

**U.S. Department of the Interior
Bureau of Land Management
Kremmling Field Office
P O Box 68
Kremmling, CO 80459**

CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-LLCON02000-2013-0031-CX

A. Background

CASEFILE/PROJECT NUMBER: COC-22181, COC-23468, COC-62471, and COC-62475

PROJECT NAME: ROW Assignments between James Yust and the Yust Cattle Co., Inc.

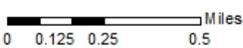
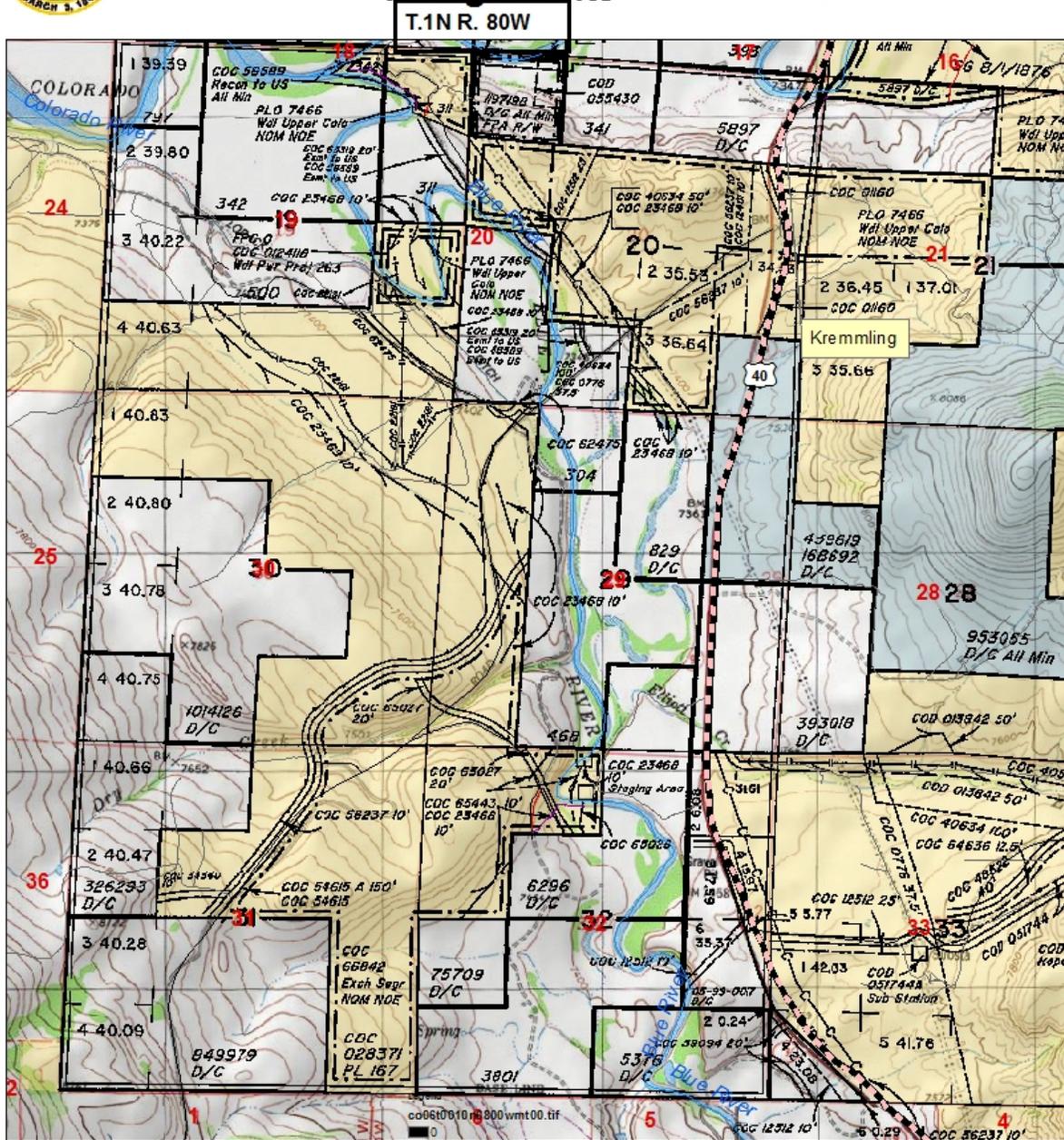
**LEGAL DESCRIPTION: T. 1 N., R. 80 W., 6th P.M.
T. 1 N., R. 81 W., 6th P.M.**

APPLICANT: Yust Cattle Company, Inc.

