



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Mother Lode Field Office  
5152 Hillside Circle  
El Dorado Hills, CA 95762  
www.blm.gov/ca/folsom

### Proposed right-of-way grant to NID for DS Canal flume replacement project (CA-180-12-55) Finding of No Significant Impact August 2012

It is my determination that this decision will not result in significant impacts to the quality of the human environment. Anticipated impacts are within the range of impacts addressed by the Sierra Resource Management Plan (RMP). Thus, the proposed action does not constitute a major federal action having a significant effect on the human environment; therefore, an environmental impact statement (EIS) is not necessary and will not be prepared. This conclusion is based on my consideration of CEQ's following criteria for significance (40 CFR §1508.27), regarding the context and intensity of the impacts described in the EA and based on my understanding of the project:

- 1) *Impacts can be both beneficial and adverse and a significant effect may exist regardless of the perceived balance of effects.* Potential impacts include vegetation removal, soil disturbance and temporary noise and dust.
- 2) *The degree of the impact on public health or safety.* No aspects of the proposed action have been identified as having the potential to significantly and adversely impact public health or safety.
- 3) *Unique characteristics of the geographic area.* The project area does not contain any unique characteristics.
- 4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial effects.* No anticipated effects have been identified that are scientifically controversial. As a factor for determining within the meaning of 40 C.F.R. § 1508.27(b)(4) whether or not to prepare a detailed environmental impact statement, "controversy" is not equated with "the existence of opposition to a use." *Northwest Environmental Defense Center v. Bonneville Power Administration*, 117 F.3d 1520, 1536 (9th Cir. 1997). "The term 'highly controversial' refers to instances in which 'a substantial dispute exists as to the size, nature, or effect of the major federal action rather than the mere existence of opposition to a use.'" *Hells Canyon Preservation Council v. Jacoby*, 9 F.Supp.2d 1216, 1242 (D. Or. 1998).
- 5) *The degree to which the possible effects on the human environment are likely to be highly uncertain or involve unique or unknown risks.* The analysis does not show that the proposed action would involve any unique or unknown risks.
- 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 proposed action is not precedent setting.
- 7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* No significant site specific or cumulative impacts have been identified. The proposed action is consistent with the Sierra RMP.

8) *The degree to which the action may adversely affect National Historic Register listed or eligible to be listed sites or may cause loss or destruction of significant scientific, cultural or historical resources.* The proposed action would not adversely affect cultural properties listed on or eligible for the National Register of Historic Places.

9) *The degree to which the action may adversely affect ESA listed species or critical habitat.* No ESA listed species (or their habitat) are known to occur in the area potentially affected by the proposed action.

10) *Whether the action threatens a violation of environmental protection law or requirements.* There is no indication that the proposed action will result in actions that will threaten such a violation.

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William S. Haigh  
Field Manager,  
Mother Lode Field Office

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Date



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**EA Number:** CA-180-12-55

**Proposed Action:** Proposed right-of-way grant to NID for DS Canal flume replacement project

**Location:** MDM, T. 16 N., R. 9 E., Section 18 (see attached project area map)

### 1.0 Purpose of and Need for Action

#### 1.1 Need for Action

The Nevada Irrigation District (NID) has made application to BLM for a right of way across BLM-administered land to access a portion of the DS Canal. The DS Canal is owned and operated by NID. The proposed right of way and portion of the DS Canal are located off of Gracie Road, southeast of Nevada City, California. NID needs the right of way to access and replace flumes 18 and 19 on the DS Canal, as part of NID's larger DS Canal flume replacement project. NID is replacing the flumes due to their condition as well as the limitations that it puts on the DS Canal. The design capacity and age of the flumes have been exceeded. Further, they do not meet current OSHA standards for NID employees.

#### 1.2 Conformance with Applicable Land Use Plans

The proposed action is consistent with the Sierra Resource Management Plan Record of Decision (ROD), approved in February 2008. On page 32 of the ROD directs the Mother Lode Field Office to respond to the demand for land-use authorizations.

### 2.0 Proposed Action and Alternatives

#### 2.1 Proposed Action

BLM proposes to grant the right of way to NID. The right of way would be granted within an approximately 242 ft long by 10 ft wide corridor located on BLM-administered land along the DS Canal. NID would need to improve this right-of-way corridor by blading it and removing overgrown vegetation. Metal supports would be laid across a deep drainage to create a bridge. NID would then use the right of way as an access road for heavy equipment to replace flumes 18 and 19 on the DS Canal. Each flume would be replaced with a pipe, which allows for greater capacity. NID would continue to use the right of way periodically after the replacement of flumes 18 and 19 to service the new pipe and the canal. Please note that the replacement of flumes 18 and 19 are part of NID's larger DS Canal replacement project. In considering NID's right-of-way application, we do not feel that we have NEPA and other environmental obligations for the entire DS Canal replacement project. At this time, the BLM believes that our involvement is restricted to the right-of-way project and this project's direct and indirect effects (i.e., replacement of flumes 18 and 19). The project area includes the right-of-way corridor, flumes 18 and 19, the portion of canal between Gracie Road and flume 19, and the areas below the flumes in the drainages where heavy equipment would operate.

