C/015/018 Incoming

INTERWEST MINING COMPANY
A SUBSIDIARY OF PACIFICORP

Interwest Mining Company
Huntington Office
P. O. Box 310
15 North Main Street
Huntington, UT 84528

#5496

August 25, 2017

RECEIVED
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DIV. OF OIL, GAS & MINING

Utah Coal Program
Utah Division of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Subj: Clean Copy Submittal to Legal and Financial Volume's Appendix B – USFS and BLM Right of Way Grants for Deer Creek Pipeline Construction, PacifiCorp, C/015/0018, Emery County, Utah, Task ID #5496

PacifiCorp, by and through its wholly-owned subsidiary, Interwest Mining Company, as mine manager, hereby submits clean copies for incorporation into the MRP related to the decision notices by the United States Forest Service and the Bureau of Land Management. These documents gives PacifiCorp the right to enter federal lands and conduct coal mining and reclamation operations. The activities described as coal mining and reclamation operations are specifically the construction and maintenance of a mine water discharge pipeline that will be installed from the Rilda 1st Right Portal Facility to the Huntington Plant raw water pond.

On July 6, 2017 both the USFS and BLM signed their respective decision notices and Findings of No Significant Impact (FONSI). Included with the DN's are the USFS Special Use Permit and the BLM Right of Way Grant. The two documents issued by each of the federal agencies are incorporated into Appendix B of the Legal and Financial Volume.

Please feel free to contact Dennis Oakley (435-687-4825) or myself (435-687-4712) at any time if there are any questions or concerns.

Sincerely,

Kenneth S. Fleck

Kenneth S. Fleck
Geology and Environmental Affairs Manager

Enclosures
Cc Scott Child (cover letter only)
File

APPLICATION FOR COAL PERMIT PROCESSING
Detailed Schedule Of Changes to the Mining And Reclamation Plan

Permittee: PacifiCorp
Mine: Deer Creek Mine **Permit Number:** C/019/0018
Title: Clean Copy Submittal to Legal and Financial Volume's Appendix B – USFS and BLM Right of Way Grants for Deer Creek Pipeline Construction, PacifiCorp, C/015/0018, Emery County, Utah, Task ID#5496

Provide a detailed listing of all changes to the Mining and Reclamation Plan, which is required as a result of this proposed permit application. Individually list all maps and drawings that are added, replaced, or removed from the plan. Include changes to the table of contents, section of the plan, or other information as needed to specifically locate, identify and revise the existing Mining and Reclamation Plan. Include page, section and drawing number as part of the description.

			DESCRIPTION OF MAP, TEXT, OR MATERIAL TO BE CHANGED
☐ Add	☒ Replace	☐ Remove	Legal and Financial Volume, Appendix B, Replace Cover
☐ Add	☒ Replace	☐ Remove	Legal and Financial Volume, Appendix B, ROW Table
☒ Add	☐ Replace	☐ Remove	USFS Decision Notice for Pipeline Construction and Special Use Permit PRI-1606 (add at the back of this appendix)
☒ Add	☐ Replace	☐ Remove	BLM Decision Notice for Pipeline Construction and Right of Way Grant UTU-91700 (add after the USFS insertion)
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PacifiCorp

Interwest Mining Company

Deer Creek Mine

C/015/0018

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Legal and Financial Volume, Appendix B, Replace Cover

PacifiCorp

Cottonwood/Wilberg Mine
C/015/0019
Deer Creek Mine
C/015/0018

Legal and Financial Information

Appendix B:
Miscellaneous Licenses, Permits, and Approvals

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PacifiCorp

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Deer Creek Mine

C/015/0018

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Legal and Financial Volume, Appendix B, Replace BLM/USFS/SITLA Right of Way Grants Issued to PacifiCorp

Interwest Mining Company
BLM / USFS / SITLA Right-of-Way Grants Issued to PacifiCorp
Emery County, Utah

Item No.	BLM R/W Grant No.	Property File No.	Date Issued	Description	Affiliated Mine	Term Years	Termination Date	Location		Acres	Remarks
								Section	Twnshp/Rng		
1	U-37641	FR-10.1-EM-2	10/30/2007	Sewer line & absorption field	Cottonwood	30	10/30/2037	34	17 S - 7 E	3.39	Mine site is in cessation.
2	U-37642	FR-10.1-EM-5	10/30/2007	Old Waste Rock Site (Located on east side of State road 57)	Cottonwood	30	10/30/2037	34 & 35	17 S - 7 E	34.56	Mine site is in cessation.
3	U-52401	FR-10.1-EM-14	5/3/1983	Conveyor belt & 8" waterline	Deer Creek	30	12/31/1943	2	17 S - 7 E	1.84	Active part of Deer Creek Mine operations and mine permit area. Filed amend. 5/31/05, revised 10/2006. BLM approved 12/14/2006.
4	UTU-91700		7/6/2017	Mine Water Discharge Pipeline	Deer Creek	30	12/31/2046	26, 27, & 35	16S - R7E	4.7	This right-of-way (in conjuncton with private and USFS easements) provides the legal right-of-entry route for the permanent installation of a buried 10" HDPE pipeline to convey mine discharge water from the Deer Creek Mine Rilda Canyon portals to the Huntington Power Plant.
	USFS Special Use Permit No.										
1	2307 (164)	FR-10.1-EM-9	11/9/1976	8" waste water line	Cottonwood	See footnote (1)	Until term./reling.	27	17 S - 7 E	4.78	All 3 of these US Forest special use permits are combined and all located together in same general area. Mine site is in cessation.
2	2307(164)	FR-10.1-EM-10	4/16/1978	Road, sewer & water line	Cottonwood		Until term./reling.	27	17 S - 7 E		
3	2307(164)	FR-10.1-EM-11	2/16/1978	Sediment Ponds	Cottonwood		Until term./reling.	27	17 S - 7 E		
4	None	FR-10.1-EM-26	1980	Meteorological weather station	East Mtn.	17	12/1/1997	26	17 S - 7 E	0.01	Filed renewal 10/13/97 - No decision as of yet - pending USFS.
5	PRI-1606		7/6/2017	Mine Water Discharge Pipeline	Deer Creek	30	12/31/2046	26, 27, & 35	16S - R7E	4.7	Same remarks as BLM right-of-way grant no. UTU-91700
	SITLA Special Use Lease Agmt.										
1	S.U.L.A. #1382	FR-10.1-EM-15	8/1/2002	Overland conveyor belt & 8" water line	Deer Creek	30	7/31/2032	2	17 S - 7 E	160.00	Active part of Deer Creek Mine operations and mine permit area.

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Notes:
1 Term is until the special use permit area is terminated or relinquished.

Updated:
8/25/2017

PacifiCorp

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Deer Creek Mine

C/015/0018

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Legal and Financial Volume, Appendix B, Add USFS FONSI and Special Use Permit

USDA

United States
Department of
Agriculture

Forest Service

**Intermountain
Region**

July 2017

Final
Decision Notice
&
Finding of No Significant Impact

DEER CREEK MINE CLOSURE WATER PIPELINE

PRI-1606

U.S. Forest Service

Rilda and Huntington Canyons

Manti-La Sal National Forest

Emery County, Utah

For Information Contact:

Jeff Salow

USDA Forest Service

Manti-La Sal National Forest

Supervisors Office

599 West Price River Drive

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DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT FOR THE DEER CREEK MINE CLOSURE WATER PIPELINE ENVIRONMENTAL ASSESSMENT

INTRODUCTION

This Decision Notice (DN) document describes my rationale and decision regarding the proposed Deer Creek Mine Closure Water Pipeline on the Price District of the Manti-La Sal National Forest. My Decision and findings are based on the analysis documented in the Deer Creek Mine Closure Water Pipeline Environmental Assessment (EA) (USDI BLM & USDA FS 2017a) and it's supporting project record which is incorporated by reference into this document. The analysis and decision tier to the Manti-La Sal National Forest Final environmental Impact Statement and the Manti-La Sal National Forest Land and Resource Management Plan (USDA FS 1986 as amended).

BACKGROUND

On May 11, 2016, PacifiCorp submitted an SF-299 application for a right-of-way (ROW) for the construction of a pipeline that would convey intercepted groundwater from the Rilda Canyon portals to a raw water pond at the Huntington Power Plant.

The Deer Creek Mine has completed active coal mining and is undergoing mine closure procedures. As part of the closure procedures, the mine must address the management of intercepted groundwater. Deer Creek Mine is projected to have permanent post-mine gravity discharges at Deer Creek Canyon portals (south half of mine), and at Rilda Canyon portals (north half of mine) after final mine closure. If the intercepted groundwater falls within the range of numeric criteria determined by Utah Department of Environmental Quality, Division of Water Quality (UDWQ) it may be discharged under Utah Pollutant Discharge Elimination System (UPDES).

If the intercepted groundwater exceeds the numeric criteria of the UDPES permit the water would need to be treated and meet the numeric criteria before being discharged. Based on the location of intercepted groundwater, elevation, and the current mine workings, it is projected that some of the intercepted water would naturally flow out of the Rilda Canyon Portals. Even if the groundwater meets the numeric criteria, a UPDES discharge permit cannot be issued for the Rilda Canyon portals because the Rilda Canyon portals are within Category 1 waters per Utah Admin Code (UAC) R317-2. Therefore, appropriate management of the intercepted groundwater must be established to allow for the mine to cease operations, seal the mine, and complete the reclamation process as set forth in the Utah Division of Oil, Gas and Mining (UDOGM) permit and Forest Service regulations.

The original preferred plan was to build water-retaining bulkheads to contain all of the intercepted groundwater in the underground mine workings in perpetuity. Efforts undertaken by PacifiCorp since late 2014 to obtain permission from the Mine Safety and Health Administration (MSHA) and the UDOGM to permanently retain intercepted groundwater underground with concrete bulkheads and possibly to direct overflow water to the Deer Creek Canyon portals were rejected in April of 2016 (UDOGM 2016). MSHA and UDOGM will not allow any water retention as part of the Deer Creek Mine closure plans; water must be directed to the portals to flow unimpeded out of the mine. This response by the agencies necessitates that PacifiCorp develop an alternative to manage intercepted groundwater that would otherwise discharge from the Rilda Canyon portals in violation of UAC R317-2.

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On January 20, 2017 the UDOGM received an application from PacifiCorp to amend the Deer Creek Permit to include permanent water discharge at the Rilda Canyon Portals, as well as a water discharge pipeline to the Huntington Power Plant and a permit area change to include the pipeline route and potential treatment facility area at the Huntington Power Plant (PacifiCorp 2017). On March 7, 2017 the Office of Surface Mining Reclamation and Enforcement (USDI OSMRE 2017) determined that the requested amendment of discharge at the Rilda Canyon Portals and pipeline route to the raw water pond did not constitute a mining plan modification or a major federal action that would require an EIS. Accordingly Daron D. Haddock (UDOGM 2017b) gave conditional approval to add post mining water discharge to PacifiCorp (Deer Creek Mine, C/015/0018, Task ID #5358) on April 7, 2017.

SCOPE OF DECISION AND AUTHORITY

The purpose of the action and my decision is to determine whether to authorize a pipeline right-of-way within existing road rights-of-way across Manti-La Sal National Forest administered lands to provide conveyance of intercepted groundwater from the Rilda Canyon portals to a settling pond (raw water pond – see Map 4) at the Huntington Power Plant at the mouth of Huntington Canyon. Providing conveyance of the intercepted groundwater to a Utah Department of Water Quality (UDWQ) permitted discharge location outside of Category 1 waters, which will allow for final closure and reclamation of the mine, and avoid potential contamination of the water resources on federal lands due to water with high levels of iron filling the mine and naturally flowing out of the portals in Rilda Canyon.

Federal authorization to complete coal reclamation on National Forest System lands comes from in part, the Surface Mining Control and Reclamation Act (SMCRA), enacted August 3, 1977. This was an act to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes. The Office of Surface Mining Reclamation and Enforcement's Code of Federal Regulations (30 CFR 700 to 999 Mineral Resources revised as of July 1, 2002) defines the regulatory framework for coal mining. The regulatory framework for Utah is under 30 CFR 944.30 Article I A. (pg. 650), which "allows a State with a permanent regulatory program approved by the Secretary of the Interior under 30 U.S.C. 1253, to elect to enter into an agreement for State regulation of surface coal mining and reclamation operations on Federal lands."

The State of Utah's Division of Oil, Gas and Mining "will assume responsibilities listed in 30 CFR 740.4(c)(1)(2)(3)(4)(6) and (7), to the extent authorized. UDOGM will assume primary responsibility for the analysis, review, and approval or disapproval of the permit application component of the permit application package (PAP) for surface coal mining and reclamation operations and activities in Utah where a mining plan is required." (30 CFR 944.30 Article VI C).

UDOGM requires the permittee to provide right-of-entry information as per Utah Administrative Code Rule R645-301-114.1 which states "An application will contain a description of the documents upon which the applicant bases their legal right to enter and begin coal mining and reclamation operations in the permit area and will state whether that right is the subject of pending litigation. The description will identify the documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant."

The Memorandum of Understanding between UDOGM and Utah Division of Water Rights (DWRi) for Coal Mining Operations dated 2005 states UDOGM is the designated regulatory authority for the State of Utah responsible for implementation and enforcement of a statewide program for the regulation of coal mining and reclamation operations under Utah Coal Mining and Reclamation Act, Utah Code Ann. §§ 40-10-1 et seq., (2005) and regulations at R645-1 et seq., Utah Administrative Code (2005) (UDGOM 2015). DWRi is the designated regulatory authority for the State of Utah responsible for the appropriation and distribution of water (surface and underground), dam safety, stream alteration, well drilling, and other water right activities under Utah Code Ann. §§ 73-1 to -6 (2005) and regulations at Utah Administrative Code

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R655-1 et seq. (2005).