DESCRIPTION OF PROPOSED ACTION: Yust Cattle Company, Inc. has applied for an assignment of four right-of-ways (ROWs) granted to James Yust. COC-22181, a water pipe line and power line, was issued on 1-2-1976 and has an indefinite term. COC-23468, an irrigation ditch, was issued on 3-25-1982 and expired on 3-24-2012 and is in the renewal process. COC-62471, ranch roads, was issued on 3-3-1999 and expires on 3-2-2029. COC-62475, ranch roads, was issued on 3-3-1999 and expires on 3-2-2029. There would be no improvements to the ROWs.



Yust Cattle Co., Inc. Assignments



- Land Status
- Bureau of Land Mgt
 - Division of Wildlife
 - National Park
 - US Forest Service
 - National Wildlife Refuge
 - Private
 - State
 - State Forest

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.

Annie Sperandio, 7-9-2013
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PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5-3, BLM 1601.08) the following plan:

Name of Plan: the Kremmling Resource Management Plan (RMP), Record of Decision

Date Approved: December 19, 1984; Updated February 1999

Decision Number/Page: Page 14

Decision Language: Provide the opportunity to utilize public lands for development of facilities which benefit the public, while considering environmental and agency concerns.

CATEGORICAL EXCLUSION REVIEW: The Proposed Action qualifies as a categorical exclusion under 516 DM 11.9, E., (9): Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

The Proposed Action has been reviewed with the list of extraordinary circumstances (43 CFR 46.215) described in the table below.

Extraordinary Circumstance	YES	NO
a) Have significant adverse effects on public health and safety.		X
b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands; floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.		X
c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.		X
d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
g) Have significant impacts on properties listed, or eligible for listing, in the National Register of Historic Places as determined by either the bureau of office.		X
h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse		X

Extraordinary Circumstance	YES	NO
effects on designated Critical Habitat for these species.		
i) Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		X
j) Have a disproportionately high and adverse effect on low income or minority populations		X
k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly affect the physical integrity of such sacred sites.		X
l) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.		X

INTERDISCIPLINARY REVIEW:

The Proposed Action was presented to, and reviewed by, the Kremmling Field Office interdisciplinary team on 5/31/2013. A complete list of resource specialists who participated in this review is available upon request from the Kremmling Field Office. The table below lists resource specialists who provided additional remarks concerning cultural resources and special status species.

Name	Title	Resource	Date
Bill Wyatt	Archaeologist	Cultural Resources, Native American Tribal Consultation	7/15/2013
Megan McGuire	Wildlife Biologist	Special Status Plant/Wildlife Species	7/10/13

REMARKS: None

MITIGATION: None

COMPLIANCE PLAN: On-going compliance inspections and monitoring would be conducted by the BLM Kremmling Field Office staff during and after construction. The operator would be notified of compliance related issues in writing, and depending on the nature of the issue(s), would be provided 30 days to resolve such issues.

NAME OF PREPARER: Annie Sperandio

NAME OF ENVIRONMENTAL COORDINATOR: Susan Cassel

COMPLIANCE WITH NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E(9). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Susan Cassel
Associate Field Manager

DATE SIGNED: 7/15/13

ATTACHMENTS: Stipulations, seed mix

**U.S. Department of the Interior
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DECISION RECORD

PROJECT NAME: ROW Assignments between James Yust and the Yust Cattle Co., Inc.

