

**U.S. Department of the Interior
Bureau of Land Management
Glenwood Springs Energy Office
2425 South Grand Avenue, Suite 101
Glenwood Springs, Colorado 81601**

STATUTORY CATEGORICAL EXCLUSION

NUMBER: CO-140-2008-108scc.djb

CASEFILE NUMBER: COC73130

PROJECT NAME: Orion Divide Creek Access Road

LEGAL DESCRIPTION: Township 6 South, Range 91 West, sec. 17, SW¼SW¼; and sec. 18, SE¼NW¼; Sixth Principal Meridian, Garfield County, Colorado.

The existing access road area is located east of Divide Creek and Garfield County Road No. 311; south of Garfield County Road 346; and southeast of the Town of Silt. It is located within Federal Lease COC51146, held by EnCana Oil and Gas (USA) Inc. The existing road right-of-way is held by Devon Energy Production Co LP (COC36719). Southeast of the proposed right-of-way grant is a Public Water Reserve (PWR 107) (COC17561) established in April 1926 and open to entry on September 12, 1984.

APPLICANT: Orion Energy Partners LP
Rodney Mellott, Vice President
1675 Broadway, Suite 2000
Denver, Colorado 80202

Contact: Steve Hahn (303-595-3030 ext 107).

PROPOSED ACTION: Orion Energy Partners LP (“Orion”) is requesting a right-of-way for the use of a portion of an existing access road, existing in 2 sections, located east of Divide Creek. The road would be used to access existing and proposed well sites located on private surface/private minerals. It would be used during drilling operations for oil and gas development, transportation of equipment, and future maintenance of production facilities. No new construction would be planned; therefore, no Temporary Use Permit (TUP) would be necessary.

The entire length of the road within the proposed right-of-way to be accessed is 1,325 feet long and 35 feet wide, for a total area of 1.06 acres. The total length includes 428 linear feet in section 17 and 897 linear feet in section 18. No related structures are anticipated, and no new surface disturbance would be required. The road would be used year-round for the life of the well(s) – approximately 30 years.

Existing rights-of-way grants within this area include the following (T. 6S., R. 91W., 6th PM):

Case Serial No.	R/W Holder	Aliq	Type of Permit
COC17561	BLM	Sec 18, NWSE;	Pub Water Reserve
COC36719	Devon Energy	Sec 18, SENW;	Access Road
COC51146	EnCana O&G	Sec 17, E2E2,NWNE,NENW,W2W2; Sec 18, E2,SENW, E2SW, Lot 4;	O&G Lease
COC54361	Pub Serv Colorado	Sec 18, SENW;	R/W Gas Pipeline
COC57768	EnCana O&G	Sec 17, S2	O&G CA

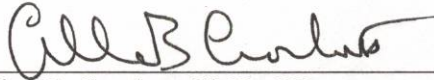
BLM Conditions of Approval: Stipulations specific to the lease and existing access road would be included with the ROW grant, as well as any updated stipulations since the original right-of-way was granted 03-28-1983. (Stipulations attached to and made a part of this SCE.)

NEPA Compliance: The following category of Statutory Categorical Exclusion pursuant to Section 390 of the Energy Policy Act (Act of 2005) applies to this proposal: Category #1: *“Individual surface disturbances of less than five (5) acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.”* (COC51146 EnCana)

The expected surface area would be approximately 1.06 acres, which would be within the currently disturbed, permitted access road areas.

Prepared by: DJ Beaupeurt, Lands and Realty Specialist

Approval: It is my decision to approve the proposed action with the above referenced terms and conditions:



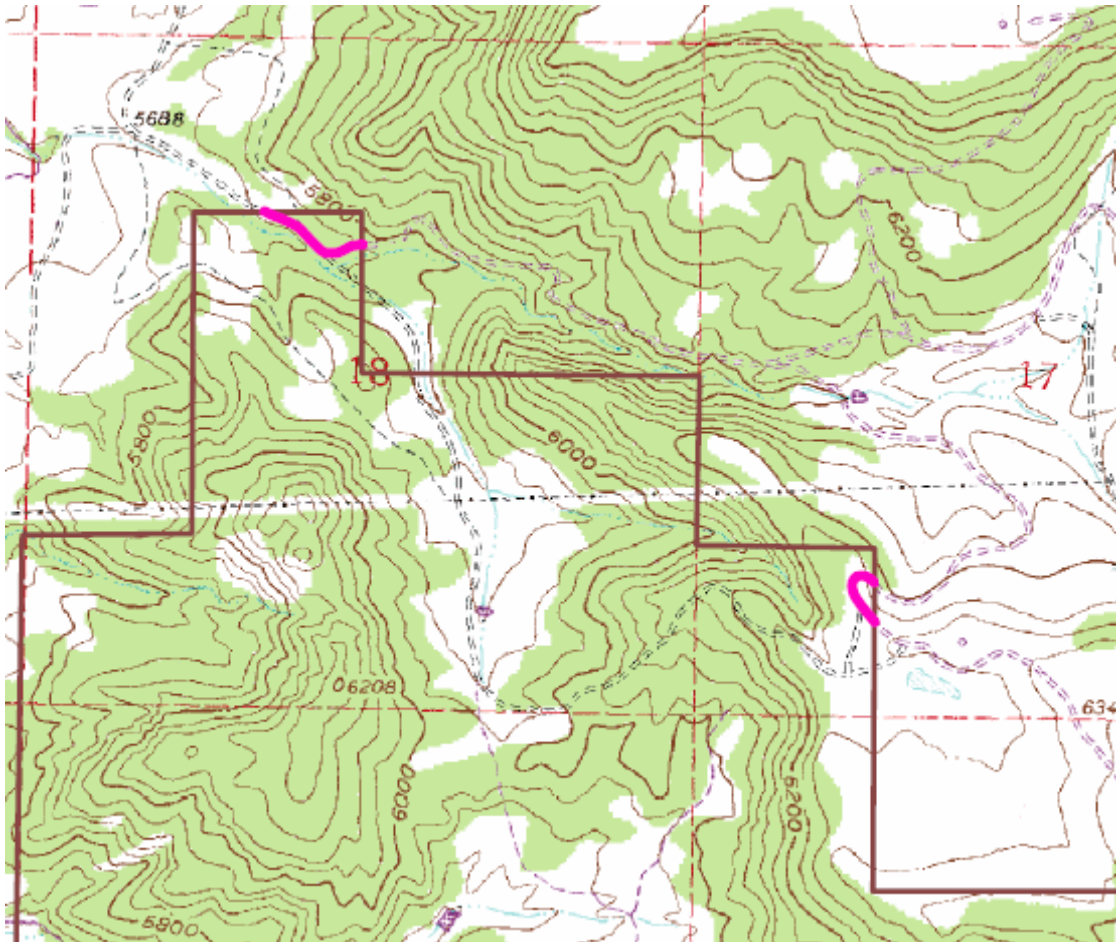
Allen B. Crockett, Ph.D., J.D.
Supervisory Natural Resource Specialist

11-25-08
Date

EXHIBIT A(1)
Map, Existing Access Road and Proposed R/W

ORION ENERGY PARTNERS LP

COC73130



Township 6 South, Range 91 West, 6th PM
Sections 17 and 18

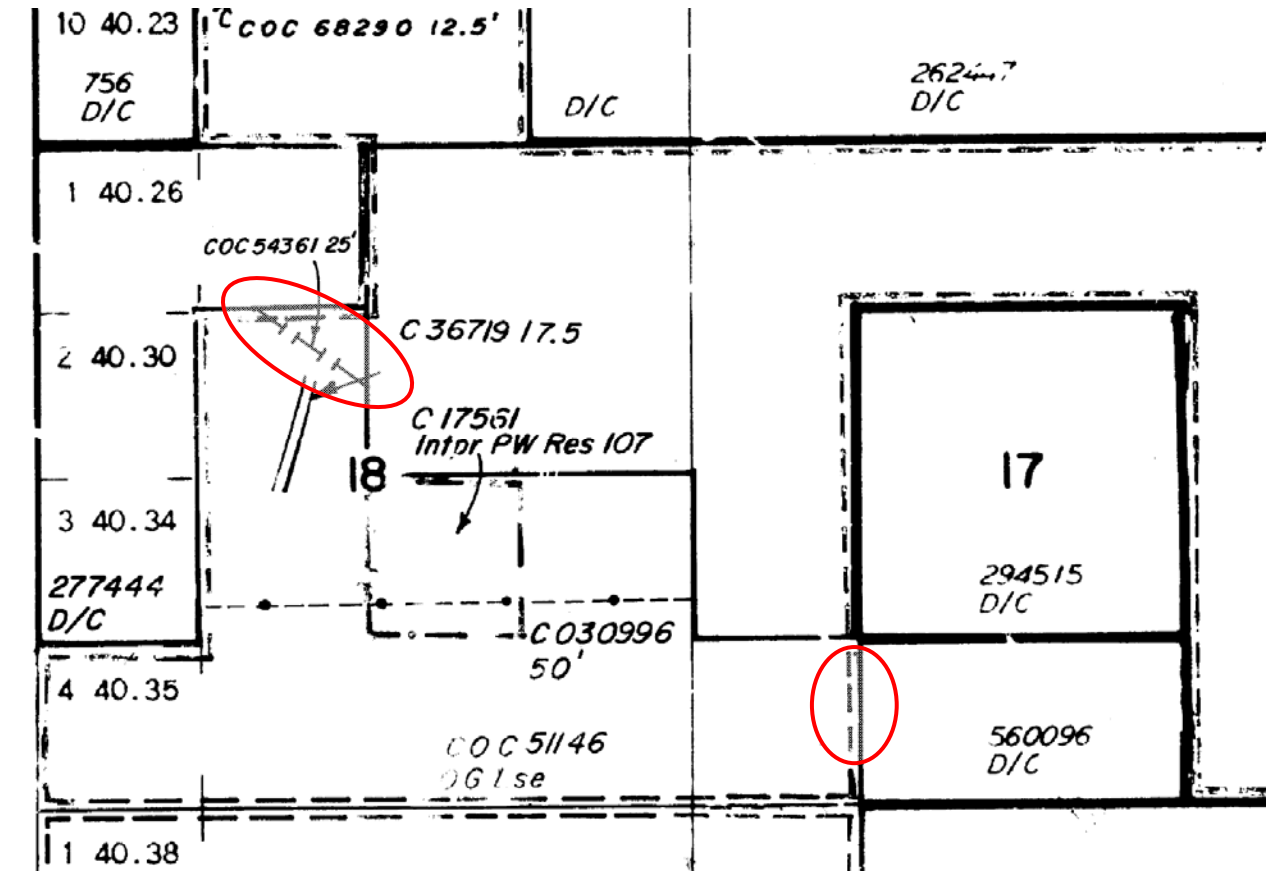
(Portions of existing access road within O&G Lease COC51146)