Facilities that produce, treat, dispose of, or otherwise discharge waste water may need permits from the Utah Division of Water Quality (UDWQ). The Environmental Protection Agency has delegated authority to Utah to administer its own water quality regulatory programs which EPA still runs in many other states. The UDWQ is charged with protecting and preserving the beneficial uses of Waters of the State. Control measures in place to carry out this objective include the UDPES permitting program and the Ground Water permitting program. The Ground Water Quality Discharge Permit for the PacifiCorp Huntington Power plant, UGW150002, was in the renewal process at the time the Deer Creek Mine Closure Water Pipeline EA was made available in a Legal Notice of Opportunity to Object by the Forest Service (Sun Advocate 2017). The UDWQ public comment period closed January 18, 2017. The Final Ground Water Discharge Permit (UDWQ 2017) was approved on May 30, 2017.The draft permit and the final renewal permit address the activities at the facility which have the potential to impact ground water and includes permit conditions protective of ground water (UDWQ 2016c and UDWQ 2017).

PURPOSE AND NEED

Purpose

The purpose is to respond to the request for a special use permit for a pipeline. The pipeline would provide for conveyance of intercepted groundwater to a location outside of Category 1 waters, which will allow for final closure and reclamation of the Deer Creek Canyon Mine.

Need

The need for the Forest Service is established by the agency's responsibilities under the Federal Land Policy and Management Act (FLPMA) to respond to PacifiCorp's application for a Title V right-of-way. The Forest Service has a statutory obligation to evaluate and respond to the SF-299 application according to 43 Code of Federal Regulations 36 CFR 251.54. The Forest Service must respond to the proposal in accordance with the objectives of Manti-La Sal Land and Resource Management Plan (LRMP) approved in 1986, as amended, and fulfill its regulatory responsibilities to manage public lands for multiple uses. The regulations require that the activities be conducted, insofar as possible, in a manner which minimizes adverse impacts to natural resources and lands administered by the Forest Service.

Forest Service Manual (FSM) 2703.2 states that use of National Forest System lands may be authorized if "the proposed use is consistent with the mission of the Forest Service to manage National Forest System lands and resources in a manner that will best meet the present and future needs of the American people, taking into account the needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historical values; and b. The proposed use cannot reasonably be accommodated on non-National Forest System lands".

LOCATION OF PROPOSED ACTION

The proposed pipeline would be located in Huntington Canyon T. 16 S, R. 7 E, Sections 22, 23, 26, 27, 28, 29, 35, and 36 (Map 1 & 2).

DECISION

After considering information provided in the EA, comments received from the public and other entities, and internal input from an interdisciplinary team of Forest Service and BLM Resource Specialists, I have **selected the Proposed Action as described below, for implementation on National Forest System lands (1.8 miles).**

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My decision is solely to approve and authorize a ROW for the construction of a pipeline. This pipeline will convey intercepted groundwater from the Rilda Canyon portals and will connect to the raw water pond at the Huntington Power Plant. The management of this intercepted groundwater falls under the administration of the UDWQ with UPDES discharge permits. All water quality standards are established by the UDWQ and those standards must be met by any action that PacifiCorp takes regarding the final closure of the Deer Creek Mine.

The management of intercepted groundwater from the Deer Creek Mine is outside of the Forest Service's decision making abilities. Although the management of intercepted groundwater to the raw water pond is a connected action under the National Environmental Policy Act, it is a non-federal connected action, and not subject to Forest Service control and authority (USDA FS 2011). The UDWQ permits and enforces use and discharge of water at the Huntington Power Plant. The Forest Service has demonstrated in the EA, this decision record, and the project administrative record, that the management of intercepted groundwater has been considered.

With my decision, the Forest Service will approve and authorize a ROW and special use permit (SUP) for construction and maintenance of approximately 1.8 miles of a buried, gravity-flow water pipeline on Forest System Lands. The SUP will be valid for 30 years. This pipeline will be constructed within an existing road ROW and will provide conveyance of mine water from the Deer Creek Mine 1st Right Portals in Rilda Canyon portals to the raw water pond at the Huntington Power Plant at the mouth of Huntington Canyon. There would be a permanent 12-foot ROW with a disturbance of approximately 2.7 acres of Forest System Lands. Additionally, there would be a temporary 20-foot ROW for the purposes of construction of the pipeline that would have a temporary disturbance of 4.4 acres of Forest Service System lands. Prior to any construction of the pipeline on Forest Service System Lands, authorization for this pipeline construction on private land, BLM-administered lands, or any other entity must be in place. Additionally, the construction, maintenance, or termination of construction may not be initiated until the Forest Service issues a Notice to Proceed.

Proposed Action

PacifiCorp proposes to construct 5.6 miles of a 10-inch high-density polyethylene (HDPE) gravity flow water pipeline from the Deer Creek Mine 1st Right Portals in Rilda Canyon that would connect to the existing raw water pond at the Huntington Power Plant. The pipeline would be constructed mostly within the existing road rights-of-way; within Emery County Road #306 right-of-way for about 11,835 feet (2.2 miles), and within the State Route (SR)-31 right-of-way (UTU-0-17187) for about 14,606 feet (2.8 miles). Approximate pipeline lengths by landownership are shown in Table 1.

Landownership	Total length
Forest Service	9,622 feet (1.8 mi)
BLM	6,388 feet (1.2 mi)
Private	13,518 feet (2.6 mi)
Total	29,528 feet (**5.6 mi**)

The proposed pipeline would be installed on the northeast side of SR-31 because the pipeline must be offset from parallel culinary pipelines by a minimum distance of 10 feet as specified by the State of Utah regulations (UAC R317-401-5).

The proposed permanent right-of-way width is 12 feet centered on the pipeline, and is wholly within the road rights-of-way.

An additional 20 feet of temporary right-of-way on the outer edge of the permanent right-of-way (away from the roadway) would allow for construction of the pipeline (Map 3).

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Design Features

The main project design features are listed below; additional detail can be found in the Plan of Development (POD) (BLM-Forest Service 2017 Appendix D).

Construction and Reclamation

- The trench for the pipeline would be excavated with a trenching machine, track hoe excavator, or similar equipment. Topsoil and subsoil would be segregated and stockpiled separately adjacent to the trench. After the pipeline was installed, the stockpiled subsoil would be used to backfill the trench, and the topsoil would be replaced on the surface and graded to pre-disturbance contours.
- Large rocks that are unsuitable for fill would be placed on the surface within the road rights-of-way, outside of the safety clear zone. If the excavated rock contrasts with the natural surface, the contrasting material would be removed from the right-of-way and disposed of in an appropriate location off-site.
- The pipeline would include a shut-off valve at the mine entrance.
- Pipe segments would be laid out end-to-end along the trench at each active site. The pipeline segments would be about 50 feet long, and would be heat-welded together on-site.
- Bedding material would be placed in the trench below and above the pipeline. Such bedding material serves two principal functions: protection of the pipe from mechanical damage during installation and trench filling, and stabilization of the pipe in the event of seismic shifts or frost heaves.
- The pipeline would be buried with at least 5 feet of cover, except at the crossings of Huntington Creek, where the pipeline would be attached to an existing bridge or diversion structure at each crossing. The pipeline would be concealed in the existing girders under the west side of the bridge, and set on top of the diversion structure. The pipeline would not be buried at these crossing locations.
- Air vents and Carsonite posts would be installed approximately every 1,000 feet along the alignment; these features would be about 4 feet high, but would be colored to be visually unobtrusive from the roadway.
- No permanent roads would be constructed during project implementation. All construction activities would take place alongside and largely within the rights-of-way of existing roads.
- Construction is anticipated to take 2 to 3 months in 2017, depending on weather conditions and other factors.

Noxious/Invasive Plants

- All disturbance areas would be monitored for noxious weeds annually, for a minimum of three growing seasons following completion of the project, or until desirable vegetation was established. If found, weeds would be treated as described in the reclamation plan.

Soils

- Impacts to soils will be minimized by following the Reclamation Plan in the POD. Seeding would occur in the fall after construction to increase the likelihood of success.
- Reconstruct the disturbed area to original contours, particularly drainages.
- Topsoil will be salvaged, stockpiled, and replaced upon completion of construction. Topsoil storage will be identified with appropriate signage. Topsoil will not be stored beyond one growing season.

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- Implement a Storm Water Pollution Prevention Plan to prevent sediment transport from the construction area, manage waste, and prevent contamination.
- After construction, PacifiCorp would maintain the right-of-way and allow the pipeline to operate continuously. The pipeline would be intended to be permanent; if the pipeline were decommissioned, it would be left in the ground to avoid further ground disturbance.

Cultural Resources

- A cultural resources discovery plan is included in the POD, and would be applied if cultural resources were discovered.

Water Resources

- The intercepted groundwater from the mine would be directed into the raw water pond at the Huntington Power Plant, and used or discharged in accordance with existing permits or policy.
- Directional drilling would be applied to install the pipeline at crossings under Emery County Road #306, SR-31, and Bear Creek and the adjacent Bear Canyon Road. The Emery County Road #306 crossings would be drilled at two locations: north and south of the Huntington River bridge. The SR-31 crossings would also be applied in two locations: 1) approximately 500 feet south of the SR-31 and Emery County Road #306 intersection, and 2) adjacent to the Huntington Power Plant diversion dam. These road crossings are on private land. The crossing under Bear Creek and Bear Canyon Road is on BLM-administered land. Drill pits would be excavated on each side of a crossing and a vacuum trailer would ensure that drilling mud did not discharge into the adjacent waters.
- A stormwater pollution prevention plan and spill prevention and response plan would be prepared and implemented to ensure compliance with the Clean Water Act during construction. Temporary erosion control measures could include sediment barriers such as silt fence or fiber rolls. Permanent erosion control measures would include trench breakers and revegetation where suitable within the road rights-of-way.

Wildlife Resources

- Timing stipulations would be applied where appropriate to avoid potential impacts to wildlife.

Monitoring

- The water quality of the mine discharge would be sampled at least monthly and analyzed for compliance with DEQ water quality numeric criteria and submitted to UDOGM quarterly.
- Other monitoring described in the EA, including the POD (EA Appendix D), and monitoring requirements of applicable required permits (UDWQ & UDOGM) that apply to the pipeline system, including construction monitoring, leak detection, reclamation, noxious weeds, cultural resource protection, and other applicable requirements specified will be implemented as appropriate.

DECISION RATIONALE

In reaching my decision, I have sought to carefully and objectively assess all the public comments and the analysis of issues disclosed in the EA.

When compared to the No Action alternative, the proposed action would best meet the purpose and need of the project discussed above. The proposed action would meet the need to manage the intercepted groundwater and allow for the closure of Deer Creek Mine.

The No Action alternative would not meet the purpose and need, intercepted groundwater would continue

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to be managed through pumping and the mine would remain open. The mine would not proceed with final closure and reclamation activities until other water management methods were determined.

Water

Concerns raised by the public generally focused on water resource issues. It is my conclusion, based on the documentation in the EA and the project record, that the combination of the design features of the proposed action and the permitting and enforcement requirements of all agencies with jurisdiction regarding closure of the mine and management of the water that the direct, indirect, and cumulative effects to surface and groundwater, water quality, and aquatic habitat will be minimal. Water quality and habitat of aquatic species will be maintained.

Implementation of the proposed action could have some impact on surface water flows, and could potentially increase sedimentation or pollution of surface waters in the short-term. The disturbance from the proposed action could lead to increased erosion and sedimentation of the disturbed soils into Huntington Creek until disturbed areas recover. To mitigate any adverse impacts to water quality, a stormwater pollution prevention plan and spill prevention and response plan would be prepared prior to initiation of ground disturbance. These plans would detail the best management practices (BMPs) and site-specific measures to be implemented to prevent sediment and other pollutants from discharging into the creek during construction. Implementation of the stormwater pollution prevention plan and spill prevention and response plan would reduce the potential for sedimentation and the risk of pollution to surface waters during construction. Implementation of BMPs have been proven to be effective in minimizing erosion in similar projects and should be effective for this proposal.

The proposed pipeline would be buried above the water level of the adjacent groundwater system that feeds the North Emery Water Users Special Service District's spring collection system; therefore, implementation of the project would not impact the quality or quantity of water present in the groundwater system that sustains the springs. It is also unlikely that implementation of the project would affect Birch Spring's water quality or quantity because the spring is topographically above the proposed disturbance (Peterson 2016a).

Hydrogeological analysis for each federal lease that make up the Deer Creek Mine have been conducted and documented in previous NEPA decisions dating from 1976 up to 2012 (Forest Service 2017c). This environmental analysis has included the direct, indirect, and cumulative affects to surface waters, which include impacts to springs, seeps, and streams (Forest Service 2017c). Protection of these resources are defined in site specific lease stipulations. A Cumulative Hydrologic Impact Assessment is also written by the UDOGM as per Utah Administration Code R645-301-729 prior to permitting a mine plan (UDOGM 2017a & 2017b). Each lease is subject to this hydrologic assessment including Deer Creek Mine.

The analysis in the multiple environmental assessment documents conclude that the perched, inactive- zone groundwater systems in the Blackhawk Formation, are not in direct hydraulic communication with overlying shallow, active-zone groundwater systems that support springs and seeps and provide baseflow to streams (Forest Service 2017c). An isotopic review of groundwater within the mine shows a depletion in Tritium and carbon-14 (^{14}C) values, with respect to the values typically associated with modern meteoric waters recharging active aquifers. The lack of Tritium and ^{14}C in water seeping from perched aquifers into the mine indicates that groundwater is not hydrologically connected with surface water, is relatively ancient in origin, and is therefore inactive and not undergoing recharge (Forest Service 2017c).