CATEGORICAL EXCLUSION NUMBER: DOI-BLM-LLCON02000-2013-0031-CX

DECISION

It is my decision to implement the Proposed Action, DOI-BLM-LLCON02000-2013-0031-CX, authorizing the assignments of rights-of-way of COC-22181, COC-23468, COC-62471, and COC-62475.

Mitigation Measures: None

COMPLIANCE WITH LAWS & CONFORMANCE WITH THE LAND USE PLAN

This decision is in compliance with the Federal Land Management and Policy Act, the Endangered Species Act, and the National Historic Preservation Act. It is also in conformance with the December 19, 1984; Updated February 1999 Kremmling Resource Management Plan (RMP).

PUBLIC INVOLVEMENT : The CX will be available for a formal 30-day public comment period when posted on the Kremmling Field Office's internet website.

RATIONALE

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E(9). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

ADMINISTRATIVE REMEDIES

Administrative remedies may be available to those who believe they will be adversely affected by this decision. Appeals may be made to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of Interior, Board of Land Appeals (Board) in strict compliance with the regulations in 43 CFR Part 4. Notices of appeal must be filed in this office within 30 days after publication of this decision. If a notice of appeal does not include a statement of reasons, such statement must be filed with this office and the Board within 30 days after the notice of

appeal is filed. The notice of appeal and any statement of reasons, written arguments, or briefs must also be served upon the Regional Solicitor, Rocky Mountain Region, U.S. Department of Interior, 755 Parfet Street, Suite 151, Lakewood, CO 80215.

The effective date of this decision (and the date initiating the appeal period) will be the date this notice of decision is posted on BLM's Kremmling Field Office internet website.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Susan Cassel _____
Associate Field Manager

DATE SIGNED: 7/15/13

C- 22181-RW

BUREAU OF LAND MANAGEMENT STIPULATIONS

Terms and Conditions

An applicant, by accepting a right-of-way, agrees and consents to comply with and be bound by the following terms and conditions, excepting those which the Secretary of the Interior may waive in a particular case:

1. To comply with State and Federal laws applicable to the project for which the right-of-way is approved, and to the lands which are included in the right-of-way, and lawful existing regulations thereunder.
2. To clear and keep clear the lands within the right-of-way to the extent and in the manner directed by the superintendent in charge; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project in such a manner as to decrease the fire hazard and also in accordance with such instructions as the United States representative in charge may specify.
3. To take such soil and resource conservation and protection measures, including weed control, on the land covered by the right-of-way as the United States representative in charge of such lands may request.
4. To do everything reasonably within his power, both independently and on request of any duly authorized representative of the United States, to prevent and suppress fires on or near the lands to be occupied under the right-of-way, including making available such construction and maintenance forces as may be reasonably obtainable for the suppression of such fires.
5. To build and repair such roads, fences, and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
6. To pay the United States the full value for all damages to the lands or other property of the United States caused by him or by his employees, contractors, or employees of the contractors, and to indemnify the United States against any liability for damages to life, person or property arising from the occupancy or use of the lands under the right-of-way, except that where a right-of-way is granted hereunder to a State or other governmental agency which has no legal power to assume such a liability with respect to damages caused by it to lands or property, such agency in lieu thereof agrees to repair all such damages.

February 12, 1999

EXHIBIT "A"

STIPULATIONS
FOR
EXISTING ACCESS ROADS
FOR
JIM YUST AND JEAN OFF
C-62471 AND C-62475

1. The holder shall contact the authorized officer at least 4 (four) days prior to the anticipated start of construction and/or any surface disturbing activities. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant including the plans(s) of development.
2. The holder shall submit a plan or plans of development that describe in detail the construction, operation, maintenance, and termination of the right-of-way and its associated improvements and/or facilities. The degree and scope of these plans will vary depending upon (1) the complexity of the right-of-way or its associated improvements and/or facilities, (2) the anticipated conflicts that require mitigation, and (3) additional technical information required by the authorized officer. The plans will be reviewed, and if appropriate, modified and approved by the authorized officer. An approved plan of development shall be made a part of the right-of-way grant.
3. Testing of site 5GA2286 will need to be completed prior to any proposed development on road segment L that would extend west and beyond twenty feet of the road centerline to determine the potential for intact buried cultural materials and eligibility of the site to the National Register of Historic Places.
4. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
5. When construction activity in connection with the right-of-way 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.
6. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. 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).
7. 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.