EXHIBIT A(2)

ORION ENERGY PARTNERS LP

COC73130

Partial Oil and Gas Plat of Access Road Area



6th Principal Meridian, Garfield County, Colorado

TOWNSHIP 6 SOUTH – RANGE 91 WEST
Sections 17 & 18, SENW

EXHIBIT B

Stipulations

Statutory Categorical Exclusion CO-140-2008-108sce

Orion Energy Partners LP

COC 73130

Access Road Right-of-Way

Standard Road Stipulations (No New Disturbance Is Planned)

NOTE: Within thirty (30) days of execution of Grant, Holder shall obtain a signed “road maintenance agreement” with the existing right-of-way permit holder (EnCana O&G USA). A copy of this grant shall be kept in the COC 73139 Case File at the Glenwood Springs BLM Energy Office.

1. The access road shall be maintained to industry and BLM “Gold Book” standards. This book can be obtained through the Glenwood Springs BLM Energy Office or located at:
http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices/gold_book.html
2. The holder shall obtain an agreement with any existing rights-of-way holders prior to any disturbance or construction across or adjacent to any existing right-of-way
3. The operator shall implement dust abatement measures as needed or directed by the BLM authorized officer and protect erosive soils on 30 percent or more slopes.
4. When saturated soil conditions exist on or along the proposed right-of-way, construction shall be halted until soil material dries out or is frozen sufficiently for construction to proceed without undue damage and erosion to soils.
5. Special fire control stipulations may be in affect depending on when construction takes place. The grant holder shall coordinate with the BLM Authorized Officer and comply with any applicable fire control measures.
6. All trash shall be confined in a covered container and hauled to an approved landfill. Burning of waste or oil is not approved.
7. Range improvements (fences, gates, reservoirs, pipelines, etc.) shall be avoided if possible. If range improvements are damaged the holder shall be responsible for repairing or replacing the damaged facilities.

Standard Glenwood Springs Energy Office Surface Use Conditions of Approval Applied as Stipulations to this ROW Project

8. Cultural Education/Discovery. All persons in the area who are associated with this project shall be informed that if anyone is found disturbing historic, archaeological, or scientific resources, including collecting artifacts, the person or persons will be subject to prosecution.

Pursuant to 43 CFR 10.4(g), the BLM authorized officer shall be notified 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), activities shall stop in the

vicinity of the discovery, and the discovery shall be protected for 30 days or until notified by the BLM authorized officer to proceed.

If in connection with operations under this contract, the operator, its contractors, their subcontractors, or the employees of any of them discovers, encounters, or becomes aware of any objects or sites of cultural value or scientific interest such as historic ruins or prehistoric ruins, graves or grave markers, fossils, or artifacts, the operator shall immediately suspend all operations in the vicinity of the cultural resource and shall notify the BLM authorized officer of the findings (16 USC 470h-3, 36 CFR 800.112). Operations may resume at the discovery site upon receipt of written instructions and authorization by the BLM authorized officer. Approval to proceed will be based upon evaluation of the resource. Evaluation shall be by a qualified professional selected by the BLM authorized officer from a Federal agency insofar as practicable. When not practicable, the operator shall bear the cost of the services of a non-Federal professional.