## **2.2 Project Design Features**

NID will follow its best management practices and other guidance in the Final Environmental Impact Report for the larger DS Canal flume replacement project.

## **2.3 No Action**

Under the no action alternative, BLM would not grant NID the right of way, as requested in their application.

## **2.4 Alternatives Considered but Eliminated from Detailed Analysis**

None

## **3.0 Affected Environment**

The project area is located at approximately 2770 ft amsl in the west-central Sierra Nevada foothills. Specifically, the project area is within the Deer Creek watershed, part of the larger Yuba River watershed. The right-of-way corridor is adjacent to Flume 18 on Gold Run creek, an intermittent tributary of Deer Creek. Flume 19 is on an unnamed intermittent tributary to Deer Creek.

The terrain is moderately steep and densely forested with Douglas fir, incense-cedar, madrone, and black oak. The understory species includes live oak, big-leaf maple, and mountain misery, as well as various herbs. The project area's botanical and forestry resources were inventoried by the BLM botanist and BLM forester in 2011. Previous inventory was performed within the project area by NID's consultants for the DS Canal flume replacement project.

The project area's cultural resources were inventoried by the BLM archaeologist in 2011. Previous inventory was performed within the project area by NID's consultant ICF International (formerly Jones & Stokes) in 2008 for the DS Canal flume replacement project. Cultural resources within the project area include the DS Canal, originally built by NID during the late 1920s. The DS Canal is still owned and operated by NID.

The project area is located in a densely forested rural area that does have scenic values. Walking and mountain biking occur within the project area along an established trail on the DS Canal. The trail is managed by NID. BLM manages the BLM-administered portion of the project area in accordance with visual resource management class III guidelines. BLM's objective for class III is to partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention but should not dominate the view of the casual observer. Changes should repeat basic elements found in the predominant natural features of the characteristic landscape.

## **4.0 Environmental Effects**

The following critical elements have been considered for this environmental assessment, and unless specifically mentioned later in this EA, have been determined to be unaffected by the proposal: air quality, areas of critical environmental concern, prime/unique farmlands, floodplains, water quality, hazardous waste, wetlands and riparian zones, wild and scenic rivers, wilderness, and environmental justice.

### **4.1 Impacts of the Proposed Action and Alternatives**

Air, water, and soil – the proposed action would not negatively impact atmospheric, water, or soil resources. The area where the right-of-way corridor/road would be established and the flume replacement work would occur is relatively small—less than one acre. Rare soils do not occur within the project area. Both drainage at flumes 18 and 19 are intermittent. The project would be implemented during the dry season. There would be negligible levels of dust and soil erosion caused by proposed

action in both the short term (during initial construction) and the long term (maintenance of the right of way and DS Canal).

**Vegetation/forestry** – The BLM botanist analyzed the impacts of the proposed action on botanical resources, especially special status plants. The analysis was designed to help BLM meet its obligations under the Endangered Species Act and other special status policy. Special status plants have not been found within the project area. The botanist recommends that the proposed action would not affect threatened and endangered plants or other BLM special status plants. The proposed action calls for very little vegetation removal. The proposed action would cause negligible effects to common vegetation. No merchantable timber would be removed.

**Wildlife** – The BLM wildlife biologist analyzed the impacts of the proposed action on wildlife, especially on special status wildlife. Her analysis was designed to help BLM meet its obligations under the Endangered Species Act and other special status policy. The wildlife biologist recommends that the project would have negligible short-term impacts on wildlife due to temporary noise when the right of way road/corridor is established and the flume replacement project is implemented by NID.

**Recreation** – Walking and mountain biking on the DS Canal trail could be negatively impacted, temporarily (for perhaps a few weeks at the longest), during project implementation. However, the proposed action would not permanently impact this recreational use. The replacements for flumes 18 and 19 would not obstruct the existing recreational trail on the DS Canal or change the current recreation use in any way.

