, indicated by a daily average temperature of 52° F at the hatchery. Temperature data and RMP guidelines are discussed under Fisheries: Threatened/Endangered Fish; Sensitive Fish (Table 3). Also, IDEQ 2001 states:

Historic overgrazing has accelerated stream bank erosion. Riparian management has been implemented in

some areas resulting in improved conditions over limited areas, though increased stream bank erosion from overgrazing within the riparian vegetation zone remains the single most significant source of sediment to the Pahsimeroi River. The stream bank erosion inventory conducted on the Pahsimeroi River shows that the primary source of sediment from stream bank erosion occurs over the upper evaluation reaches above Hooper Lane.

IDEQ determined that the extent of bank instability had caused excess sediment loads instream. And stated that "To improve the quality of spawning substrate and rearing habitat in the Pahsimeroi River, it is necessary to reduce the component of subsurface fine sediment less than 6.35 mm to below 28%". In addition, bank stability serves as a surrogate measure for sediment. Stream banks with stability ratings below 80% are considered potential sources of excess sediment (IDEQ 2001).

Environmental Consequences:

Proposed Action:

The consequence of a new point of diversion is that less water would be in Goldburg Creek for approximately one mile when the irrigation system is in use. This will reduce water quantity in this reach, and potentially increase water temperatures. A detailed discussion of water temperature and water quantity can be found under the section *Fisheries: Threatened/Endangered Fish; Sensitive Fish*, page 13. Direct contribution of sediment to Goldburg Creek would occur during construction, but is not anticipated to prevent attainment of TMDL sediment load allocations and bank stability objectives. Support of beneficial uses for Goldburg Creek is anticipated to continue under the proposed action.

The proposed project would remove approximately 15-lineal feet of streambank to install the ditch and bypass pipe outlet. Direct contribution of sediment and short duration turbidity would occur as a result of this action. Measureable increases in surface fines downstream of the POD are not anticipated. Substrate composition near the POD would be altered as a result of 24-inch minus rip-rap used to stabilize the ditch inlet and bypass outlet. Indirect contributions of sediment would result from the ditch fill left in place as a berm. Also contributions of sediment from portions of the pipeline within 50-feet of Goldburg Creek (≈ 127 -lineal feet) would be expected to occur until re-vegetation occurs and reduces overland flow and mobile sediment.

No Action alternative:

Under the no action alternative, water temperatures would continue to limit occupancy by bull trout during portions of the irrigation season (Table 3). Currently, several existing diversions near the BLM-Private lands boundary at the downstream end of the project area nearly dewater the channel during low-flow conditions in late-summer and fall. This would continue under the no action alternative. Direct impacts to fish and habitat as described under the proposed action would not occur. Because the point of diversion would not be moved upstream, water would remain in the Goldburg channel until it reached the applicants' historic points of diversion.

Wetland and Riparian Zones:

Affected Environment:

The riparian zone of Goldburg Creek in the project area is approximately a mile in length and approximately 30-45 feet in width. Willows and roses are the primary deciduous shrubs, with sedges, annual and perennial grasses and forbs along the Goldburg Creek. It is a perennial drainage (IDeq, 2001) fed by several tributaries (Big Gulch, Ditch Creek, Donkey Creek). Most tributaries to Goldburg Creek can be characterized as steep, confined channels, or as "mountain streams" before reaching alluvial fans on the valley floor. Once these tributaries hit the alluvial fan flows dissipate as surface waters infiltrate into the coarse alluvium. Thus, tributaries to Goldburg Creek primarily contribute water indirectly via groundwater. Goldburg Creek in the project reach has been shown to be flow-gaining, which means it receives flow contribution from groundwater. A series of flow measurements collected in September of 2007 revealed an increase in surface flow, from 2.9 to 9.7 ft³/sec, over 2.5 miles of stream that encompasses the project area. Stream flows in Goldburg Creek are also influenced by irrigation activity; both by diversions that reduce water volume and by the "cross valley" ditches from the Pahsimeroi River that inject additional flow into Goldburg Creek. There are no wetlands in the vicinity of the project area.