8. The holder(s) 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 right-of-way or on facilities authorized under this right-of-way 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.
9. 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 4 (four) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
10. The holder shall utilize erosion control practices during and after construction to minimize soil loss and prevent siltation of water bodies. The holder shall monitor the site for soil loss and will take any necessary steps to prevent soil loss during the life of the right-of-way.
11. The holder shall permit free and unrestricted public access to and upon the right-of-way 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 right-of-way.
12. The holder shall mulch disturbed areas designated by the authorized officer. The type of mulch shall meet one of the following requirements:
 - (a) Straw used for mulching shall be from oats, wheat, rye, or other approved grain crops, and free from noxious weeds or other objectionable material as determined by the authorized officer. Straw mulch shall be suitable for placing with mulch blower equipment.
 - (b) Hay shall be certified weed free. Hay shall be suitable for placing with mulch blower equipment.
 - (c) Wood cellulose fiber shall be natural or cooked wood cellulose fiber, shall disperse readily in water, and shall be nontoxic. The homogeneous slurry or mixture shall be capable of application with power spray equipment. A colored dye that is noninjurious to plant growth may be used when specified. Wood cellulose fiber shall be packaged in new, labeled containers.
13. The holder shall seed all disturbed areas, including the road surface, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the second growing season.
14. The holder shall seed all disturbed areas with the seed mixture(s) listed below. The seed mixture(s) shall be planted in the amounts specified in pounds of pure live seed (PLS)/acre. There shall be no primary or secondary noxious weed seed in the seed mixture. Seed shall be tested and the viability testing of seed shall be done in accordance with State law(s) and within 12 (twelve) months prior to purchase. Commercial seed shall be either certified or registered seed. The seed mixture container shall be tagged in accordance with State law(s) and available for

inspection by the authorized officer.

Seed shall be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture shall be evenly and uniformly planted over the disturbed area. (Smaller/heavier seeds have a tendency to drop to the bottom of the drill and are planted first. The holder shall take appropriate measures to ensure this does not occur.) Where drilling is not possible, seed shall be broadcast and the area shall be raked or chained to cover the seed. When broadcasting the seed, the pounds per acre noted below are to be doubled. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of the second growing season after seeding. The authorized officer is to be notified a minimum of three days prior to seeding of the project.

SEED MIXTURE

Broadcast Seeding Rate
(Drill seed at 1/2 the rate)

<u>SEED NAME</u>	<u>LBS./ACRE (Pure Live Seed)</u>		<u>ACRES</u>	<u>POUNDS</u>
Western wheatgrass <i>Pascopyrum smithii</i> , variety. Arriba	6	x	_____	= _____
Slender wheatgrass <i>Elymus trachycaulus</i> ssp. <i>trachycaulus</i> var. Revenue or San Louis	6	x	_____	= _____
Bluebunch wheatgrass <i>Pseudoroegneria spicata</i> , var. Secar (Alternate var. Goldar)	2	X	_____	= _____
Big bluegrass <i>Poa ampla</i>	1	x	_____	= _____
Sheep fescue <i>Festuca ovina</i> , var. Covar	1	x	_____	= _____
Lewis flax <i>Linum lewisii</i> , var. Appar	1/2	x	_____	= _____

(Seed tags must be submitted to ELM after seeding.)

FERTILIZER

18-46-0 200 lbs. x _____ = _____

(The best time to fertilize is prior to the second growing season.)

MULCH

Native Hay or Straw 2,000 lbs. x _____ = _____
-Certified Noxious Weed Free-

(Mulch must be used in critical areas likely to erode, such as long, steep slopes and drainages, otherwise, mulch is optional, but it will help stabilize the site and improve reclamation success.)

15. Holder shall maintain the right-of-way in a safe, usable condition, as directed by the authorized officer. (A regular maintenance program shall include, but is not limited to ditching and culvert installation.)

