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February 9, 2006

Sharla Cox
Idaho Department of Water Resources
900 Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

Re: Application for Permit No. 73-12039 - Bureau of Land Management

Dear Sharla;

My law firm represents Double Springs Ranch, LLC, the Protestant in the above-referenced contested matter. My client hereby withdraws the protest subject to and conditioned upon its receipt from the Bureau of Land Management of a copy of the Right-of-Way Grant attached hereto as Exhibit A and made a part hereof, signed by an authorized officer of the Bureau of Land Management and effective no later than the date of receipt of such document by my client.

Kindly call me if you have any questions. Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

JPS/jef

Enclosure

cc: Doris Tunney (w/ enclosure)
Dave Rosencrance (w/enclosure)

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Department of Water Resources
Eastern Region

FORM 2800-14
(August 1985)

Issuing Office
Challis Field Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT

SERIAL NUMBER IDI-35429

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

- a. By this instrument, the holders:

Double Springs Ranch, L.L.C.
P.O. Box 3873
Ketchum, ID 83340

receive a right to use, maintain, and terminate an underground water pipeline, on the surface of public lands described as follows:

T. 12 N., R. 23 E., sec. 31: W $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$;

All in Custer County, Boise Meridian

- b. The right-of-way or permit area granted herein is 40 feet wide and 5336.54 feet long and contains 4.9 acres, more or less.
- c. This instrument shall terminate on June 3rd, 2010, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed. If renewed, an environmental assessment shall be required and the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holders,

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EXHIBIT A

its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holders agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment of regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with the comparable commercial practices.

4. Terms and Conditions:

- a. This grant is issued subject to the holders' 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)(a) 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 the application, 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 holders to comply with applicable law or any provision of this right-of-way grant shall constitute grounds for suspension or termination thereof.
- f. The holders 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. In the event cultural materials are encountered during project activities, all work must cease and a qualified Archaeologist must be notified in order to identify, record and evaluate those remains.
- h. There is reserved to the authorized officer, the right to grant additional rights-of-way or permits for compatible use on, over, under or adjacent to the land involved in this grant.

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- i. The holders shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant.
- j. The holders shall comply with the applicable Federal and State laws and regulations concerning the use of pesticides (i.e., insecticides, herbicides, fungicides, rodenticides, and other similar substances) in all activities/operations under this grant. The holders shall obtain from the authorized officer approval of a written plan prior to the use of such substances. The plan must provide the type and quantity of material to be used; the pest, insect, fungus, etc., to be controlled; the method of application; the location for storage and disposal of containers; and other information that the authorized officer may require. The plan should be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year (i.e., December 1, 1996, deadline for fiscal year 1998 action. If need for emergency use of pesticides is identified, the use must be approved by the authorized officer. The use of substances on or near the right-of-way shall be in accordance with the approved plan. A pesticide shall not be used if the Secretary of the Interior has prohibited its use. A pesticide shall be used only in accordance with its registered uses and within other limitations if the Secretary has imposed limitations. Pesticides shall not be permanently stored on public lands authorized for use under this grant.
- k. The holders of Right-of-Way IDI-35429 agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holders' activity on the right-of-way. This agreement applies without regard to whether a release is caused by the holders, its agent, or unrelated third parties.
- l. The right-of-way shall be relinquished to the United States if the authorized uses are no longer needed.
- m. The Bureau of Land Management will be allowed to install a 1 1/4" pipeline at survey station 39+ 07.39 to be used for livestock watering. A trough, with a float valve, will be installed at the junction of the Double Springs Pass Road and the Upper Pahsimeroi Road. The purpose of this pipeline and trough is to provide water to livestock when they are in the Double Springs Pasture of the Donkey Hills Allotment (Allotment No. 4516). The grantee shall provide a connection at this point and shall provide water to the trough during the period the livestock are in this pasture. The grantee shall not petition, oppose, or otherwise dispute any water right filed on behalf of the United States of America for livestock watering at this point of diversion (Station 39+07.39). The grantee shall provide water to the point of diversion (Station 39+07.39) for the purpose of livestock watering. The maximum rate of diversion to be provided on behalf of the United States of America will not exceed 0.02 cubic feet per second during the grazing season.

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IN WITNESS WHEREOF, The undersigned agree to the terms and conditions of this
right-of-way grant.

John Tunney
Signature of Holder

1-2-06
Date

Signature of Holder

Date

Signature of Authorized Officer

Title

Effective Date of Grant

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Eastern Region