Environmental Consequences:

Proposed Action:

The reduction in volume of water in Goldburg Creek would occur during the growing season and may alter riparian vegetation abundance and composition along the stream bank in the approximately 1-mile long project area. However, the flow-gaining nature of Goldburg Creek may negate any impacts to riparian vegetation as a result of flow diversion. For example, riparian vegetation along flow-losing reaches is more sensitive to flow reductions than along gaining reaches (Kondolf 1989; Rood et al. 2003). In comparisons of riparian vegetation among flow losing and flow gaining reaches, it has been demonstrated that flow gaining reaches support more abundant stands of willow, alder, and red osier dogwood (Harner and Stanford 2003). As a result of the proposed action and subsequent flow diversion, changes to riparian vegetation could occur, however, impacts are expected to be insignificant based on several factors: 1) the project reach is a flow-gaining reach that receives sub-surface contribution from ground water, which should mediate any effects of surface-flow removal on the saturation zone that sustains willows and other riparian vegetation; 2) the current amount of surface flow in Goldburg Creek is not natural, since it receives substantial flow from the Pahsimeroi River via ditches, and the proposed action will create a more natural flow regime; 3) the proposed action will not dewater Goldburg Creek or fragment reaches of perennial surface water; 4) as an indirect effect, surface water may persist further downstream where diversions currently dewater the channel, and extend the distribution of some riparian vegetation.

No Action alternative:

Riparian vegetation composition would be expected to remain the same as the existing condition.

CUMULATIVE IMPACTS

Cumulative impacts are defined as "...the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." (40 CFR§ 1508.7). In our cumulative impacts analysis, for each resource affected, we asked: 1) what is the increment of the project contribution compared to the total and 2) and at any point in time does the contribution of this project change a threshold for the affected resource. Because there are few quantified thresholds established for the affected resources we have discussed cumulative effects qualitatively in the following narrative for Fisheries (TES Fisheries), and Water Quality and in Table 4 for Air Quality, Economic and Social Values, Existing and Potential Land uses, Invasive and Non-native Species, Migratory Birds, Soils, Tribal Treaty Rights, Vegetation, Wetland and Riparian Zones, and Wildlife.

Cumulative Impact Assessment Area

The Pahsimeroi watershed was chosen as the Cumulative Impact Area of Analysis (CIAA), for fisheries and water quality because these are the resources that are most affected by the proposed action. The scale of this project in area disturbed- approximately 3 is miniscule in relation to the 532,438 acre Pahsimeroi watershed in which the project would occur. However water diversions in the upper watershed where the project occurs have effects on fisheries, water temperature, and water flow downstream and hence the whole watershed is the CIAA for these resources. This entire watershed has been impacted by European-American settlement since 1869 (Meinzer, 1924). Human impacts included and continue to include, fire suppression, road construction, livestock grazing, agricultural development, development of homes and towns, mineral development and timber harvest (USDI-USDA 2001). These activities have resulted in the past and present reduction in native vegetation, increased non-native plants, reduced flow of water in streams, increased evapo-transpiration and disturbed soils.

In the Pahsimeroi watershed, biological resources such as vegetation, wildlife, invasive species, are in constant flux between disturbance and re-colonization or reclamation as land use changes. The present and foreseeable actions related to these resources include loss of habitats with development of lands; and in contrast, creation of habitats with conservation actions on lands. The project's incremental contribution to this fluctuating total is small, arguably imperceptible at the watershed scale. Table 4 provides a discussion of cumulative impacts for these resources.

<i>Table 4. Cumulative Impact Analysis by Affected Resource.</i>				
<i>Resource</i>	<i>Impacts of Past and Present Actions</i>	<i>Impacts of Reasonably Foreseeable Future Actions (REFAs)</i>	<i>Impacts of the Proposed Action</i>	<i>Cumulative Impact</i>
Air Quality	Dust and vehicle emissions, primarily from private land agricultural activity have been, and	Residential and agriculture development and fires will continue to add smoke haze, dust, and private land generated air	The discontinued use of the diesel pump for irrigation would constitute a incremental decrease	Because of the remoteness of the area, and the generally excellent air quality, the incremental addition of air pollutants