The transport of the water to the power plant raw water pond is considered to be an acceptable option by the governing agencies because discharge would be in compliance with the existing permits, and PacifiCorp is willing to accept the intercepted ground water (UDOGM 2017a & 2017b). PacifiCorp has collected and had a laboratory analyze the intercepted groundwater samples from areas within the mine that will gravity flow to the Rilda Canyon portals utilizing the EPA Priority Pollutant List, which consists of 129 priority pollutants (USDA FS 2017c). None of the pollutant parameters were detected. The intercepted groundwater in the mine is estimated to initially have a total iron concentration of 2-2.5 mg/L and an estimated Total

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Dissolved Solids (TDS) concentration of 500 mg/L. The elevated levels of iron in the groundwater is from the oxidation of the mineral pyrite in areas of the mine that contain pyrite mineralization within the coal seam. A gradual decrease in the concentration of iron is predicted to occur over the next 5 to 10 years as the surface area of exposed pyrite is consumed and available oxygen diminishes. The concentration of iron is the only elevated analyte in the mine's groundwater that exceeds water quality standards for PacifiCorp's Deer Creek Canyon discharge permit UT0023604. The effects of disposing the intercepted groundwater at the raw water pond at the Huntington Power Plant would be minimal. The intercepted groundwater would be piped from the portals at Rilda Canyon and would mix with diverted water from Huntington Creek in the power plant's raw water pond, which is lined with three feet of clay and silt soils compacted to 98% density which seals the pond, limiting potential hydrologic communication between the pond and the lower shale bearing aquifer (Forest Service 2017c). Groundwater from Deer Creek Mine placed in the raw water pond would not contribute to the degradation of the underlying shale aquifer.

Implementation of the proposed action would not adversely affect water quality in the long-term, nor contribute to the existing water quality impairments defined by the Utah Department of Environmental Quality. Acid mine drainage conditions are not expected to occur within the Deer Creek Mine (Peterson 2016b). The addition of the discharged groundwater would slightly alter the quality of water in the raw water pond. The level of iron in the water in the raw water pond would increase from 0.48 to 0.5 mg/L, a 4 percent change. Total Dissolved Solids would increase from 305 to 348 mg/L a 14 percent change. This minor modification of water quality would not affect power plant operations, as it still operates with lower mineral concentrations and is of higher quality than other comparable power plant site waters (USDA FS 2017c). The discharged groundwater meets the EPA National Primary Drinking Water standards. When the groundwater is mixed with the diversion water in the raw water pond, the water would still meet EPA National Primary Drinking Water standards (USDA FS 2017c). The projected Iron concentration (0.5 mg/L raw water pond) would exceed the EPA National Secondary Drinking Water Standards, which are non-enforceable standards. "They are established only as guidelines to assist public water systems in managing their drinking water for aesthetic considerations, such as taste, color, and odor. These contaminants are not considered to present a risk to human health at the secondary maximum contaminant levels."

The state of Utah's numeric criteria for aquatic wildlife has a 1 mg/L, maximum threshold for iron. The intercepted groundwater is expected to exceed this standard (USDA FS 2017c). However, once the groundwater is diluted with Huntington Creek water in the raw water pond, the water in the raw water pond would meet the Utah Numeric Criteria for Aquatic Wildlife (Huntington Creek 3C). Because the water would be within the limits set for aquatic life, no measurable direct effects are expected.

To maintain the water quality in Huntington creek, any discharge of water into Huntington Creek is governed by UPDES permits and UDWQ.

Based on current information and analysis, there are minimal direct and indirect effects to the water quality in the raw water pond. In addition, there should be no measurable cumulative effects to the water quality of the irrigation pond or subsequent irrigation practices.

Water stored in the raw water pond is used in power plant operations, cooling towers, and boiler vents. The water is recycled through the plant six to seven times. Of the 7,000-11,000 gpm of water used in plant operations, approximately 97% of the water is evaporated off. The remaining 3% is transferred to the irrigation storage reservoir and used on crop research fields (USDA FS 2017c). The water used for irrigation on the research fields is regulated by the Utah Department of Environmental Quality, Division of Water Quality by authorization of a Ground Water Discharge Permit (UDWQ 2016a). The permit requires that water quality be measured periodically in monitoring wells in order to maintain compliance with the Ground Water Discharge Permit UGW150002. The PacifiCorp's groundwater discharge permit was in the renewal process at the time the Deer Creek Mine Closure Water Pipeline EA was made available in a Legal Notice of Opportunity to Object by the Forest Service (Sun Advocate 2017). The Final Ground Water Discharge Permit (UDWQ 2017) was approved on May 30, 2017.

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The addition of intercepted groundwater would not change the amount of water stored in the raw water pond, or the amount of water used during cooling operations at the power plant. The addition of the intercepted groundwater would not affect the quality of the remaining 3% of the water that leaves the power plant. The addition of groundwater from the Deer Creek Mine will not affect the Huntington Power Plants cooling tower circulating water quality, because it is controlled through a water treatment process. The plants water treatment process controls TDS concentrations such that levels do not impair plant operations. Therefore, the addition of TDS from mine groundwater will not affect plant operations nor will there be measurable additions to the irrigation storage pond (USDA FS 2017c). Because there are no expected changes to the amount of water in the raw water pond, only slight changes in the water chemistry, and a controlled water treatment process in the cooling plant, there are no measurable changes to the amount and quality of water leaving the power plant. Because there are no measurable changes to the water leaving the power plant, there are no measurable direct, indirect, or cumulative effects expected to the water in the irrigation pond or irrigation practices. The power plant will continue its operations into the future, and the water will continue to be disposed of in accordance with their UPDES permits (UDWQ 2017).

The current Ground Water Discharge Permit (No. UGW150002) was issued in 2017 through a public process (UDWQ 2016b & 2017). The environmental effects of the water discharge are disclosed in the Groundwater Quality Discharge Permit UGW150002 Draft Statement of Basis document and the Huntington Power Plant Water Quality Analysis 2016 (UDWQ 2016c, WET 2016). The water management from the plant is expected to continue as is until a new groundwater permit is issued. PacifiCorp's groundwater discharge permit was in the renewal process; the public comment period for renewal closed on January 18, 2017 (UDWQ 2016a) and the final amended permit was signed on May 30, 2017 (UDWQ 2017). PacifiCorp has chosen to develop an alternative method to dispose of the wastewater streams that are currently land-applied at the Research Farm. This alternate disposal method shall be in place by the end of the current permit term, and development of this alternative is a condition of the new permit (UDWQ 2017).

See the Supplemental Hydrology Report (Forest Service 2017c) for additional information.

Biological Resources

Analysis of the proposed action and potential direct, indirect, or cumulative effects has determined that there will be no effect to any threatened, endangered, or proposed plant or animal species in accordance with the Endangered Species Act (U.S.C. 1536 (c)) (USDA FS 2017a).

Analysis of the proposed action shows that for Forest Service and BLM sensitive species the proposed action results in a determination of may impact individuals but is not likely to cause a trend to federal listing or loss of viability (Colorado River cutthroat trout, Townsend's big-eared bat, spotted bat, peregrine falcon, northern goshawk, and flammulated owl). There will be no impact to any other plant, wildlife, or fish species on the Forest Service or BLM lists of sensitive species (USDA FS 2017a).

Analysis of the proposed action and potential direct, indirect, and cumulative effects to Manti-La Sal National Forest Management Indicator Species (MIS) show that there should be no direct, indirect, or cumulative effects to MIS that could result in a downward trend to MIS populations or habitat (USDA FS 2017b).

Analysis shows that for priority migratory bird species no direct, indirect, or cumulative effects would occur through implementation of the proposed action (USDA FS 2017b).

OTHER ALTERNATIVES CONSIDERED

Federal agencies are required through NEPA to explore and objectively evaluate all reasonable alternatives and to briefly discuss the reasons for eliminating any alternatives that were not developed in detail (40 CFR 1502.14). This EA fully developed the Proposed Action and the No Action Alternatives.

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The no action alternative would be to deny the right-of-way application as proposed. PacifiCorp would not be allowed to construct the pipeline across federally administered lands. The Deer Creek Mine would remain open to continue pumping the water until other suitable methods for management the intercepted groundwater were determined.

The management or discharge of intercepted groundwater from the Deer Creek Mine at the power plant is a private action permitted by UDWQ. The Forest Service and the BLM has no control or authority in the management of the intercepted groundwater from the Deer Creek Mine at that point. Although the discharge into the raw water pond is a connected action under the National Environmental Policy Act, it is a non-federal action, and neither the BLM nor the Forest Service is required to consider alternatives available to the non-federal party for its action (BLM 2008, USDA FS 2011) that is already authorized under existing UDWQ permit. The purpose of the analysis was to determine whether the BLM and the Forest Service should authorize rights-of-way and permit construction of a pipeline across federally managed lands. The requested pipeline would connect the mine portal to the raw water pond at the Huntington Power Plant. Whether or not the requested Forest Service special use permit is authorized does not affect the operation of the Huntington Power Plant or any permits that it operates under. As documented in the EA and project record there are no direct, indirect, or cumulative effects to Huntington Creek water quality that would result from delivery of the water from the Rilda Canyon portals to the raw water pond and its subsequent disposal and use in the irrigation pond. The plant will continue to operate and utilize water in the raw water pond for its operation. Discharge permits will be in force and managed by UDWQ regardless of this decision.

Alternatives that were determined to be outside of BLM and Forest Service decision authority and the scope of this analysis and were dismissed from further detailed analysis include:

1. **Retain water in the mine for discharge at Deer Creek portals** – MSHA and UDOGM will not allow water to be retained in the mine.
2. **Treat the water prior to discharge at the Rilda Canyon portals** - Regardless of water quality; discharge of water at the Rilda Canyon portals is prohibited per UAC R317-2
3. **Treat the water at the Rilda Canyon Portals and then pipe the water to Huntington Creek.**
4. **Construct a pumping station at Rilda Canyon portals and pipe the water to Left Fork portals.**
5. **Construction of a water treatment facility at the Huntington Power Plant.**
6. **Extension of the water pipeline to the Town of Huntington's sewer treatment plant or next closest existing treatment plant.**

These alternatives were either not feasible based on other agency authority and direction, no alternatives were proposed that would lead to an alternate location of the pipeline that were within the scope of this proposal, there were no unresolved conflicts concerning alternative use of resources, and there is no information or analysis that indicate delivery of the discharge water to the raw water pond and its use in and its output from the power plant to the irrigation pond would be different than currently permitted. Therefore, these alternatives were dismissed from further analysis.

PUBLIC INVOLVEMENT

The need for this action arose on May 11, 2016 when the special use permit (SUP) application was submitted. A scoping letter describing the proposed project and soliciting comments was sent by the Forest Service, in cooperation with the BLM, to potentially interested parties on June 13, 2016. These parties included local, state, and federal agencies, non-governmental organizations (NGOs), and the general public. The Forest Service listed the EA scoping information on the Schedule of Proposed Action (SOPA) website. On June 14, 2016, a 30-day notice and comment period was initiated. A legal notice of proposed action and request for comments was published in the Sun Advocate newspaper. The legal notice is the document that sets the comment period, which identifies those individuals or organizations that have objection rights for

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Forest Service decisions. The public comment period closed on July 14, 2016. The Forest Service received one unique comment letter with 16 issues requiring a response. Additionally, the Forest Service received 855 form letters, with 787 of those submitted during the established 30-day comment period. All relevant and substantive comments were reviewed by both the Forest Service and BLM. Where appropriate, those comments helped formulate the issues analyzed within the EA.

In addition, the BLM listed the information on their ePlanning website. On September 27, 2016, the BLM issued a press release and posted the EA on the project website on ePlanning formally requesting comments on the EA between the dates of September 27, 2016 and October 27, 2016. No comments were received.

Using the comments from the public, other agencies, and Native American tribes (USDI BLM & USDA FS 2017), the interdisciplinary team identified several issues regarding the effects of the proposed action. Main issues of concern included cultural resources (could be disturbed), National Trails and Backways (impacts to the Energy Loop National Scenic Byway [ELNSB]), recreation (impacts to recreation associated with ELNSB), soils (impacts due to soil disturbance), Visual Resources (visual resources on BLM-administered lands), water (surface water quality) and wildlife resources (several species use habitat in the Project Area and could be displaced). To address these concerns, the Forest Service analyzed the No Action alternative.

As provided by the Predecisional Administrative Review process under 36 CFR 218 for Forest Service proposed actions implementing land and resource management plan activities documented with a Record of Decision or Decision Notice, the 2016 Environmental Assessment and a Draft Decision Notice and Finding of No Significant Impact (DN/FONSI) was subject to a 45-day objection and review. The 45 day public review period began on September 27, 2016 and concluded on November 14, 2016. One objection was filed timely.

After review of the objection, the reviewing officer (ORO) provided a written response and instructions to the objection. Pursuant to 36 CFR 218.12, the ORO's concerns identified in the December 15, 2016 objection decision letter were address in this project record, the EA, and this DNFONSI. However, due to the extent of the changes in the EA and the supporting project record, I decided to provide an additional 36 CFR 218 45-day objection and review period. The 45 day public review period began on March 7, 2017 and concluded on April 21, 2017. No formal objections were received. However, we did receive a comment letter and an additional email with comments from representatives of the prior (2016) objectors.

FINDING OF NO SIGNIFICANT IMPACT

After consideration of the environmental effects described in the EA, the project record, and as further documented in this decision notice, I have determined that this is not a major federal action individually or cumulatively that will significantly affect the quality of the human environment; therefore an Environmental Impact Statement is not needed. This determination is based on analysis of the context and intensity of the environmental effects, including the following factors:

Intensity: The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27. The following have been considered in my evaluation of intensity for this proposal:

1. **Impacts may be both beneficial and adverse.** Based on the evidence contained in the EA and its project record, the activities described in this decision do not include any significant adverse impacts to any resource (40 CFR 1508.27(b)(1). Implementation of my decision will not create significant resource commitments or any significant irretrievable losses of vegetation, soils, water, or wildlife and fish habitats. The project will employ project design features and incorporates Best Management Practices, Soil and Water Conservation Practices, and Forest Plan standard and guidelines that provide adequate protection of the forest resources. My finding of no significant environmental effects is not biased by the beneficial effects of the action.