**Visual resources** – The proposed project would have negligible impacts on visual resources due to the removal of vegetation, the creation of road/right-of-way corridor, and the installation of the replacement flumes. Most observers would likely agree that the replacement flume structures are not as aesthetically pleasing as the current flumes 18 and 19 which retain their original 1920s design. Some observers might go so far as to argue that new replacement flumes create an eyesore. In terms of policy, BLM manages the area in accordance with VRM class III standards, and the right of way corridor and the replacement flume structures are in line with the management objective for this class, which is to retain the existing character of the landscape.

**Cultural/Native American concerns** – The portion of the project area directly affected by the proposed action was studied by a BLM archaeologist in June 2011. The portion of the project area indirectly affected by the proposed action (a portion of the DS Canal including flumes 18 and 19, the canal, and areas below the flumes in the drainages where heavy equipment would operate) was studied by NID consultant ICF International (ICF). Both studies included pre-field record searches, historical/archival research, pedestrian field inventories, and Native American tribal consultation. The primary purpose of the studies was to identify affects to the significant cultural resources or “historic properties”, in accordance with Section 106 of the National Historic Preservation Act. One cultural resource was identified by ICF within the portion of the project area that would be indirectly affected by the proposed action. This cultural resource is the DS Canal, originally built by NID contractors in 1928-29 and still in use as an element of NID’s water conveyance infrastructure. No Native American resources or issues were identified. ICF recommends that the DS Canal (including flumes 18 and 19) is not eligible for inclusion on the National Register of Historic Places (NRHP) under any of the four NRHP criteria (36 CFR 60.4). ICF also notes that the DS Canal including its flumes do not have sufficient integrity. BLM agrees with ICF’s recommendations, and is currently working through the Section 106 process at 36 CFR 800. BLM has asked for SHPO concurrence on the eligibility determination and on the finding that the proposed action would not affect historic properties.

## **4.2 Impacts of the No Action Alternative**

No environmental (i.e., air, water, soils, vegetation, wildlife, cultural resources) or other resources (recreational, visual, social, etc.) would be affected under the no action alternative. However, there could be negative economic impacts. NID has applied for the right of way in order to complete upgrades to the DS Canal, which it owns and operates. The upgrades would increase the canal's capacity and reduce maintenance costs.

The DS Canal and its laterals are currently under a temporary water freeze, so there are no new raw water sales or increases for existing customers. Customers include small water users, farms, ranches and orchards. The replacement of the remaining flumes would allow for the water freeze to be lifted and additional water sales to be provided up to master plan flow.

If BLM was to not grant the ROW for construction access – NID would not be able to reasonably construct the replacement for flumes 18 and 19. There would be additional costs involved such as:

- Additional acquisition ROW through private properties would most likely be required for construction access.
- Temporary facilities constructed in the canal in order to utilize the access through the private property.
- Road restoration along the private road utilized for access.
- Delay of the larger flume replacement project for an additional year would result in loss of revenue from increase water sales and higher construction costs.
- Additional maintenance of a deteriorating facility.

If BLM were not to grant the ROW that the flume currently resides on for the purpose of constructing a new flume parallel to the existing, the remaining flume 18 would be the restriction that would require NID to maintain the temporary water freeze on the DS Canal and its laterals. This would result in loss of revenue from increase water sales for NID. The impact would also negatively affect NID customers/potential customers as they would not be able to obtain service or increase their service. Additional maintenance of the deteriorating facility would be required. Retrofit to bring the flume up to OSHA standards would further reduce the amount of flow in the flume, due to the capacity of the structure. The flumes replaced previously would be oversized for the limited system.

## **4.3 Cumulative Impacts**

As discussed in this EA, granting the right of way, and thus allowing NID to replace flumes 18 and 19, would not cause any serious negative direct or indirect impacts to environmental or other resources. The proposed action is too small to affect air, soils, and water. The proposed action would not affect special status plants and wildlife. The proposed action would not affect significant cultural resources. Recreation and visual resources would not be affected, either. The DS canal has been determined by BLM to be not historically significant. It must be noted that the right-of-way grant would allow NID to complete its larger DS Canal flume replacement project, which has been ongoing for years. This larger project moved forward under a Final Environmental Impact Report (EIR) completed in 2009, pursuant to the California Environmental Quality Act. Serious impacts to air, soils, water, biological, cultural, and other resources were not identified in the Final EIR. Various mitigation measures were required under the Final EIR to prevent serious impacts to environmental resources. The same mitigation resources would be applied to the replacement of flumes 18 and 19. Therefore, it is unlikely that the proposed action would cumulatively cause a serious impact on air, soils, water, and biological resources.

## 5.0 Agencies and Persons Consulted

None.