	continue to be the primary contributions to air degradation in the CIAA. Smoke from wildfires or private land activities has also contributed to lower air quality in the past and present.	pollutants.	in emissions that affect air quality. During project construction, (expected to be less than 2 weeks) dust and vehicle emissions would be added to the air.	during the short-term project construction and the incremental pollutant decrease following the project (discontinued use of diesel pump) would not be detectable above background air quality levels.
Economic and Social Values	Ranching has been the primary economic activity in the Pahsimeroi Valley for over 100 years and is expected to continue.	Foreseeable actions could include residential as well as agricultural development. Trends in irrigation are from flood to sprinkler systems which result in economic and water use benefits.	The ROW authorization would enable the applicant to reduce costs to irrigate his fields because we would not have the costs to operate a diesel pump. Instead he would use gravity flow for irrigation.	The incremental addition of a ROW that supports a gravity fed sprinkler irrigation system is not a economic or social contribution that constitutes a substantial change in the current economic and social environment.
Existing and Potential Land Use	Roads, pipelines, communication sites, or overhead and underground telephone and power lines are past and present land uses that support private land developments near the project area. Existing land use has been ranching since the late 1800s and is the primary present land use.	Potential future land uses for the immediate and surrounding area can be other developments which require rights-of-way or alternate use authorizations such as lease or permit for commercial or residential development. In this rural area, these use authorizations would typically authorize roads, pipelines, communication sites, or overhead telephone and power lines.	Coordination with local utilities and county road department would be needed for implementation of the proposed action.	The addition of the one mile ROW does not constitute a substantial change in the existing types of land uses in the CIAA.
Migratory Birds	Some displacement and direct habitat losses have occurred, although there is a wide variety of suitable habitat available in the CIAA.	Direct habitat losses may accelerate on private lands in the next 15 years, increasing displacing birds from the area. Some species may habituate. Some habitat may also be created with conservation actions on private lands.	Disturbance of vegetation along the ROW may result in loss of nesting habitats for migratory birds.	The cumulative impact is considered minor at approximately 3 acres of disturbed ar since there is suitable habitat on adjacent public lands and some private lands.
Non-native and invasive species	Ground disturbing in past and present provide sites for colonization by non-native plant species. Control efforts mitigate spread of weed and containment of some populations.	Agricultural and residential development is expected to continue and will create disturbed ground suitable for non-native invasive species. Control efforts are expected to continue because of the threat weeds pose to biodiversity.	Cheatgrass would be expected to colonize disturbed areas. Black henbane could also occur in the disturbed ROW. Despite reclamation and weed control efforts, there is the possibility of establishment of invasive species as a result of this disturbance	Past, present and future ground disturbing activities have and will continue to provide microsites where non-native invasive plants may become established. Non-native plants may increase to a modest degree.
Soil	Erosion and	The forecasted increase in	The proposed action	Soil disturbances

Resources	sedimentation have increased due to disturbances associated with agricultural and residential development and recreation. Agricultural activity has altered soil chemistry and natural soil horizons.	residential development, recreation and agriculture use will increase runoff leading to higher levels of erosion and sedimentation.	would add another disturbed linear soil feature in the CIAA. BLM seeding and colonization by plants is expected to stabilize the soil. However the potential for invasive weed to colonize the disturbed soils exists.	associated with agricultural, and residential development and recreation increasing OHV use would increase runoff, erosion and sedimentation to a modest degree.
Tribal Treaty Rights and Interests	Fish populations used traditionally by the Tribes have been reduced. Other traditional resources and uses located on unoccupied (public) lands such as hunting and gathering have been impacted by domestic grazing animals and agricultural activity.	It is likely that with projected increase in agricultural, residential and recreational activities on unoccupied lands, there could be a corresponding increase in impacts to resources used by the tribes. Consultation is required to fully evaluate the nature and extent of the potential effect.	The proposed action would potentially benefit the Tribes because fish habitat would be improved as result of increased water use efficiency downstream of the project area..	Cumulative impacts to tribal treaty rights and interests would consist of short-term impacts to native vegetation in the areas of the pipeline and diversion construction. Water savings that might be realized through implementation of the proposed alternative may be negated by downstream junior water rights' holders begin exercising their junior water rights when more water is in the stream. See also discussion in Fisheries, Wildlife, Water Quality and Vegetation sections.
Vegetation	Natural vegetative communities in the CIAA been and continue to be altered by agriculture and residential development since the late 1800s. Vegetation has been destroyed by roads, agricultural field development, and homesites. The abundance of some bunch grasses has been reduced by past grazing practices.	A projected increase in residential and agricultural development and recreational activity would further degrade and reduce natural vegetative communities and fragment plant communities. Grazing practices and restoration actions in the upper Pahsimeroi are expected to stabilize and improve vegetation CIAA.	The Proposed Action would impact approximately 3 acres of vegetation. With re-seeding and proactive weed treatment the area would recover to a native plant community.	There would be potential cumulative effects if the re-vegetation is not successful. These effects would additive to vegetation alterations that have occurred elsewhere in the cumulative impact assessment area.
Wetlands and Riparian Zones	Water diversions associated with agricultural activity and overgrazing have adversely affected some riparian areas. Grazing activity has negatively affected riparian vegetation in	Agricultural activity and associated diversions are expected to continue the demand for water. The consequent effects on riparian zones will depend on future precipitation levels and irrigation efficiency. Goldburg Creek will	See environmental consequences section	Riparian zones are likely to be adversely impacted by increased water demands associated with residential development and water diversions associated with agricultural activity. The incremental impact to wetland and riparian zones