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2. **The degree to which the selected alternative will affect public health or safety.** There will be no significant effects on public health and safety from the installation of the pipeline, because the intercepted groundwater would be properly managed in accordance to PacifiCorp's UDWQ discharge permits (USDI BLM-USDA FS 2017a).

3. **Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.** There will be no significant effects on unique or ecologically critical areas because the Project Area is not in proximity to any park lands, prime farmlands, wetlands, or wild and scenic rivers. This assertion is based on field surveys of the Project Area and information contained in the project record and in the EA (USDI BLM-USDA FS 2017a).

4. **The degree to which the effects on the quality of the human environment are likely to be highly controversial**. The effects on the quality of the human environment are not likely to be highly controversial. Controversy in this context refers to the situations where there is substantial dispute as to the size, nature or effect of the federal action rather than opposition to its implementation. The scientific basis for the analysis is contained in the project record and summarized in the EA. The effects of the project are limited to the project area. There are no known scientific controversies over the impact of the project. While some individuals have disagreed with the implementation of the project, no evidence has been provided that indicates that the environmental effects of the project have been wrongly predicted; therefore the effects are not highly controversial.

5. **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk (USDI BLM-USDA FS 2017a). The selected alternative is well defined and located over a limited area. The Forest Service has extensive past experience with successful implementation of buried pipelines and the environmental effects associated with that action.

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.** The action is not likely to establish a precedent for future actions with significant effects, because utilities installations are an ongoing practice in the area and the construction of this pipeline is a stand-alone project that would not preclude the consideration and advancement of other utility upgrade proposals. Future actions would be evaluated through the NEPA process and would stand on their own as to the environmental effects and project feasibility.

7. **Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.** All known actions, which have occurred or are likely to occur in the reasonably foreseeable future were considered in the analysis. These are documented in the supporting specialist's reports in the Project Record and in the EA. Analysis considered direct, indirect and cumulative effects of the proposal. There are no significant cumulative effects (USDI BLM-USDA FS 2017a).

8. **The degree to which the action may adversely affect districts, sites, highways, structures, or other 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 action will have no effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, nor will it cause loss or destruction of significant scientific, cultural, or historical resources, because avoidance, mitigation, or monitoring would be conducted to ensure that no direct impacts occur (USDI BLM- USDA FS 2017a). A total of ten sites are known to be located within the area of potential effect. Of these sites, two were determined eligible for the National Historic Register in 1985; however, both were excavated in 1986 and

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reburied outside the road right-of-way, on Emery County property. Two new sites were recorded in 2016; these are recommended as ineligible to the National Historic Register. The remaining six sites were previously determined to be ineligible for listing to the National Historic Register.

9. **The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect a proposed to be listed endangered or threatened species or its habitat.** The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973, because it was determined that the Project would have "No Effect" on any Threatened or Endangered or candidate species. (USDI BLM- USDA FS 2017a; USDA FS 2017a).

10. **Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements.** The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (USDI BLM-USDA FS 2017a). The action is consistent with the Manti-La Sal Land and Resource Management Plan (USDI BLM-USDA FS 2017a).

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

This decision to install a water pipeline is consistent with the intent of the forest plan's long term goals and objectives (Manti-La Sal Land and Resource Management Plan, pages III-2 to III-5). The project was designed in conformance with land and resource management plan standards and incorporates appropriate land and resource management plan guidelines for cultural resource management, visual resource management, wildlife and fish resource management, wildlife habitat improvement and maintenance, and management prescriptions for utility corridors (Manti-La Sal Land and Resource Management Plan, pages III-2 to III-5).

National Forest Management Act

National Forest management must be consistent with Forest Plans prepared under authority of the National Forest Management Act (NFMA), 16 U.S.C. 1604 and 36 CFG 219.10(f). The Act requires the Secretary of Agriculture to assess forest lands, develop a management program based on multiple-use, sustained-yield principles, and implement a resource management plan for each unit of the National Forest System. The Manti-La Sal Land and Resource Management Plan was approved November 5 1986, as required by this Act. The land and resource management plan provides guidance for all resource management activities on the Forest (Forest Service 1986). This proposal is consistent with Forest Plan goals, objectives, and standards and guidelines. This EA and supporting documents, including specialist's reports in the Project Record document interdisciplinary review as required by NEPA.

Endangered Species Act

The Endangered Species Act of 1973, as amended, provides a program for the conservation of threatened and endangered (TE) plants and animals and the habitats in which they are found. A Biological Assessment consistent with the requirements of the ESA was prepared for the action alternative. (USDA FS 2017a). The proposed project will not affect listed species or critical habitat. A "No Effect" determination was made for listed species with potential to occur within the project area.

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Migratory Bird Treaty Act

The Migratory Bird Treaty Act implements various bilateral treaties and conventions between the U.S. and four other countries for the protection of migratory birds. Under the Act, taking, killing or possessing migratory birds is unlawful (USDA FS 2017b). Migratory birds were considered in the EA. It was determined that birds in the area would likely be habituated to noise and human presence from the existing roadway. Habitat effectiveness would be temporarily decreased, but only slightly, when considering the existing disturbance and habitat modification.

National Historic Preservation Act

The National Historic Preservation Act of 1966 created the Advisory Council on Historic Preservation (ACHP) to advice on matters involving historic preservation. The ACHP is authorized to review and comment on all actions licensed by the Federal government which will have an effect on properties listed in the National Register of Historic Places Section 106 of the NHPA requires federal agencies to consider the effects of their activities and programs on historic properties. Cultural resource surveys have been completed for the area of potential effect and no effect would occur to properties listed in the National Register of Historic Places (USDI BLM-USDA FS 2017a & Utah Division of State History 2016).

Clean Water Act, Floodplain Management (Executive Order 11988), and Protection of Wetlands (Executive Order 11990)

The proposed action and supporting analysis in the EA and project record comply with the Clean Water Act and these executive orders.

The Clean Water Act employs a variety of regulatory and non-regulatory tools to sharply reduce direct pollutant discharges into waterways, finance municipal wastewater treatment facilities, and manage polluted runoff. These tools are employed to achieve the broader goal of restoring and maintaining the chemical, physical, and biological integrity of the nation's waters so that they can support "the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water."

Executive Orders 11988 and 11990 require that executive agencies take special care when undertaking actions that may affect wetlands or floodplains, directly or indirectly, by avoiding the disruption of these areas wherever there is a practicable alternative and by minimizing any environmental harm that might be caused by federal actions. To reduce or prevent adverse impacts to water quality, a stormwater pollution prevention plan (SWPPP) and spill prevention and response plan (SPRP) would be prepared prior to initiation of ground disturbance. These plans would detail the best management practices and site-specific measures required to prevent sediment and other pollutants from discharging into the creek during construction. Implementation of the SWPPP and SPRP would reduce sedimentation and the risk of pollution to surface waters during construction. For a list of the BMPs that would be implemented refer to the POD and the Hydrology Report (USDA FS 2017c) (USDI BLM-USDA FS 2017b). The discharge of the intercepted groundwater would be regulated by PacifiCorp's existing UPDES permits.

Environmental Justice (Executive Order 12898)

In accordance with Executive Order 12898 (59 FR 32, 1994), the action alternatives were assessed to determine whether they would have disproportionately high and adverse human health or environmental effects, including social and economic effects, on minority or low-income human populations. No effects were identified during this analysis (USDI BLM-USDA FS 2017a).

PREDECISIONAL ADMINISTRATIVE REVIEW PROCESS

In November 2016, the FS presented the Environmental Assessment and Draft Decision Notice and

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Finding of No Significant Impact (DNFONSI) to the public for review and provided a 45-day opportunity to object in accordance with 36 CFR 218 regulations. One objection was received and the subsequent decision by the Objection Reviewing Officer provided instructions to the Forest and BLM. The Forest and BLM complied with instructions provided by the ORO on 12/15/16 and the Forest Supervisor decided to provide an additional Opportunity to Object to convey supporting information and changes to participants.

Subsequently, the final EA and draft DNFONSI available on March 7, 2017 were subject to review and objection pursuant to 36 CFR 218 regulations. A legal notice of opportunity to object was published in the Sun Advocate on March 7, 2017, the newspaper of record for the Forest Supervisor of the Manti-La Sal National Forest, initiating a 45-day objection period.

Although the FS and BLM received one comment letter and a follow-up email from prior objectors, no formal Objections were submitted to the Objection Reviewing Officer (Sun Advocate 2017). Due to the extent of the comments (Dubuc 2017) to the agencies, I, with the BLM determined to do a detailed response to the comments prior to my decision. Thus, assuring that we had considered their concerns, the objection issues raised in the prior (2016) objection submitted by these organizations, and the 2016 Objection Reviewing Officer's (ORO) instructions. This Response to Comments (USDI BLM-USDA FS 2017b) document is available to the public on the Manti-La Sal National Forest public website (https://www.fs.usda.gov/projects/mantilasal/landmanagement/projects).

It is my conclusion, following deliberative and extensive review of the EA, the supporting Project Record (2017), and consideration of the prior objection and comments received, that my decision fully incorporates the instructions received from the ORO in the 2016 objection decision and meets NEPA's requirement to take a hard look at the direct, indirect, and cumulative effects of the proposed action and connected actions, and documents coordination with appropriate state and federal agencies. The ORO decision included instructions to:

- Conduct additional analysis to adequately consider the direct, indirect, and cumulative effects of connected actions related to intercepted groundwater disposal as part of the Deer Creek Mine reclamation process; and
- Coordinate with both state and federal agencies to accomplish a hard look at the potential impacts of intercepted ground water disposal prior to making a final decision on the Deer Creek Mine Closure Water Pipeline Project

This project is not subject to further administrative review by the FS or the Department of Agriculture pursuant to 36 CFR 218.11 (B) (2).

OBJECTION REVIEW AND FINAL DECISION/ IMPLEMENTATION

This project was subject to two pre-decisional administrative objection processes pursuant to 36 CFR 218. A 45-day objection period occurred from November 3, 2016 to December 19, 2016. One objection was received.

A second 45-day objection period occurred beginning March 7, 2017. No objections were received during the objection review period ending April 21, 2017. This project may proceed 5 business days following the close of the objection period or upon signature of this final decision. According to the regulations (36 CFR 218) no legal notice is required once a Decision Notice is signed. However, the Forest Service may send out a letter or a news release to notify any interested parties on the availability of the decision documents.

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CONTACT

For additional information concerning this decision or the Forest Service appeal process, contact Jeff Salow, Supervisor's Office, 599 West Price River Drive, Price, UT 84501, (435) 636-3596.

SIGNATURE / APPROVAL BY RESPONSIBLE OFFICIAL

Brian M Pentecost

BRIAN M. PENTECOST
Forest Supervisor
Manti-La Sal National Forest

July 6, 2017
Date

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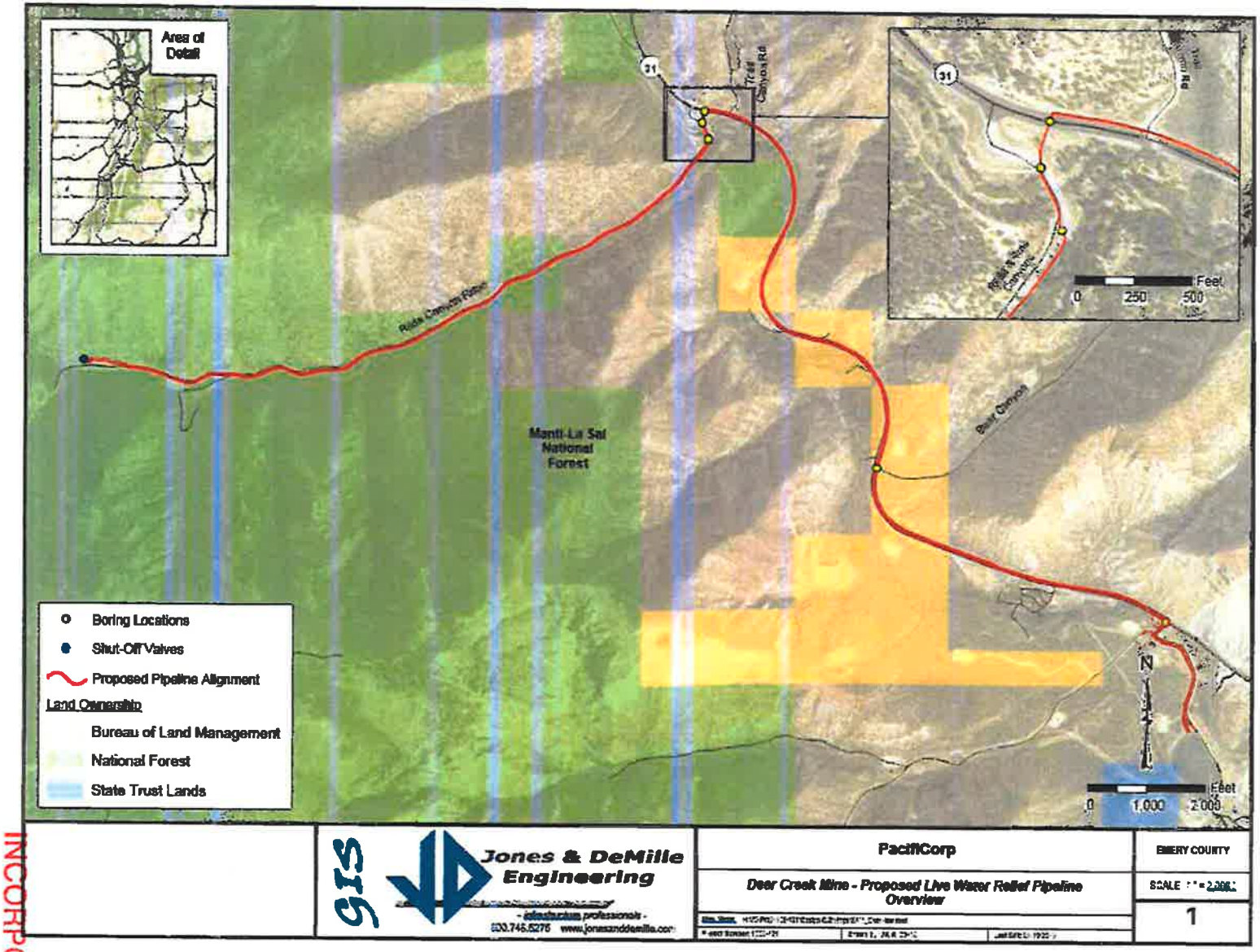
2 – Maps