16. One month prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
17. The holder is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for disturbing historic or archaeological sites, or for collecting artifacts.

The holder shall immediately bring to the attention of the Authorized Officer any and all antiquities, or other objects of historic, paleontological, or scientific interest including but not limited to, historic or prehistoric ruins or artifacts DISCOVERED as a result of operations under this authorization (16 U.S.C. 470.-3, 36 CFR 800.112). The holder shall immediately suspend all activities in the area of the object and shall leave such discoveries intact until written approval to proceed is obtained from the Authorized Officer. Approval to proceed will be based upon evaluation of the object(s). Evaluation shall be by a qualified professional selected by the Authorized Officer from a Federal agency insofar as practicable (BLM Manual 8142.06E). When not practicable, the holder shall bear the cost of the services of a non-Federal professional.

Within five working days the Authorized Officer will inform the holder as to:

- whether the materials appear eligible for the National Register of Historic Places;
- the mitigation measures the holder will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,
- a timeframe for the Authorized Officer to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the Authorized Officer are correct and that mitigation is appropriate.

If the holder wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the Authorized Officer will assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the holder will be responsible for mitigation costs. The Authorized Officer will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the Authorized Officer that the required mitigation has been completed, the holder will then be allowed to resume construction.

Antiquities, historic, prehistoric ruins, paleontological or objects of scientific interest that are outside of the authorization boundaries but directly associated with the impacted resource will also be included in this evaluation and/or mitigation.

Antiquities, historic, prehistoric ruins, paleontological or objects of scientific interest, identified or unidentified, that are outside of the authorization and not associated with the resource within the authorization will also be protected. Impacts that occur to such resources, that are related to the authorizations activities, will be mitigated at the holder's cost.

antiquities and objects of scientific interest are attached.

18. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4 (c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

<u>Ditch</u>	<u>ROW Total Width</u>	<u>Total Length</u>
L	20 ft	1179.72
N	25 ft	6111.86
Q	20 ft	2545.57
S	20 ft	329.69
T	100 ft	1672.67
U	20 ft	1167.16
V	30 ft	71.10
W	20 ft	760.26
X	100 ft	1888.44
Y	100 ft	859.96
Z	100 ft	863.99
Yust Intake	100 ft	110.00
	Total	21722.36

We therefore, acknowledge the appropriation of the right-of-way across public lands for the above ditches under the authority of the Act of 1866 (43 U.S.C. 661) as modified by the Act of 1901 (43 U.S.C. 959) subject to the regulations set forth in 43 CFR 2801.1-5(a)(b)(c)(f)(h)(i)(j)(l)(m), 43 CFR 2802.2-3, 43 CFR 2802.2-4, 43 CFR 2802.3-2, 43 CFR 2802.4-1 and the following special stipulations:

1. Surface disturbance such as removal of soil or vegetation is confined to public land inside the boundaries of the right-of-way.
2. Any soil moved during periodic maintenance shall be reshaped to conform with the pre-disturbed topography.
3. The holder shall immediately bring to the attention of the authorized officer any and all antiquities or other objects of historic or scientific interest including, but not limited to, historic or prehistoric ruins, or artifacts discovered as a result of operations under this right-of-way grant. The holder shall immediately suspend all activities in the area of the object and shall leave such discoveries intact until told to proceed by the authorized officer. Approval to proceed will be based upon evaluation of the cultural significance of the object. Evaluation shall be by a qualified professional selected by the authorized officer from a Federal agency insofar as practicable. When not practicable, the holder shall bear the cost of the services of a non-Federal professional. The holder shall follow the mitigation requirements set forth by the authorized officer concerning protection, preservation or disposition of any sites or material discovered. In those situations where the authorized officer determines that data recovery and/or salvage excavations are necessary, the holder shall bear the cost of such data recovery and/or salvage operations.

This right-of-way is subject to all valid existing rights. The applicant is hereby given 30 days from receipt of this Decision within which to accept the offer of the right-of-way or to appeal pursuant to 43 CFR, Part 4, Subpart E and 43 CFR 2804.