	some areas.	continue to be heavily diverted and hydrologic disconnection in the upper Pahsimeroi River Watershed will continue to be exacerbated potentially limiting the size of riparian zones. That being said, the recent and foreseeable trend from flood to sprinkler irrigation (see economic and social values section) results in a water savings and/or the maintenance or expansion of riparian zones and wetlands. Potential improvement in grazing management including the trend in the upper Pahsimeroi to fence riparian areas may improve riparian systems in the CIAA.		by the new POD and issuance of a ROW would not impart a substantial reduction in the total effects of the past and current or foreseeable water diversions on wetlands and riparian zones in the Pahsimeroi watershed primarily because the net water savings is small relative to the water use in the upper Pahsimeroi watershed.
--	-------------	--	--	---

Threatened/Endangered Fish; Sensitive Fish; Fisheries- Cumulative Impact:

The legal framework for water diversions for irrigation began in the 1840's in Idaho with the Pahsimeroi Valley first being settled in 1869 (Meinzer, 1924). The land patent system encouraged people to "reclaim" as much land as possible. As a result the trend was for settlers to turn as much water onto irrigated fields as possible. With the Pahsimeroi Valley being water limited this system ultimately resulted in the adjudication of the water rights within the valley during the early parts of the 1900's with the water rights associated with the proposed action being decreed on April 1, 1910 in the Lorenzo Falls vs. Uriah Wells decree. It was during this time period that the Pahsimeroi Valley water district was organized to administer water rights which had been decreed within the valley. It is important to note that historically water was only administered during times of scarcity which allowed water users to divert as much water as they could during times of high water. The formation of the water district limited water development because afterwards only "high water" was available for new diversion works in the valley. In 1987 the State of Idaho commenced a general adjudication of all water rights which were tributary to the Snake River which included the Pahsimeroi River. The early past actions included the construction of the cross-valley ditch that diverts upper Pahsimeroi river water into Goldburg Creek just upstream of the project area. Continued operation and maintenance of these historic ditches and points of diversion is a private action reasonably certain to continue in the foreseeable future. The proposed project, and the applicants existing water right, use water delivered from the upper Pahsimeroi River via the cross-valley ditch to a point of injection in Goldburg Creek. Many other water rights are reliant on the cross-valley ditches as well. For the foreseeable future, the Pahsimeroi River will continue to be heavily diverted and hydrologic disconnection in the upper Pahsimeroi River will continue to be exacerbated. That being said, the recent and foreseeable trend from flood to sprinkler irrigation (see economic and social values section) has resulted in a water savings. However there are junior water rights which withdraw from

Goldburg Creek and the additional water left in the stream as a result of the savings has been diverted to fill these rights. One of the stipulations for this project is that a measuring device would be installed at the injection point for Goldburg Creek for the purpose of determining the quantity water delivered into Goldburg Creek. This would then be used to determine the amount of water available to water users on Goldburg Creek who have a water right for the Pahsimeroi River instead of using the amount diverted directly from the Pahsimeroi River at the head of the cross valley ditch. The incremental impact to fisheries by the issuance of a ROW would not be a substantial contribution to the total effects of the past and current or foreseeable water diversions on listed fish species and their habitats in the upper Pahsimeroi watershed.

The measurable threshold for cumulative effects in water quality would be the addition of or removal of a reach from the 303(d) list. The impacts of this action will neither remove a portion of the Pahsimeroi River from the list, nor will it further degrade the water quality in the river beyond that of the existing condition because it is not anticipated that the amount of water diverted will change in relationship to total water diverted in the CIAA. While there is going to be a possible change in temperature between the existing point of diversion and the proposed point of diversion this change is not anticipated to cause this reach of Goldburg Creek to not fully support all of its designated beneficial uses.