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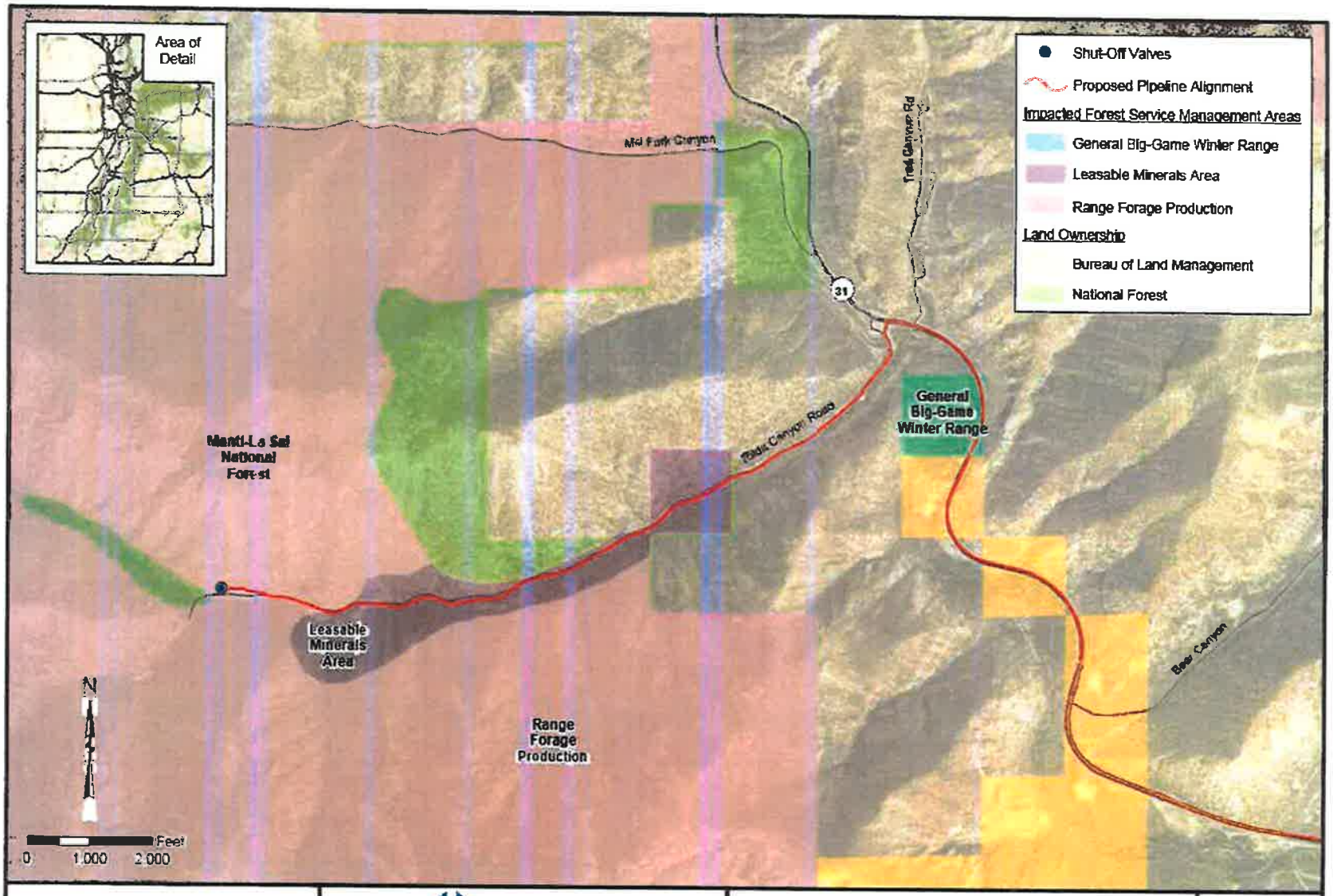

GIS

Jones & DeMille Engineering
- Infrastructure professionals -
800.748.5275 www.jonesanddemille.com

PacifiCorp

Deer Creek Mine - Proposed Live Water Relief Pipeline
Forest Service Management Areas

EMERY COUNTY

SCALE 1" = 2,000'

2

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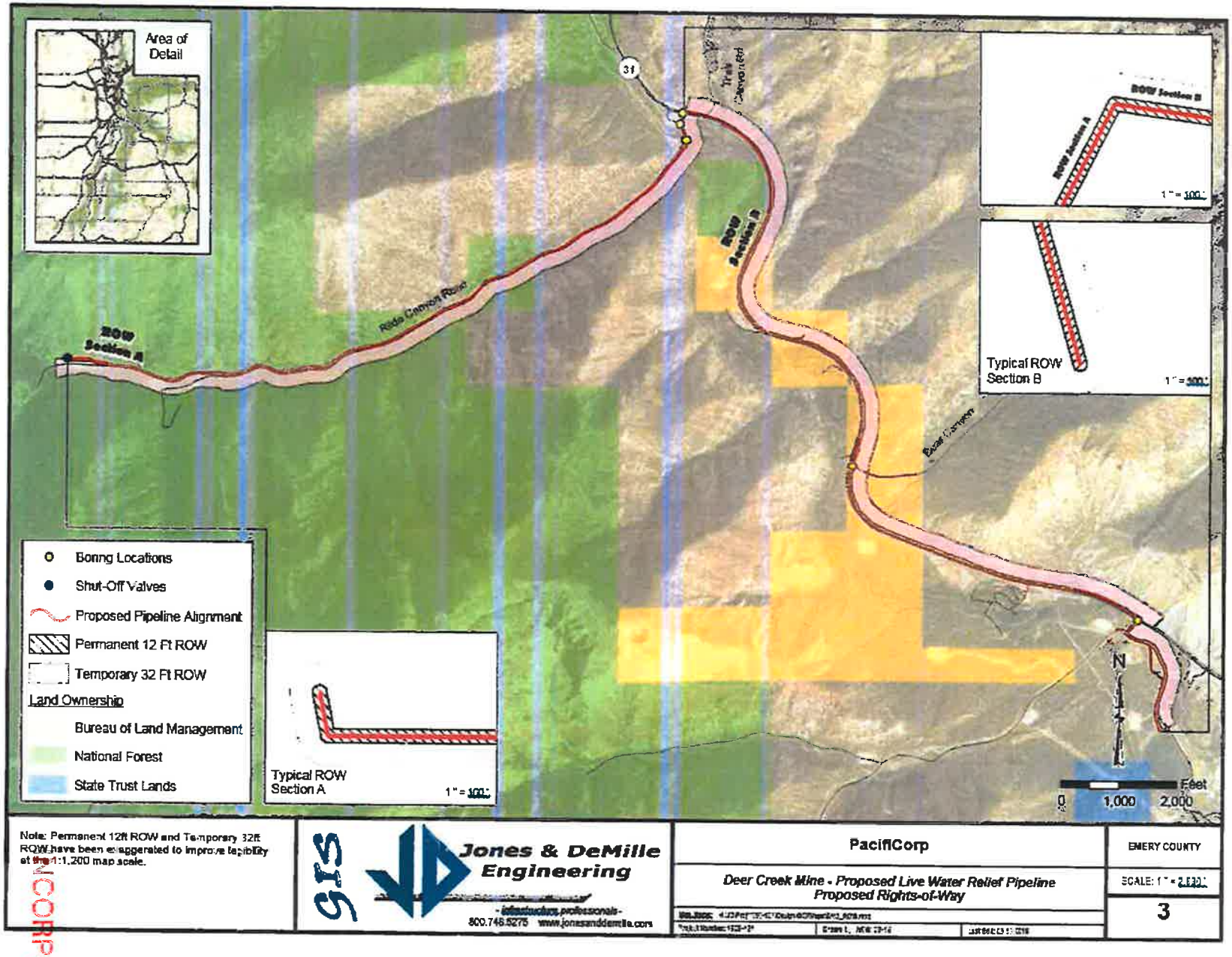

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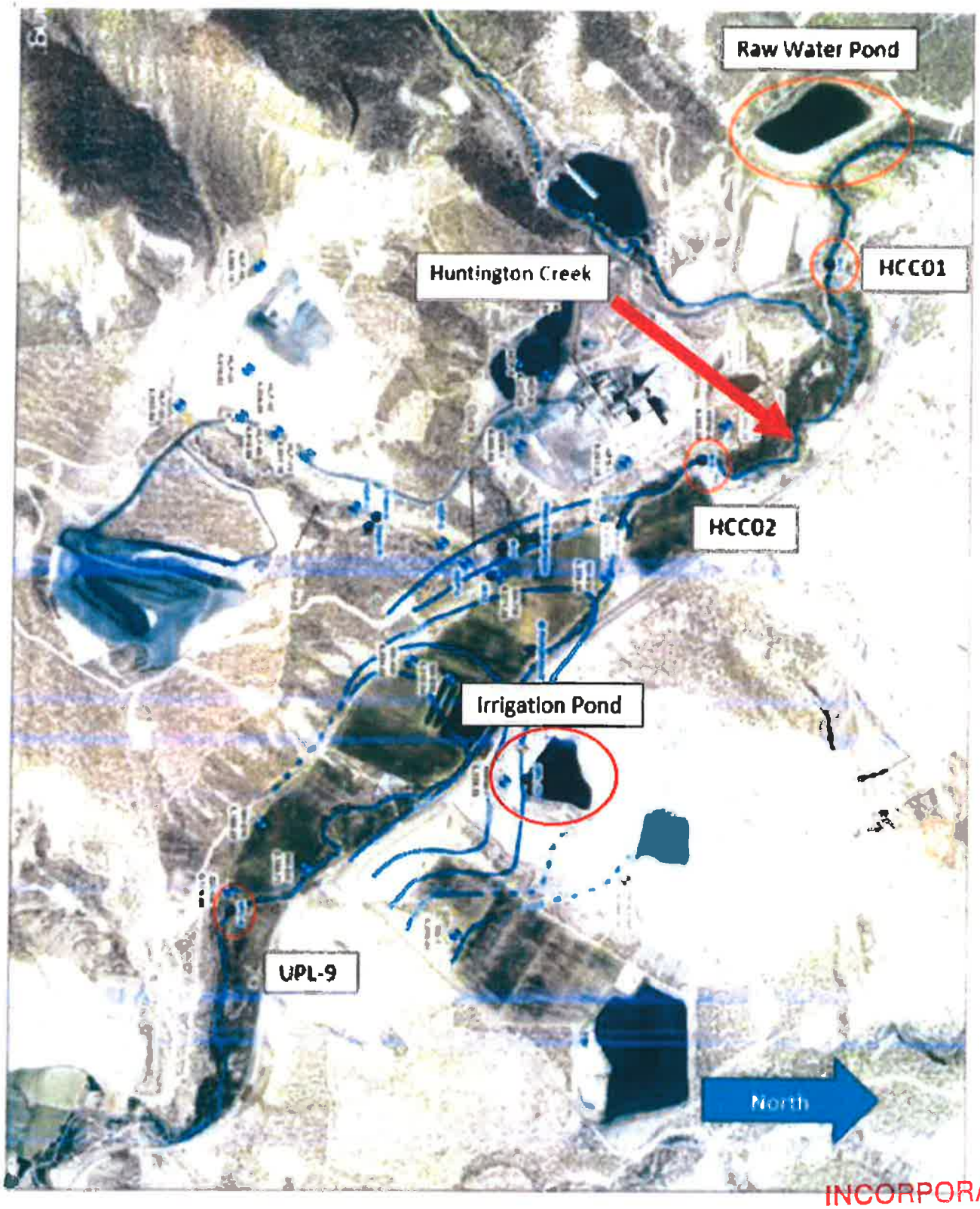
Map 4. Huntington Creek Surface Water Quality Sampling points (modified from WET 2016)



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Authorization ID: PRI1606
Contact Name: PACIFICORP
Expiration Date: 12/31/2046
Use Code: 915

FS-2700-4 (V. 01/2014)
OMB 0596-0082

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

SPECIAL USE PERMIT #PRI-1606

Authority: FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

PACIFICORP dba ROCKY MOUNTAIN POWER of 1407 WEST NORTH TEMPLE, SUITE 110, SALT LAKE CITY, UT 84116 (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the MANTI-LA SAL NATIONAL FOREST FERRON-PRICE RANGER DISTRICT of the National Forest System (NFS), subject to the terms and conditions of this special use permit (the permit).

This permit covers approximately 7.1 acres or 1.8 miles (9,622 feet) in Township 16 South, Range 7 East; Section 22: E½SE¼SE¼, Section 27: NW¼NW¼, Section 28: S½N½, and Section 29: S½NE¼; Salt Lake Meridian, ("the permit area"), as shown on the map attached as Appendix A.

This permit is issued for the purpose of authorizing a linear right-of-way (ROW) for the Deer Creek Mine Closure Water Pipeline. This permit covers the construction, operation, maintenance, and termination of a 10-inch high-density polyethylene (HDPE) buried, gravity-flow water pipeline. This pipeline will convey intercepted groundwater from the Rilda Canyon portals and will connect to the raw water pond at the Huntington Power Plant.

The management of this intercepted groundwater falls under the administration of the Utah Department of Environmental Quality, Division of Water Quality (UDWQ) with Utah Pollutant Discharge Elimination System (UPDES) discharge permits. All water quality standards are established by the UDWQ and those standards must be met by any action that PacifiCorp takes regarding the final closure of the Deer Creek Mine.

