Decision Record

Succor Creek District Improvement Company Ditch Right-of-Way
Environmental Assessment No. DOI-BLM-OR-V040-2011-001

As Field Manager of the Jordan/Malheur Resource Areas, my decision is to implement the proposed action in Environmental Assessment (EA) DOI-BLM-OR-V040-2011-001 that will authorize the Succor Creek District Improvement Company (SCDIC) to amend their existing right-of-way (ROW) to reconstruct and maintain portions of an already existing irrigation ditch.

As detailed in the accompanying Finding of No Significant Impact (FONSI), the Proposed Action will not have a significant effect on the human environment. The EA was submitted for public comment for a period of 30 days. After considering all of the information before me, the federal actions I have chosen to authorize are as follows:

- Grant the amendment to the existing ROW to SCDIC to allow construction and maintenance on a replacement portion of an irrigation ditch. Heavy equipment will be used for trenching and reclaiming portions of the old ditch. Equipment and material will be staged on adjacent private land to minimize impacts to public land. This action will take place when soil moisture is low to minimize impacts (Fall 2014/Fall 2015). Periodic maintenance will be required to keep the pipeline in a usable condition.

- The duration of the ROW will be for thirty years. After this timeframe a renewal request should be submitted by SCDIC in order to continue ROW access.

- This project will be completed incorporating design features and stipulations identified in Best Management Practices in Appendix O of the Southeast Oregon Resource Management Plan and will remain in effect for the duration of the ROW.

The legal and policy rationale for my decision is as follows:

FLPMA Rights-of-Way and NEPA **-** Under the Federal Land Policy and Management Act (FLPMA, Title V) and its implementing regulations, BLM is authorized to grant, issue, or renew rights-of-way over public land so long as the action does not violate existing ROWs, laws, or regulations, and protects the public interests. The BLM is also required to comply with the National Environmental Policy Act (NEPA) and the Council of Environmental Quality (CEQ) regulations.

The decision is in conformance with management actions identified in the Southeastern Oregon Resource Management Plan and would meet management objectives for resource values and uses identified in that land use plan for Malheur Resource Area.

No unresolved conflicts involving alternative uses have been identified to drive the creation of an alternative which would allow evaluation and development of the proposed realignment of the

Succor Creek Irrigation Ditch. Therefore, no alternatives (other than the required "No Action Alternative") will be analyzed in detail in this Environmental Assessment.

The actions analyzed in the Succor Creek District Improvement Company Ditch Realignment Right-of-Way Environmental Assessment (DOI-BLM-V040-2011-001-EA), which this document incorporates by reference in its entirety, were found to not have a significant impact to the human environment. An unsigned finding of no significant impact (FONSI) was made available to the public with the EA on February 24, 2014. One comment on the EA was received during the 30-day comment period and after an internal review, was found to have already been addressed in the document.

Appeal Rights:

This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is filed, your notice must be filed in the Vale District Office, 100 Oregon Street, Vale, Oregon, 97918 within 30 days of receipt. The appellant has the burden of showing that the decision appealed is in error.

Filing an appeal does not by itself stay the effectiveness of a final BLM decision. If you wish to file a petition for a stay of the effectiveness of this decision, pursuant to 43 CFR 4.21, the petition for stay must accompany your notice of appeal. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

A petition for stay is required to show sufficient justification based on the standards listed below.

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.
4. Whether or not the public interest favors granting the stay.

A notice of appeal electronically transmitted (e.g. email, facsimile, or social media) will not be accepted as an appeal. Also, a petition for stay that is electronically transmitted (e.g., email, facsimile, or social media) will not be accepted as a petition for stay. Both of these documents must be received on paper at the office address above.

Persons named in the *Copies sent to:* sections of this decision are considered to be persons "named in the decision from which the appeal is taken." Thus, copies of the notice of appeal and petition for a stay must also be served on these parties, in addition to any party who is named elsewhere in this decision (see 43 CFR 4.413(a) & 43 CFR 4.21(b)(3)) and the appropriate Office of the Solicitor (see 43 CFR 4.413(a), (c)) at the same time the original documents are filed with this office.

For privacy reasons, if the decision is posted on the internet, the *Copies sent to:* section will be attached to a notification of internet availability and persons named in that section are also considered to be persons "named in the decision from which the appeal is taken."

Any person named in the decision, *Copies sent to:* section of the decision, or who received a notification of internet availability that receives a copy of a petition for a stay and/or an appeal and wishes to respond, see 43 CFR 4.21(b) for procedures to follow.

Thomas Patrick "Pat" Ryan
Field Manager
Jordan/Malheur Resource Areas

5/14/14
Date