Shoshone-Bannock Tribes

Idaho Department of Water Resources

Custer County Soil and Water Conservation District

U.S. Fish and Wildlife Service

Dana Perkins and Ryan Beatty 4/19/2010

/s/ Dana Perkins 4/19/2010

List of BLM Contributors:

Ryan J Beatty, Fisheries Biologist

Nate Arave, Geologist

Carol Hearne, Archaeologist

Peggy Redick, Rangeland Management Specialist

Bart Zwetzig, Wildlife Biologist

Jeff Christenson, Recreation Planner

Leigh Redick, Natural Resource Specialist

Dana Perkins, Ecologist

Tim Vanek, Realty Specialist

References:

Constantz, J. 1998. Interaction between stream temperature, streamflow, and groundwater exchanges in alpine streams. *Water Resources Research*. Volume 34 (7): 1609-1615.

CSGLWG (Challis Sage-Grouse Local Working Group). 2007. Challis Sage-Grouse Conservation Plan. 74pp.

Harner, M.M. and J. A. Stanford 2003. Differences in cottonwood growth between a losing and a gaining reach of an alluvial floodplain. *Ecology* 84(6): 1453-1458.

IDEQ. 2008. The 2008 Integrated 303(d)/305(b) Report. May 22, 2009. Idaho State Department of Environmental Quality, Boise, Idaho 83706.

IDFG (Idaho Department of Fish and Game). 2006. Pygmy Rabbit Distribution and Habitat Relationship in the Challis Field Office, Bureau of Land Management; Final Report. Challenge Cost Share Project DLA060100. Salmon Regional Office, Salmon, ID. 41pp.

IDFG (Idaho Department of Fish and Game). 2007. Unpublished Fisheries Database.

IDWR. 2006. Idaho Statutes pertaining to canals and laterals. Idaho Department of Water Resources, Boise, Idaho.

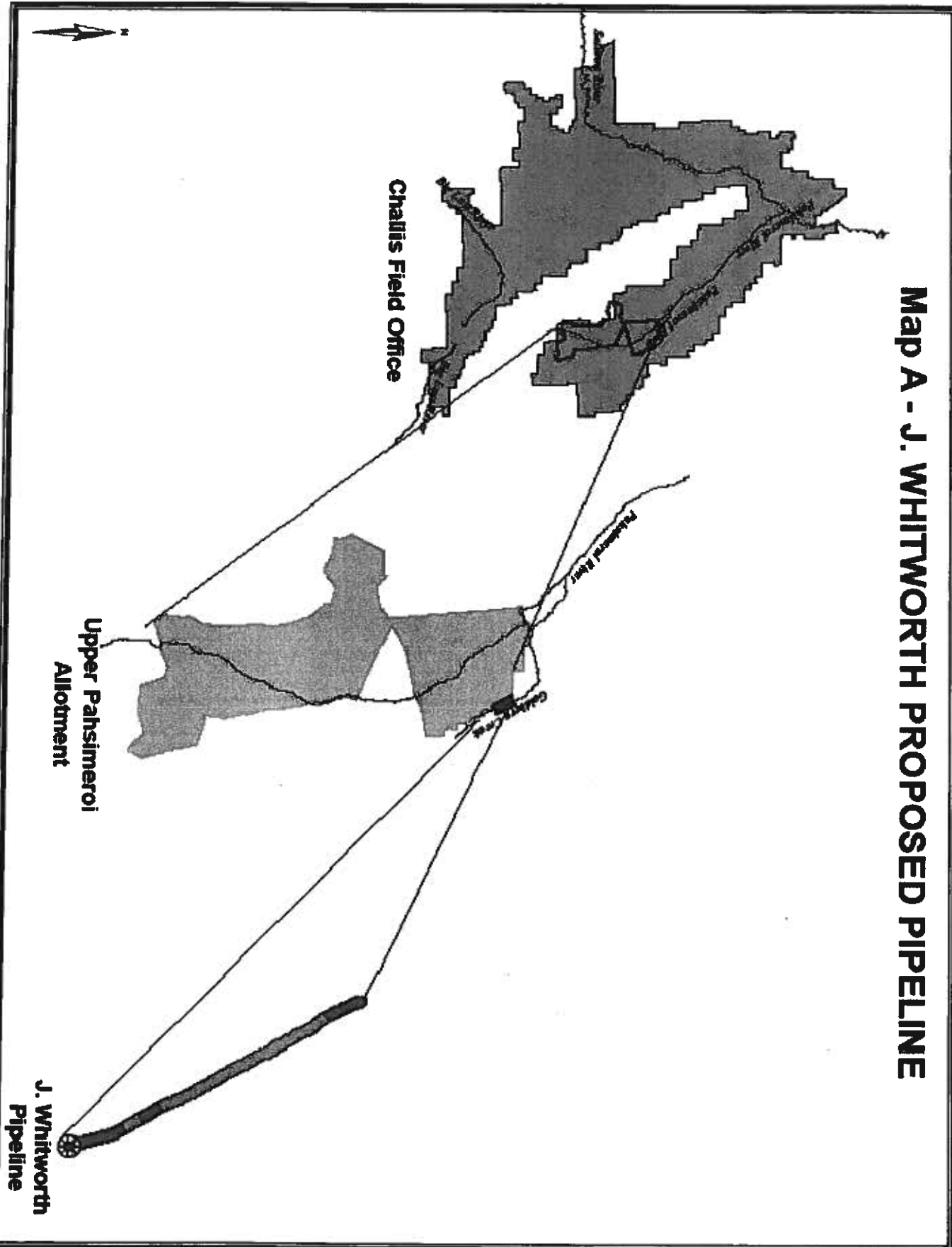
Kondolf, G. Mathias 1989. Stream-groundwater interactions along streams of the eastern Sierra Nevada California: Implications for assessing potential impacts of flow diversions. USDA Forest Service Gen. Tech. Rep. PSW-110.