The pipeline will be constructed within the rights-of-way for Emery County Road #306 (Forest Service Road #50246) and State Route 31. There will be a permanent 12-foot ROW with a disturbance of approximately 2.7 acres of NFS lands. Additionally, there will be a temporary 20-foot ROW for the purposes of construction of the pipeline that will have a temporary disturbance of 4.4 acres of NFS lands.

This authorization includes a shut-off valve, air vents, and carsonite posts. Construction is anticipated to take two to three months in the Summer and Fall of 2017. Disturbed areas will be reclaimed upon project completion.

The stipulations, plans, maps, or designs set forth in Appendix A (Map), Appendix B (Design Features), and Appendix C (Plan of Development), attached hereto, are incorporated into and made a part of this permit.

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TERMS AND CONDITIONS

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED, October 21, 1976 and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

B. AUTHORIZED OFFICER. The authorized officer is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

C. TERM. This permit shall expire at midnight on 12/31/2046.

D. RENEWAL. This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit that would renew the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Renewal of the use and occupancy authorized by this permit shall be at the sole discretion of the authorized officer. At a minimum, before renewing the use and occupancy authorized by this permit, the authorized officer shall require that (1) the use and occupancy to be authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

E. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

G. NON-EXCLUSIVE USE. The use or occupancy authorized by this permit is not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for all lawful purposes.

H. ASSIGNABILITY. This permit is not assignable or transferable.

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I. **TRANSFER OF TITLE TO THE IMPROVEMENTS.**

1. Notification of Transfer. The holder shall notify the authorized officer when a transfer of title to all or part of the authorized improvements is contemplated.

2. Transfer of Title. Any transfer of title to the improvements covered by this permit shall result in termination of the permit. The party who acquires title to the improvements must submit an application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the improvements. The authorized officer shall determine that the applicant meets requirements under applicable federal regulations.

J. **CHANGE IN CONTROL OF THE BUSINESS ENTITY.**

1. Notification of Change in Control. The holder shall notify the authorized officer when a change in control of the business entity that holds this permit is contemplated.

a. In the case of a corporation, control is an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation.

b. In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, control is a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity.

c. In other circumstances, control is any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

2. Effect of Change in Control. Any change in control of the business entity as defined in paragraph 1 of this clause shall result in termination of this permit. The party acquiring control must submit an application for a special use permit. The Forest Service is not obligated to issue a new permit to the party who acquires control. The authorized officer shall determine whether the applicant meets the requirements established by applicable federal regulations.

II.IMPROVEMENTS

A. LIMITATIONS ON USE. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

B. PLANS. All plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans must be prepared by a professional engineer, architect, landscape architect, or other qualified professional based on federal employment standards acceptable to the authorized officer. These plans and plan revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built plans, maps, or surveys upon completion of work.

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C. CONSTRUCTION. Any construction authorized by this permit shall commence by n/a and shall be completed by n/a.

III. OPERATIONS.

A. PERIOD OF USE. Use or occupancy of the permit area shall be exercised at least 365 days each year.

B. CONDITION OF OPERATIONS. The holder shall maintain the authorized improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect national forest resources. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

C. OPERATING PLAN. The holder shall prepare and annually revise an operating plan (plan of development). The operating plan shall be prepared in consultation with the authorized officer or the authorized officer's designated representative and shall cover all operations authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's operations for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of operations and shall be attached to this permit as an appendix. The authorized officer may require an annual meeting with the holder to discuss the terms and conditions of the permit or operating plan, annual use reports, or other concerns either party may have.

D. INSPECTION BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and transmission facilities at any time for compliance with the terms of this permit. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or transmission facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms and conditions of this permit.

IV. RIGHTS AND LIABILITIES

A. LEGAL EFFECT OF THE PERMIT. This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR 251, Subpart C and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

B. VALID OUTSTANDING RIGHTS. This permit is subject to all valid outstanding rights. Valid outstanding rights include those derived under mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.

C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS. The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

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D. SERVICES NOT PROVIDED. This permit does not provide for the furnishing of road or trail maintenance, water, fire protection, search and rescue, or any other such service by a government agency, utility, association, or individual.

E. RISK OF LOSS. The holder assumes all risk of loss associated with use or occupancy of the permit area, including but not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If authorized temporary improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

F. DAMAGE TO UNITED STATES PROPERTY. The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs, damage to government-owned improvements covered by this permit, and all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. For purposes of clause IV.F and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

1. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use or occupancy of the permit area. If the environment or any government property covered by this permit becomes damaged during the holder's use or occupancy of the permit area, the holder shall immediately repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

2. The holder shall be liable for all injury, loss, or damage, including fire suppression, prevention and control of the spread of invasive species, or other costs in connection with rehabilitation or restoration of natural resources associated with the use or occupancy authorized by this permit. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.I.

3. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States to the same extent as provided under clause IV.F.1, except that liability shall not include reasonable and ordinary wear and tear.

G. HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any activity or

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condition arising out of or relating to the authorized use or occupancy that causes or threatens to cause a hazard to public health or the safety of the holder's employees or agents or harm to the environment (including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources). The holder shall prevent impacts to the environment and cultural resources by implementing actions identified in the operating plan to prevent establishment and spread of invasive species. The holder shall immediately notify the authorized officer of all serious accidents that occur in connection with such activities. The responsibility to protect the health and safety of all persons affected by the use or occupancy authorized by this permit is solely that of the holder. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations and activities of the holder for hazardous conditions or compliance with health and safety standards.

H. **INDEMNIFICATION OF THE UNITED STATES**. The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use or occupancy authorized by this permit. This indemnification provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees in connection with the use or occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable, and including but not limited to those environmental laws listed in clause V.A of this permit; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous materials, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in addition to or as an alternative to monetary indemnification.

I. **BONDING**. The authorized officer may require the holder to furnish a surety bond or other security for any of the obligations imposed by the terms and conditions of this permit or any applicable law, regulation, or order. If a bond is required, the following apply:

1. As a further guarantee of compliance with the terms and conditions of this permit, the holder shall deliver and maintain a surety bond or other acceptable security, such as cash deposited and maintained in a federal depository or negotiable securities of the United States, in the amount of bond amount for specify obligations covered. The authorized officer may periodically evaluate the adequacy of the bond or other security and increase or decrease the amount as appropriate. If the bond or other security becomes unsatisfactory to the authorized officer, the holder shall within 30 days of demand furnish a new bond or other security issued by a surety that is solvent and satisfactory to the authorized officer. If the holder fails to meet any of the requirements secured under this clause, money deposited pursuant to this clause shall be retained by the United States to the extent necessary to satisfy the obligations secured under this clause, without prejudice to any other rights and remedies of the United States.

2. The bond shall be released or other security returned 30 days after (a) the authorized officer certifies that the obligations covered by the bond or other security are met and (b) the holder establishes to the satisfaction of the authorized officer that all claims for labor and material for the secured obligations have been paid or released.

3. Prior to undertaking additional construction or alteration not covered by the bond or other security, or when the authorized improvements are to be removed and the permit area restored, the holder may be required to obtain additional bonding or security.

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J. **STRICT LIABILITY**. The holder shall be strictly liable (liable without proof of negligence) to the United States for $amount up to $1 million per occurrence for any injury, loss, or damage arising in tort under this permit. Liability in tort for injury, loss, or damage to the United States exceeding the prescribed amount of strict liability in tort shall be determined under the law of negligence.

K. **INSURANCE**. The holder shall furnish proof of insurance, such as a certificate of insurance, to the authorized officer prior to issuance of this permit and each year thereafter that this permit is in effect. The Forest Service reserves the right to review and approve the insurance policy prior to issuance. The holder shall send an authenticated copy of any insurance policy obtained pursuant to this clause to the authorized officer immediately upon issuance of the policy. Any insurance policies obtained by the holder pursuant to this clause shall name the United States as an additional insured, and the additional insured provision shall provide for insurance coverage for the United States as required under this clause. Such policies also shall specify that the insurance company shall give 30 days prior written notice to the authorized officer of cancellation of or any modification to the policies. The certificate of insurance, the authenticated copy of the insurance policy, and written notice of cancellation or modification of insurance policies should be sent to Manti-La Sal Supervisors Office, 599-A Price River Drive, Price, UT 84501. Minimum amounts of coverage and other insurance requirements are subject to change at the sole discretion of the authorized officer on the anniversary date of this permit.

1. The holder shall have in force liability insurance covering losses, including those arising from strict liability, associated with the use or occupancy authorized by this permit arising from personal injury or death and third-party property damage in the minimum amount of $1,000,000 as a combined single limit per occurrence.

2. Depending on the holder's operations, the Forest Service may require the holder to demonstrate the availability of funds to address any release or threatened release of hazardous materials that may occur in connection with the holder's use or occupancy. Any requirements imposed would be established on a case-by-case basis by the authorized officer based on the degree of environmental risk from the holder's operations. The storage and use of normal maintenance supplies in nominal amounts generally would not trigger financial assurance requirements.

V. RESOURCE PROTECTION

A. **COMPLIANCE WITH ENVIRONMENTAL LAWS**. The holder shall in connection with the use or occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., the Oil Pollution Act, as amended, 33 U.S.C. 2701 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., CERCLA, as amended, 42 U.S.C. 9601 et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.

B. **VANDALISM**. The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer.

C. **PESTICIDE USE**. Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, fish, and other pests and

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weeds without prior written approval from the authorized officer. A request for approval of planned uses of pesticides shall be submitted annually by the holder on the due date established by the authorized officer. The report shall cover a 12-month period of planned use beginning 3 months after the reporting date. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests or weeds require control measures that were not anticipated at the time an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be considered for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.

D. **ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES**. The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave these discoveries intact and in place until directed otherwise by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

E. **NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION**. In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the authorized officer by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the authorized officer certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

F. **PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES**. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., as amended, or identified as sensitive or otherwise requiring special protection by the Regional Forester under Forest Service Manual (FSM) 2670, pursuant to consultation conducted under section 7 of the ESA, may be shown on the ground or on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the authorized officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species or species otherwise requiring special protection are discovered, or if new species are listed as threatened or endangered under the ESA or identified as sensitive or otherwise requiring special protection by the Regional Forester under the FSM, the authorized officer may specify additional protective and mitigative measures. Discovery of these sites by the holder or the Forest Service shall be promptly reported to the other party.

G. **CONSENT TO STORE HAZARDOUS MATERIALS**. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include, or in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored,

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the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

H. CLEANUP AND REMEDIATION

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

2. Except with respect to any federally permitted release as that term is defined under Section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service free and clear of contamination.

I. CERTIFICATION UPON REVOCATION OR TERMINATION. If the holder uses or stores hazardous materials at the site, upon revocation or termination of this permit the holder shall provide the Forest Service with a report certified by a professional or professionals acceptable to the Forest Service that the permit area is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the permit area, into surface water at or near the permit area, or into groundwater below the permit area during the term of the permit. This certification requirement may be waived by the authorized officer when the Forest Service determines that the risks posed by the hazardous material are minimal. If a release or discharge has occurred, the professional or professionals shall document and certify that the release or discharge has been fully remediated and that the permit area is in compliance with all federal, state, and local laws and regulations.

VI. LAND USE FEE AND ACCOUNTING ISSUES

A. LAND USE FEES. The holder shall pay an initial annual land use fee of $165.65 for the period from July 2017 to December 2017, and thereafter on or before January 1st, shall pay an annual land use fee $TBD. (The annual land use fee shall be adjusted annually using the applicable indexing factor.)

B. MODIFICATION OF THE LAND USE FEE. The land use fee may be revised whenever necessary to reflect the market value of the authorized use or occupancy or when the fee system used to calculate the land use fee is modified or replaced.

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C. FEE PAYMENT ISSUES.

1. Crediting of Payments. Payments shall be credited on the date received by the deposit facility, except that if a payment is received on a non-workday, the payment shall not be credited until the next workday.

2. Disputed Fees. Fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any fee amount not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. Interest on the principal shall accrue from the date the fee amount is due.

(b) Administrative Costs. If the account becomes delinquent, administrative costs to cover processing and handling the delinquency shall be assessed.

(c) Penalties. A penalty of 6% per annum shall be assessed on the total amount that is more than 90 days delinquent and shall accrue from the same date on which interest charges begin to accrue.

(d) Termination for Nonpayment. This permit shall terminate without the necessity of prior notice and opportunity to comply when any permit fee payment is 90 calendar days from the due date in arrears. The holder shall remain responsible for the delinquent fees.

4. Administrative Offset and Credit Reporting. Delinquent fees and other charges associated with the permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 et seq. and common law. Delinquencies are subject to any or all of the following:

(a) Administrative offset of payments due the holder from the Forest Service.

(b) If in excess of 60 days, referral to the Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711(g)(1).

(c) Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.

(d) Disclosure to consumer or commercial credit reporting agencies.

VII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION. The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state, or local law.

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2. For noncompliance with the terms of this permit.

3. For abandonment or other failure of the holder to exercise the privileges granted.

4. With the consent of the holder.

5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VII.B, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VII.A.1, 2, or 3, the authorized officer shall give the holder a reasonable time, typically not to exceed 90 days, to cure any noncompliance.

B. IMMEDIATE SUSPENSION. The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the on-site review, the authorized officer's supervisor shall promptly affirm, modify, or cancel the suspension.

C. APPEALS AND REMEDIES. Written decisions by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214 as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

D. TERMINATION. This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and termination upon change of control of the business entity. Termination of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT RENEWAL. Upon revocation or termination of this permit without renewal of the authorized use, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VIII. MISCELLANEOUS PROVISIONS

A. MEMBERS OF CONGRESS. No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

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B. CURRENT ADDRESSES. The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

C. SUPERSEDED PERMIT. This permit supersedes a special use permit designated n/a.

D. SUPERIOR CLAUSES. If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

E. Surveys, Land Corners (D-4). The holder shall protect, in place, all public land survey monuments, private property corners, and Forest boundary markers. In the event that any such land markers or monuments are destroyed in the exercise of the privileges permitted by this authorization, depending on the type of monument destroyed, the holder shall see that they are reestablished or referenced in accordance with (1) the procedures outlined in the "Manual of Instructions for the Survey of the Public Land of the United States," (2) the specifications of the county surveyor, or (3) the specifications of the Forest Service.