## 5.1 BLM Interdisciplinary Team

Reviewers:

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NEPA coordinator/archaeologist

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Outdoor recreation planner/visual resources specialist

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Botanist

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Wildlife biologist

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Forester

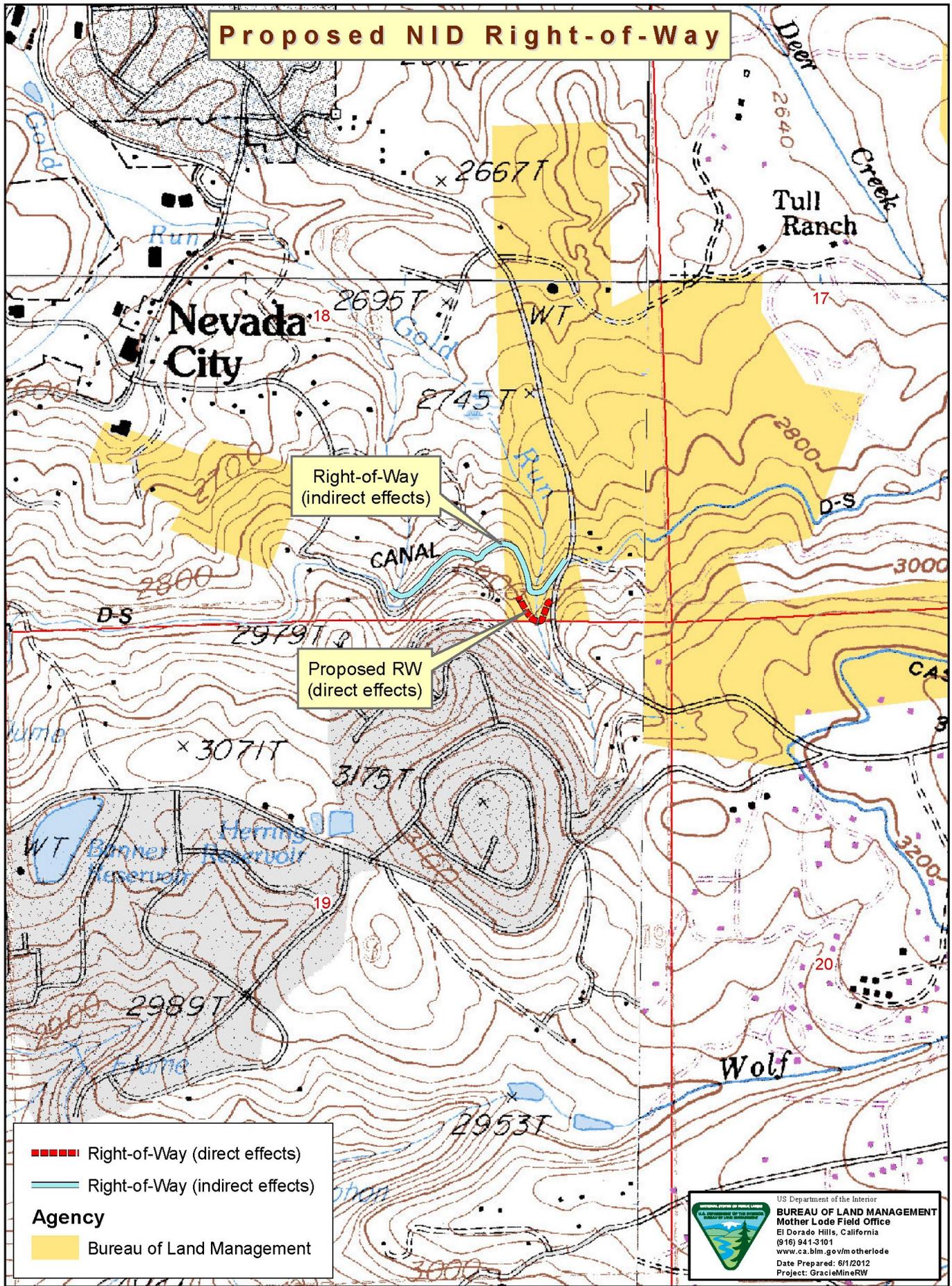
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Realty specialist

## 5.2 Availability of Document and Comment Procedures

This EA, posted on Mother Lode Field Office's website ([www.blm.gov/ca/motherlode](http://www.blm.gov/ca/motherlode)) under Information, NEPA (or available upon request), will be available for a 15-day public review period. Comments should be sent to the Mother Lode Field Office, 5152 Hillsdale Circle, El Dorado Hills, CA 95762 or emailed to [jjbarnes@blm.gov](mailto:jjbarnes@blm.gov).

# Proposed NID Right-of-Way



T16N

T16N

- - - - - Right-of-Way (direct effects)
- — — — — Right-of-Way (indirect effects)
- Agency**
- Bureau of Land Management

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