Meinzer, O.E. 1924. Ground Water in Pahsimeroi Valley, Idaho. Idaho Bureau of Mines and Geology. Pamphlet No. 9.

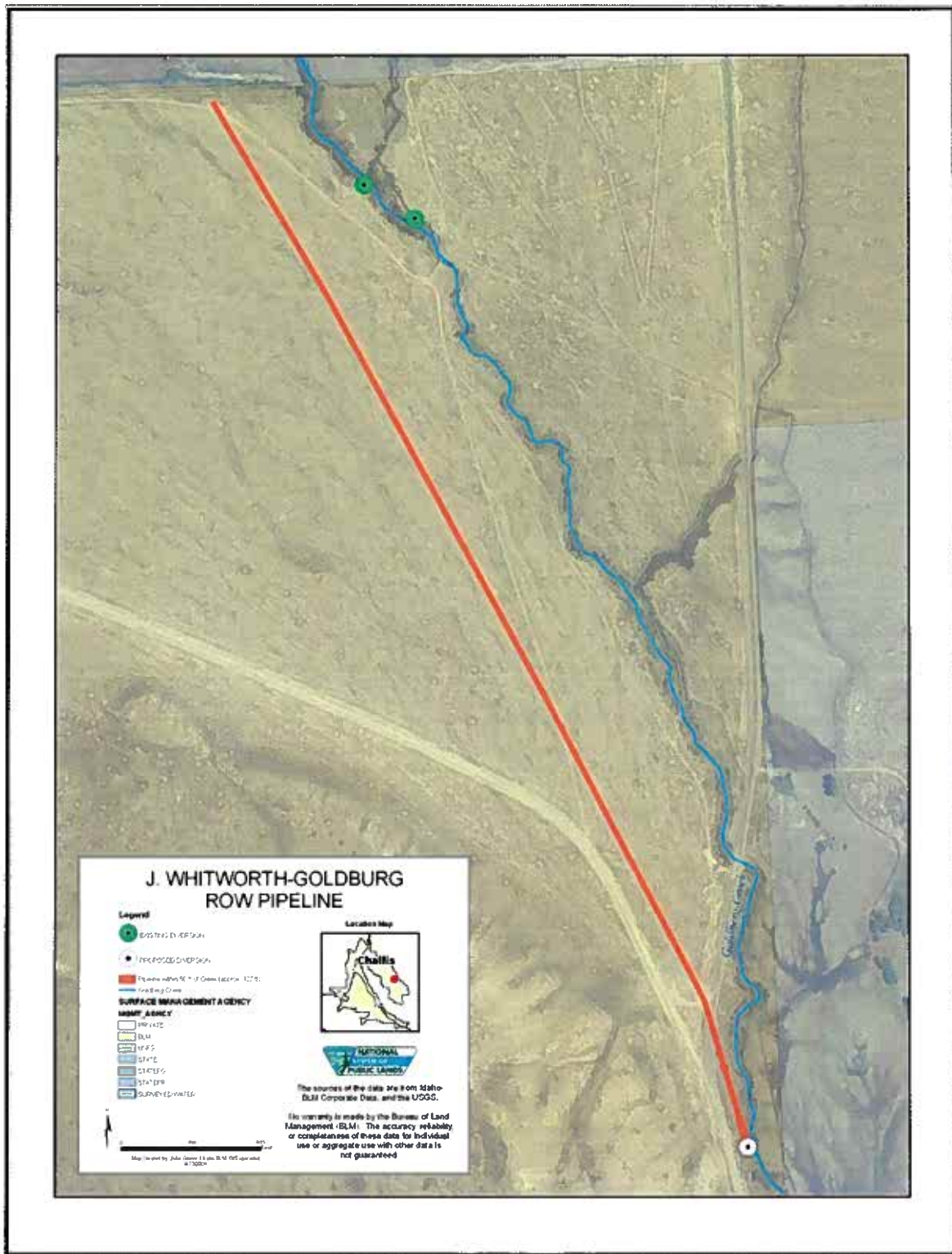
Nadeau, M. S., C. Mack, J. Holyan, J. Husseman, M. Lucid, D. Spicer, B. Thomas. 2009. Wolf