Further, the holder shall cause such official survey records as are affected to be amended as provided by law. Nothing in this clause shall relieve the holder's liability for the willful destruction or modification of any Government survey marker as provided at 18 U.S.C. 1858.

F. Removal and Planting of Vegetation and Other Resources (D-5). This permit does not authorize the cutting of timber or other vegetation. Trees or shrubbery may be removed or destroyed only after the Authorized Officer or the Authorized Officer's designated representative has approved in writing and marked or otherwise identified what may be removed or destroyed. Timber cut or destroyed shall be paid for at current stumpage rates for similar timber in the Manti-La Sal National Forest. The Forest Service reserves the right to dispose of the merchantable timber to those other than the holder at no stumpage cost to the holder. Unmerchantable material shall be disposed of as directed by the Authorized Officer. Trees, shrubs, and other plants may be planted within the permit area with prior written approval of the Authorized Officer.

G. Ground Surface Protection and Restoration (D-9). The holder shall prevent and control soil erosion and gullying on National Forest System lands in and adjacent to the permit area resulting from construction, operation, maintenance, and termination of the authorized use. The holder shall construct authorized improvements so as to avoid accumulation of excessive amounts of water in the permit area and encroachment on streams. The holder shall revegetate or otherwise stabilize (for example, by constructing a retaining wall) all ground where the soil has been exposed as a result of the holder's construction, maintenance, operation, or termination of the authorized use.

H. Noxious Weed and Exotic Plant Prevention and Control (D-10). The holder shall be responsible for the prevention and control of noxious weeds and exotic plants arising from the authorized use. For purposes of this clause, noxious weeds and exotic plants include those species recognized as such by Federal, State, or local agency. The holder shall follow prevention and control measures required by Federal, State, or local agency. When determined to be necessary by the Authorized Officer, the holder shall develop a plan for noxious weed and exotic plant prevention and control. These plans must have prior written approval from the Authorized Officer and, upon approval, shall be attached to this permit as an appendix.

I. Water Facilities and Water Rights (D-25). This permit does not confer any water rights on the holder. Any necessary water rights must be acquired by the holder in accordance with State law. Any expenses for acquiring water rights shall be the responsibility of the holder. The United States reserves the right to place any conditions on installation, operation, maintenance, and removal of

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facilities to pump, divert, store, or convey water on National Forest System lands covered by this permit that are necessary to protect public property, public safety, and natural resources on National Forest System lands in compliance with applicable law. The holder waives any claims against the United States for compensation in connection with imposition of any conditions on installation, operation, maintenance, and removal of water facilities under this permit.

J. Signs (X-29). Signs or advertising devices erected on National Forest System lands shall have prior approval by the Forest Service as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to neat and presentable standards, as determined by the Forest Service.

K. Improvement Relocation (X-33). This authorization is granted with the express understanding that should future location of United States Government-owned improvements or road rights-of-way require the relocation of the holder's improvements, such relocation will be done by, and at the expense of, the holder within a reasonable time as specified by the Authorized Officer.

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THIS PERMIT #PRI-1606 IS ACCEPTED SUBJECT TO ALL ITS TERMS AND CONDITIONS.

BEFORE ANY PERMIT IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS AND CONDITIONS OF THE PERMIT.

ACCEPTED:

ROGER B. RIGBY DIR. REAL ESTATE

HOLDER NAME, PRECEDED BY NAME AND TITLE OF PERSON SIGNING ON BEHALF OF HOLDER, IF HOLDER IS AN ENTITY

SIGNATURE

DATE 7-6-17

APPROVED:

Brian M. Pentecost, Forest Supervisor

NAME AND TITLE OF AUTHORIZED OFFICER

SIGNATURE

DATE 6 July 2017

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 975-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

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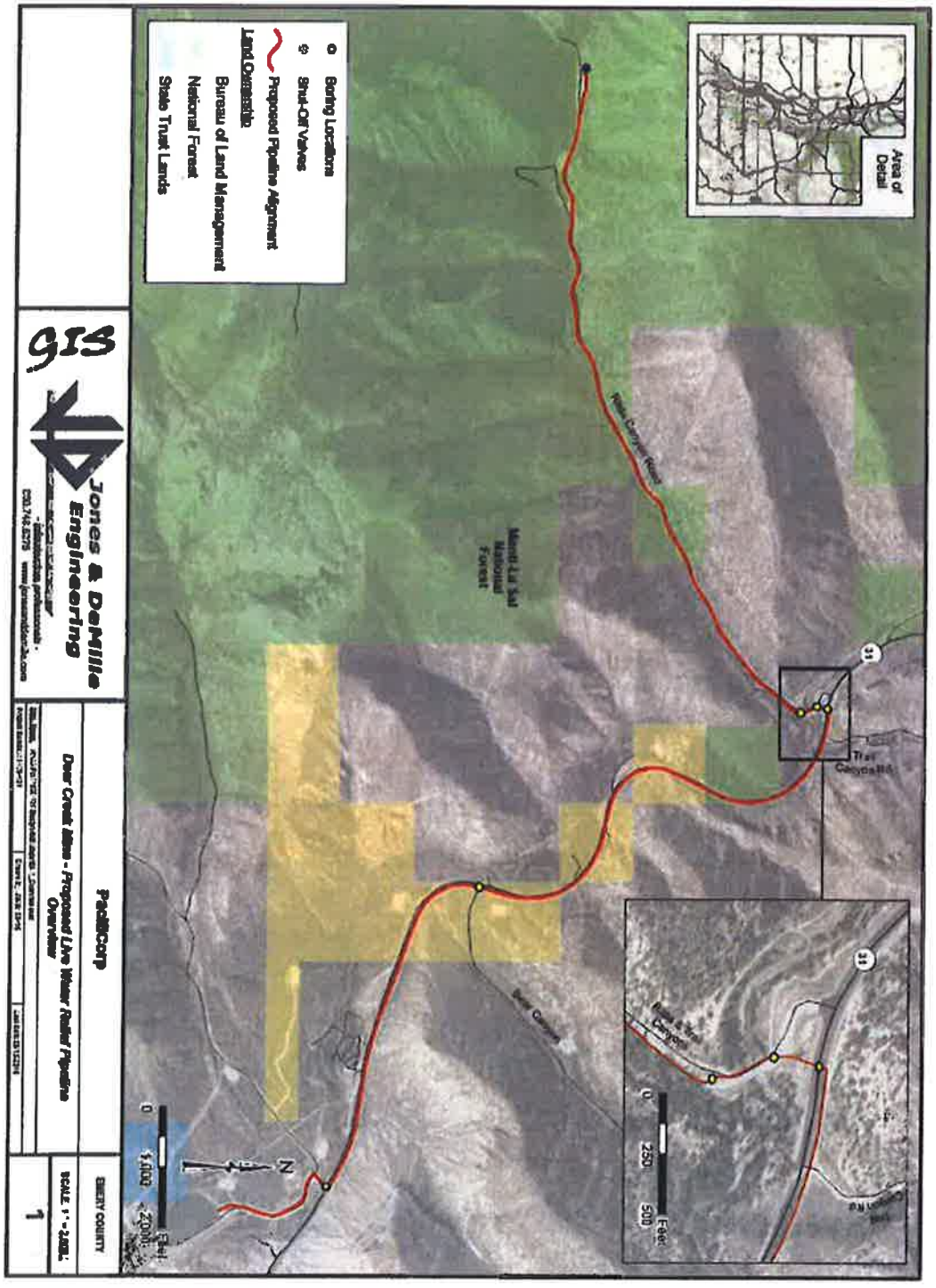
Appendix A - Map



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Appendix B – Design Features

The main project design features are listed below; additional detail can be found in the Plan of Development (POD).

Construction and Reclamation

- The trench for the pipeline will be excavated with a trenching machine, track hoe excavator, or similar equipment. Topsoil and subsoil will be segregated and stockpiled separately adjacent to the trench. After the pipeline was installed, the stockpiled subsoil will be used to backfill the trench, and the topsoil will be replaced on the surface and graded to pre-disturbance contours.
- Large rocks that are unsuitable for fill will be placed on the surface within the road rights-of- way, outside of the safety clear zone. If the excavated rock contrasts with the natural surface, the contrasting material will be removed from the right-of-way and disposed of in an appropriate location off-site.
- The pipeline will include a shut-off valve at the mine entrance.
- Pipe segments will be laid out end-to-end along the trench at each active site. The pipeline segments will be about 50 feet long, and will be heat-welded together on-site.
- Bedding material will be placed in the trench below and above the pipeline. Such bedding material serves two principal functions: protection of the pipe from mechanical damage during installation and trench filling, and stabilization of the pipe in the event of seismic shifts or frost heaves.
- The pipeline will be buried with at least 5 feet of cover, except at the crossings of Huntington Creek, where the pipeline will be attached to an existing bridge or diversion structure at each crossing. The pipeline will be concealed in the existing girders under the west side of the bridge, and set on top of the diversion structure. The pipeline will not be buried at these crossing locations.
- Air vents and Carsonite posts will be installed approximately every 1,000 feet along the alignment; these features will be about 4 feet high, but will be colored to be visually unobtrusive from the roadway.
- No permanent roads will be constructed during project implementation. All construction activities will take place alongside and largely within the rights-of-way of existing roads.
- Construction is anticipated to take 2 to 3 months in 2017, depending on weather conditions and other factors.

Noxious/Invasive Plants

- All disturbance areas will be monitored for noxious weeds annually, for a minimum of three growing seasons following completion of the project, or until desirable vegetation was established. If found, weeds will be treated as described in the reclamation plan.

Soils

- Impacts to soils will be minimized by following the Reclamation Plan in the POD. Seeding will occur in the fall after construction to increase the likelihood of success.

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- Reconstruct the disturbed area to original contours, particularly drainages.
- Topsoil will be salvaged, stockpiled, and replaced upon completion of construction. Topsoil storage will be identified with appropriate signage. Topsoil will not be stored beyond one growing season.
- Implement a Storm Water Pollution Prevention Plan to prevent sediment transport from the construction area, manage waste, and prevent contamination.
- After construction, PacifiCorp will maintain the right-of-way and allow the pipeline to operate continuously. The pipeline will be intended to be permanent; if the pipeline were decommissioned, it will be left in the ground to avoid further ground disturbance.

Cultural Resources

- A cultural resources discovery plan is included in the POD, and will be applied if cultural resources were discovered.

Water Resources

- The intercepted groundwater from the mine will be directed into the raw water pond at the Huntington Power Plant, and used or discharged in accordance with existing permits or policy.
- Directional drilling will be applied to install the pipeline at crossings under Emery County Road #306, SR-31, and Bear Creek and the adjacent Bear Canyon Road. The Emery County Road #306 crossings will be drilled at two locations: north and south of the Huntington River Bridge. The SR-31 crossings will also be applied in two locations: 1) approximately 500 feet south of the SR-31 and Emery County Road #306 intersection, and 2) adjacent to the Huntington Power Plant diversion dam. These road crossings are on private land. The crossing under Bear Creek and Bear Canyon Road is on BLM-administered land. Drill pits will be excavated on each side of a crossing and a vacuum trailer will ensure that drilling mud did not discharge into the adjacent waters.
- A stormwater pollution prevention plan and spill prevention and response plan will be prepared and implemented to ensure compliance with the Clean Water Act during construction. Temporary erosion control measures could include sediment barriers such as silt fence or fiber rolls. Permanent erosion control measures will include trench breakers and revegetation where suitable within the road rights-of-way.

Wildlife Resources

- Timing stipulations will be applied where appropriate to avoid potential impacts to wildlife.

Monitoring

- The water quality of the mine discharge will be sampled at least monthly and analyzed for compliance with DEQ water quality numeric criteria and submitted to UDOGM quarterly.
- Other monitoring described in the EA, including the POD (EA Appendix D), and monitoring requirements of applicable required permits (UDWQ & UDOGM) that apply to the pipeline system, including construction monitoring, leak detection, reclamation, noxious weeds, cultural resource protection, and other applicable requirements specified will be implemented as appropriate.

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Appendix C – Plan of Development (POD)

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PacifiCorp

Interwest Mining Company

Deer Creek Mine

C/015/0018

Clean Copy Submittal to Legal and Financial Volume's Appendix B – USFS and BLM Right of Way Grants for Deer Creek Pipeline Construction, PacifiCorp, C/015/0018, Emery County, Utah

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Legal and Financial Volume, Appendix B, Add BLM Decision Notice and Right of Way Grant

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Green River District
Price Field Office
125 South 600 West
Price, UT 84501
www.blm.gov

IN REPLY REFER TO:
UTU-91700
2800 (UTG020)

JUL 0 6 2017

Hand Delivered

7-6-17
Date

Roger Rigby
PacifiCorp dba Rocky Mountain Power
1407 West. North Temple, Suite 110
Salt Lake City, UT 84116

DECISION

:

:

Right-of-Way Grant UTU-91700 Issued

Enclosed is a copy of a right-of-way grant (serial number UTU-91700) which has been approved by the Bureau of Land Management and issued under authority of Title V of the Federal Land Policy and Management Act of October 21, 1976, as amended through September 1999, (90 Stat. 2776; 43 U.S.C. 1761).