- conservation and management in Idaho; progress report 2008. Idaho Department of Fish and Game, 600 South Walnut, Boise, Idaho; Nez Perce Tribe, P.O. Box 365, Lapwai, Idaho. 106 pp.
- NMFS. 2006. National Marine Fisheries Service review of "An alternative technology fish screen: the Gooby turbulent flat-plate screen." Official Correspondence, February 27, 2006.
- NRCS 2006. Natural Resource Conservation Service, US Department of Agriculture. Soil Survey of Custer-Lemhi Area, Idaho, Parts of Blaine, Custer, and Lemhi Counties. 1268 pp.
- Roberts, H. 1998. Survey of Pygmy Rabbit Distribution, Numbers and Habitat Use in the Lemhi and Challis Resource Areas, Lemhi and Custer Counties, Idaho. BLM, Challis, ID. 14pp.
- Rood, S.B., J. H. Braatne, and F. M.F. Huges 2002. Ecophysiology of riparian cottonwoods: stream flow dependency, water relations and restoration. *Tree Physiology* 23: 1113-1124.
- USDI-BLM. 1995a. Interim Strategies for Managing Anadromous Fish Producing Watersheds on Federal Lands in Eastern Oregon and Washington, Idaho and Portions of California (PACFISH). Environmental Assessment. Washington D.C.
- USDI-BLM. 1995b. Interim Strategies for Managing Fish Producing Watersheds in Eastern Oregon and Washington, Idaho and Portions of California (INFISH). Environmental Assessment. Washington D.C.
- USDI-BLM, 1999. Challis Resource Area Record of Decision (ROD) and Resource Management Plan (RMP), USDI. 174 p.
- USDI-BLM, 2009. Biological Assessment for the Upper Pahsimeroi Allotment. Prepared by the Bureau of Land Management, Challis Field Office, February 12, 2009.
- USDI-USDA 1999. Biological Assessment for Federally Listed Salmonids in the Pahsimeroi River Section 7 Watershed. Prepared by the Upper Columbia Salmon – Clearwater District, Bureau of Land Management, Challis Field Office and U.S. Forest Service, Salmon and Challis National Forest, Challis Ranger District.
- USFS. 2004. The Status of Fishes on the Challis Ranger District, Salmon-Challis National Forest (2001-2004). *Prepared by:* Bartel, J.A., B.L. Gamett, and J.C. Pyron; Zone Fish Program Lost River and Challis Ranger Districts Salmon-Challis National Forest. 235 pp.
- USFWS, 2002. U.S. Fish and Wildlife Service. 2002. Chapter 17, Salmon River Recovery Unit, Idaho. 194 p. *IN:* U.S. Fish and Wildlife Service. Bull Trout (*Salvelinus confluentus*)
- Young, H.W. and W.A. Harenberg. 1973. A Reconnaissance of the Water Resources in the Pahsimeroi River Basin, Idaho. Water Information Bulletin No. 31, Idaho Department of Water Administration.

Map A - J. WHITWORTH PROPOSED PIPELINE



Map A. Location of Goldberg Creek Diversion Project



Map B. Pipeline ROW (red line), existing diversions (green circles) and proposed new point of diversion (white circle - lower right).

Appendix B: BLM Rights-of-Way Stipulations, J. Whitworth Goldburg Creek Diversion Project.

- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- 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) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th 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 this assessment and the map of the staging areas are incorporated into and made a part of this 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 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.
- g. All ground disturbing activities shall be located as far away from a stream as possible. All efforts shall be taken to avoid introducing sediment into a stream channel.
- h. Piles of fill and/or unvegetated soils adjacent to the stream will require sediment retention fence to prevent mobilization of sediment during subsequent precipitation events.

- i. Staging of equipment and materials will be conducted on private land outside of riparian areas. Equipment fueling shall not be conducted in any riparian area to avoid potential impacts to water quality. No refueling, equipment repair, or petroleum based lubricating will be allowed within 100 feet of a stream.
- j. Heavy equipment will be cleaned of all materials that may contain noxious weed seeds before beginning work on public lands. Heavy equipment will be cleaned on-site after working in an area infested with noxious weeds or cheatgrass.
- k. Any petroleum products in excess of 50 gallons would be stored in constructed containment structures with an impervious liner of volume equal to or larger than the storage container. Spill containment kits of appropriate size for the equipment to be used must be present during construction. Adherence to BLM and State of Idaho guidelines in the event of a petroleum spill will be required.
- l. If at any time during project implementation, cultural artifacts, archaeological sites, or other cultural resources are located, all work in the area will cease and the Challis Field Manager or acting official will be immediately contacted. No work in the area would be given permission to proceed until a qualified BLM archaeologist could visit the site, determine the significance of the resource, and develop appropriate mitigation actions in consultation with SHPO and, if appropriate, the Shoshone-Bannock Tribes.
- m. The holder shall re-contour disturbed areas, or designated sections of the right-of-way, by grading to restore the site to approximately the original contour of the ground. All disturbed areas shall be re-seeded during the appropriate season (early spring or fall) and with a BLM approved seed mix as determined by the authorized officer.
- n. In areas where vegetation is completely removed (e.g. pipeline trench, inlet ditch, streambank removal) an effort to preserve intact groups of upland shrubs or riparian shrubs will be made. Some removed vegetation should be used to assist re-vegetation efforts of disturbed areas.
- o. If it becomes necessary to construct a weir to raise the surface water elevation and ensure sufficient flow into the inlet ditch, per NMFS passage criteria, the structure would be required to NOT impede fish movement. For example, to ensure the weir is not a passage impediment, the hydraulic drop over the weir cannot exceed 1.5-feet, or the weir cannot produce a depth of less than 10-inches, or create a flow velocity greater than 12 feet/sec over 90% of the channel cross section (NMFS 2008; USDI-BOR, 2007). The proposed weir would be placed and removed annually, and would consist of hand placed rocks from Goldberg Creek, or rip-rap (24"-minus) if necessary. The rock weir would be removed in conjunction

with winterization of the ditch and bubble screen. The weir would create approximately a 6" hydraulic drop. Upon installation of a weir the operator would be required to contact the BLM, at which point a fisheries biologist or hydrologist would inspect and ensure passage criteria.

p. During the term of this Right-of-Way, if Chinook salmon or Snake River steelhead are documented to occur in Goldburg Creek, then installation of a NMFS criteria screen would be required.

q. In order to facilitate approval of the ROW and proposed project, the applicant would be required to file a water right transfer with IDWR, pursuant to Idaho Statute 42-222. If acceptable to IDWR, the approval conditions for water right transfer (#72799) would require:

- The applicant would install (if not currently present) an approved flow measurement device at the point of injection where the appropriate Pahsimeroi River cross-valley ditch injects flow into Goldburg Creek (T12N, R24E, Sec16. SW, SW, NW). This is in addition to an approved lockable and measureable structure at the proposed point of diversion (POD).

- The measuring device located at the Pahsimeroi River injection point into Goldburg Creek would be used to determine water availability for the proposed point of diversion. Because the injection point conveys Pahsimeroi River water into Goldburg Creek for re-diversion at point downstream. This includes the proposed POD in water transfer #72799, for water right #73-146 from the Pahsimeroi River. When the cross-valley injection ditch is flow limited, the measuring device would determine availability of Pahsimeroi River water in Goldburg Creek.

r. The applicant would be required to submit to the BLM, upon request, the basin 73 water master report, specifically, sections relevant to the Pahsimeroi River cross valley ditches and Goldburg Creek diversions.