This right-of-way grant authorizes construction and maintenance of approximately 1.2 miles of a buried, gravity-flow water pipeline on BLM-administered lands. This pipeline will be constructed within an existing road ROW and will provide conveyance of mine water from the Deer Creek Mine 1st Right Portals in Rilda Canyon portals to the raw water pond at the Huntington Power Plant at the mouth of Huntington Canyon. There will be a permanent 12-foot ROW with a disturbance of approximately 1.8 acres of BLM-administered lands. Additionally, there will be a temporary 20-foot ROW for the purposes of construction of the pipeline that will have a temporary disturbance of 2.9 acres of BLM-administered lands. Prior to any construction of the pipeline on BLM-administered lands, authorization for this pipeline construction on private land, Forest Service-administered lands, or any other entity must be in place. Additionally, the construction, maintenance, or termination of construction may not be initiated until the BLM issues a Notice to Proceed.

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The issuance of this right-of-way grant constitutes a final decision by the Bureau of Land Management in this matter.

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 an appeal is taken, 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 from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2801.10 for a stay 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.

Please note that under the regulations in 43 CFR Group 2800, this decision is effective even if an appeal is filed. If you have any questions, please contact Connie Leschin, Realty Specialist, at the above address, by e-mail at cleschin@blm.gov, or by phone (435) 636-3610.

Sincerely,

Don Stephens

Don Stephens
Assistant Field Manager

Enclosure:
Right-of-Way Grant UTU-91700

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FORM 2800-14
(August 1985)

Issuing Office
Price Field Office

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

SERIAL NUMBER UTU-91700

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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 holder:

   PacifiCorp dba Rocky Mountain Power
   1407 West North Temple
   Salt Lake City, UT 84116

   receives a right to construct, operate, maintain, and terminate a buried water pipeline (including air vents and Carsonite posts) within portions of the public lands described as follows:

   T. 16 S., R. 07 E., Salt Lake Meridian, Emery County, Utah
   Section 26: SW¼NW¼, E½SW¼;
   Section 27: NE¼NE¼;
   Section 35: NE¼NW¼.

   b. The right-of-way (ROW) area granted herein is 32 feet wide, 6,388 feet long and contains 4.7 acres, more or less.

   c. This instrument shall expire on December 31, 2046. This grant is authorized for 30 years 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, the ROW 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 holder, 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 holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by 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 comparable commercial practices.

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Terms and Conditions:

1. Standard

   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. Each grant issued for a term of 10 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 10th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a ROW granted herein may be reviewed at any time deemed necessary by the authorized officer.

   c. The stipulations, plans, maps, or designs set forth in Exhibits A (Plan of Development) and B (Map), attached hereto, 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.

   d. BLM may suspend or terminate your grant if you do not comply with applicable laws and regulations or any terms, conditions, or stipulations of the grant (such as rent payments), or if you abandon the ROW. Your failure to use your ROW for its authorized purpose for any continuous 5-year period creates a presumption of abandonment.

   e. In the event that the public land underlying the ROW encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the ROW, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the ROW, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

2. Applicable Laws

   a. The holder shall comply with all Federal, State, and local regulations whether or not specifically mentioned within this grant.

   b. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

   c. The holder of this ROW grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.

   d. The holder shall meet Federal, State, and local emission standards for air quality.

   e. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the ROW or on facilities authorized under this ROW grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

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f. The holder shall comply with the construction practices and mitigating measures established by 33 CFR 323.4, which sets forth the parameters of the "nationwide permit" required by Section 404 of the Clean Water Act. If the proposed action exceeds the parameters of the nationwide permit, the holder shall obtain an individual permit from the appropriate office of the Army Corps of Engineers and provide the authorized officer with a copy of same. Failure to comply with this requirement shall be cause for suspension or termination of this ROW grant.

g. The holder of ROW No. UTU-91700 agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the ROW (unless the release or threatened release is wholly unrelated to the ROW holder's activity on the ROW. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

h. The holder is prohibited from discharging oil or other pollutants into or upon the navigable waters of the United States, adjoining shorelines, or the waters of the contiguous zone in violation of Section 311 of the Clean Water Act as amended, 33 U.S.C. 1321, and the regulations issued there under, or applicable laws of the State and regulations issued there under. Holder shall give immediate notice of any such discharge to the authorized officer and such other Federal and State officials as are required by law to be given such notice.

3. Miscellaneous

a. 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. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.

b. The holder shall designate a representative who shall have the authority to act upon and to implement instructions from the authorized officer. The holder's representative shall be available for communication with the authorized officer within a reasonable time when construction or other surface disturbing activities are underway.

c. The holder shall permit free and unrestricted public access to and upon the ROW for all lawful purposes except for those specific areas designated as restricted by the authorized officer to protect the public, wildlife, livestock or facilities constructed within the ROW.

d. The holder shall inform the Field Manager at (435) 636-3600 within 48 hours of any reportable accidents on federal lands.

e. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

f. The holder shall protect all survey monuments found within the ROW. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management ROW monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.

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4. Construction / Maintenance

a. The holder shall conduct all activities associated with the construction, operation, and termination of the ROW within the authorized limits of the ROW.

b. Authorization for pipeline construction on private, Forest Service and other entities must be in place and copies submitted to the BLM before construction may start on the BLM.

c. You may not initiate construction until the BLM issues a Notice to Proceed.

d. The holder shall survey and clearly mark the centerline and/or exterior limits of the ROW.

e. Equipment and vehicles shall be inspected and cleaned for vegetation matter and seeds prior to entering BLM administered lands. Clothing and animals should also be inspected for vegetation matter and seeds. Vehicles and equipment should be power washed at a commercial facility or other applicable site where invasive species/noxious weeds seeds can be flushed through a waste treatment plant, where seeds will become inert.

f. The holder shall construct, operate, and maintain the facilities, improvements, and structures within this ROW in strict conformity with the plan of development which was approved and made part of this grant. Any relocation, additional construction, or use that is not in accord with the approved plan of development, shall not be initiated without the prior written approval of the authorized officer. A copy of the complete ROW grant, including all stipulations and approved plan of development, shall be made available on the ROW area during construction, operation, and termination to the authorized officer. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.

g. The map, site plan, building design, floor plan, tower design, and electrical drawings submitted with the original proposal shall be made a part of this ROW grant. All construction must conform to these drawings and maps.

h. The holder shall provide for the safety of the public entering the ROW. This includes, but is not limited to barricades for open trenches, flagmen/women with communication systems for single-lane roads without intervisible turnouts, and attended gates for blasting operations.

i. If any clearing is needed, the ROW will be brush-hogged to prevent unnecessary disturbance. Only those areas where safety, absolute need for construction or other regulations may warrant the use of topsoil removal by blading or scalping. This ROW clearing shall be limited to the limits of the ROW. Suitable topsoil material removed in conjunction with clearing and stripping shall be conserved in stockpiles within the ROW.

j. Holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.

k. Prior to fill construction, the existing surface shall be sloped to avoid sharp banks and allow equipment operations. No fills shall be made with frozen or water saturated soils. Construction equipment shall be routed evenly over the entire width of the fill to obtain a thorough compaction.

l. Construction holes left open over night shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.

m. Holder shall limit excavation to the areas of construction. No borrow areas for fill material will be permitted on the site. All off-site borrow areas must be approved in writing by the authorized officer in advance of excavation. All waste material resulting from construction or use of the site by holder shall be removed from the site. All waste disposal sites on public land must be approved in writing by the authorized officer in advance of use.

n. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

o. If during any phase of the construction, operation, or termination any oil or other pollutant should be discharged from containers or vehicles and impact Federal lands, the control and total removal, disposal, and cleanup of such oil or other pollutant, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of holder to control, cleanup, or dispose of such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting therefrom, the authorized officer may take such measures as he deems necessary to control and cleanup the discharge and restore the area, including, where appropriate, the aquatic environment and fish and wildlife habitats, at the full expense of the holder. Such action by the authorized officer shall not relieve the holder of any liability or responsibility.

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p. Fences, gates, brace panels and any other impacted range improvements shall be reconstructed to appropriate Bureau standards and/or specifications as determined by the authorized officer.

q. When construction activity in connection with the ROW breaks or destroys a natural barrier used for livestock control, the gap, thus opened, shall be fenced to prevent the drift of livestock. The subject natural barrier shall be identified by the authorized officer and fenced by the holder as per instruction of the authorized officer.

r. Construction-related traffic shall be restricted to routes approved by the authorized officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the authorized officer. Authorized roads used by the holder shall be rehabilitated or maintained when construction activities are complete as approved by the authorized officer.

s. Existing roads and trails on public lands that are blocked as the result of the construction project shall be rerouted or rebuilt as directed by the authorized officer.

t. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four inches deep, the soil shall be deemed too wet to adequately support construction equipment.

u. The holder shall construct waterbars on all disturbed areas as needed. Waterbars are to be constructed to: (1) simulate the imaginary contour lines of the slope (ideally with a grade of one or two percent); (2) drain away from the disturbed area; and (3) begin and end in vegetation or rock whenever possible.

v. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations). The holder shall be responsible for annual surveys, reporting the results of the surveys to the BLM, and weed control on disturbed areas within the limits of the right-of-way.

w. Holder shall maintain the ROW in a safe, usable condition, as directed by the authorized officer.

5. Reclamation / Rehabilitation / Termination

a. The holder shall re-contour the disturbed area and obliterate all earthwork by removing embankments, backfilling excavations, and grading to re-establish the approximate original contours of the land in the ROW.

b. The holder shall prepare a seedbed by either scarifying the disturbed area, distributing topsoil uniformly, or disking the topsoil.

c. The holder shall seed all disturbed areas that have been or are being reclaimed with a seed mixture(s) submitted to and approved by the authorized officer.

d. Ninety (90) days prior to termination of the ROW, the holder shall contact the authorized officer to arrange a pre-termination conference. This conference will be held to review the termination provisions of the grant.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this ROW grant.

Kent B Ringwood
(Signature of Holder)

DIRECTOR REAL ESTATE
(Title)

7-6-17
(Date)

Don Stephens
(Signature of BLM Authorized Officer)

Assistant Field Manager, Price Field Office
(Title)

7-6-17
(Effective Date of Grant)

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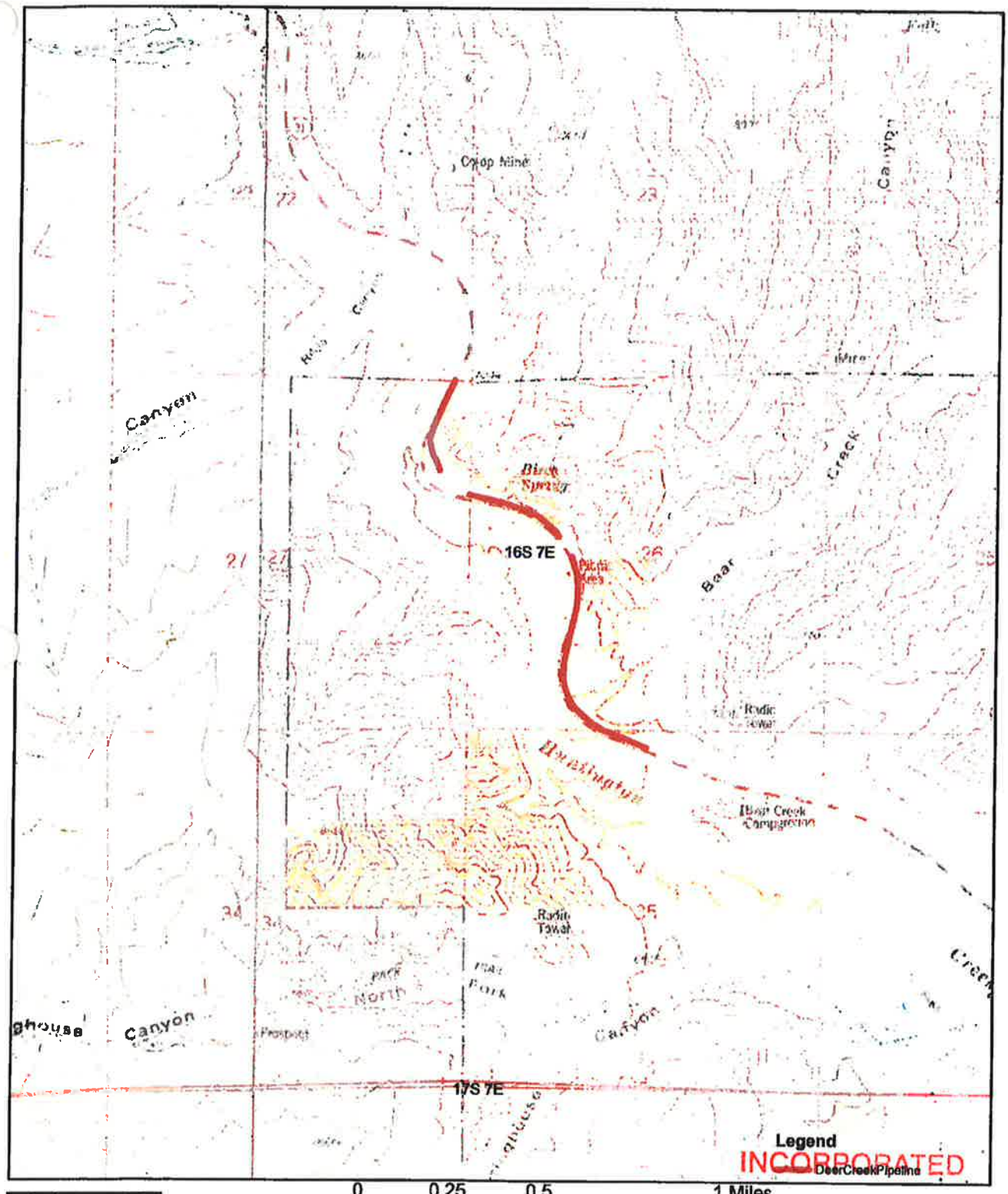
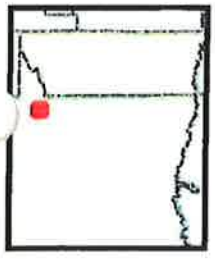
Deer Creek Pipeline

May 16, 2016





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