Within five working days, the BLM authorized officer will inform the operator as to:

- whether the materials appear eligible for the National Register of Historic Places
- what mitigation measures the holder will likely have to undertake before the site can be used (assuming that *in-situ* preservation is not necessary)
- the timeframe for the BLM authorized officer to complete an expedited review under 36 CFR 800.11, or any agreements in lieu thereof, to confirm through the SHPO State Historic Preservation Officer that the findings of the BLM authorized officer are correct and that mitigation is appropriate

The operator may relocate activities to avoid the expense of mitigation and delays associated with this process, as long as the new area has been appropriately cleared of resources and the exposed materials are recorded and stabilized. Otherwise, the operator shall be responsible for mitigation costs. The BLM authorized officer will provide technical and procedural guidelines for relocation and/or to conduct mitigation. Upon verification from the BLM authorized officer that the required mitigation has been completed, the operator will be allowed to resume construction.

Antiquities, historic ruins, prehistoric ruins, and other cultural or paleontological objects of scientific interest that are outside the authorization boundaries but potentially affected, either directly or indirectly, by the proposed action shall also be included in this evaluation or mitigation. Impacts that occur to such resources as a result of the authorized activities shall be mitigated at the operator's cost, including the cost of consultation with Native American groups.

Any person who, without a permit, injures, destroys, excavates, appropriates or removes any historic or prehistoric ruin, artifact, object of antiquity, Native American remains, Native American cultural item, or archaeological resources on public lands is subject to arrest and penalty of law (16 USC 433, 16 USC 470, 18 USC 641, 18 USC 1170, and 18 USC 1361).

9. Paleontological Resources. All persons associated with operations under this authorization shall be informed that any objects or sites of paleontological or scientific value, such as vertebrate or scientifically important invertebrate fossils, shall not be damaged, destroyed, removed, moved, or disturbed. If in connection with operations under this authorization any of the above resources are encountered, the operator shall immediately suspend all activities in the immediate vicinity of the discovery that might further disturb such materials and notify the BLM authorized officer of the findings. The discovery shall be protected until notified by the BLM authorized officer to proceed.

As feasible, the operator shall suspend ground-disturbing activities at the discovery site and immediately notify the BLM authorized officer of any finds. The BLM authorized officer will, as soon as feasible, have a BLM-permitted paleontologist check out the find and record and collect it if warranted. If ground-disturbing activities cannot be immediately suspended, the operator shall work around or set the discovery aside in a safe place to be accessed by the BLM-permitted paleontologist. Contact Karen Conrath, GSEO Geologist, at 970-947-5235 or karen_conrath@blm.gov.

10. Wetlands and Riparian Zones. The operator shall restore temporarily disturbed wetlands or riparian areas. Disturbances to the riparian zone shall be recontoured and reclaimed after installation of pipe. The operator shall consult with the BLM Glenwood Springs Energy Office to determine appropriate mitigation, including verification of native plant species to be used in restoration. (Contact Jeff O'Connell, GSEO Hydrologist, at 970-947-2824 or jeffrey_o'connell@blm.gov).
11. Big Game Winter Range. To protect winter wildlife habitat, no pipeline construction shall be allowed on BLM administered lands from **December 1 to May 1**. Exception: Under mild winter conditions, the last 60 days of the regular five-month seasonal limitation period may be suspended after consultation with the CDOW (Colorado Division of Wildlife). Contact Jeff Cook, GSEO Wildlife Biologist, at 970-947-5231 or jeffrey_cook@blm.gov.
12. Nesting Raptors. Raptor nest surveys in the project vicinity resulted in the location of one or more raptor nest structures within 0.125 mile of the proposed new road or existing road. To protect nesting raptors, a Timing Limitation (TL) shall be applied to the initiation of road construction activities and to oil and gas construction, drilling, and completion activities within the buffer width[s] specified above. This TL shall apply during the period February 1 to August 15. An exception to this TL will be made if a survey conducted within 72 hours of the start of construction indicates that the nest is inactive, or upon fledging or failure of the nest if active. Contact Jeff Cook, Glenwood Springs Energy Office Wildlife Biologist, at 970-947-5231 or jeffrey_cook@blm.gov).
13. Birds of Conservation Concern. Pursuant to BLM Instruction Memorandum 2008-050, all surface-disturbing activities are prohibited from May 1 to June 30 to reduce impacts to Birds of Conservation Concern (BCC). An exception to this TL will be granted if nesting surveys conducted no more than one week prior to surface-disturbing activities indicate that no BCC species are nesting or otherwise present within 10 meters of the area to be disturbed. Nesting surveys shall include an aural survey for diagnostic vocalizations in conjunction with a visual survey for adults and nests. Surveys shall be conducted by a qualified breeding bird surveyor between sunrise and 10:00 AM under favorable conditions for detecting and identifying a BCC species. Contact Jeff Cook, Glenwood Springs Energy Office Wildlife Biologist, at 970-947-5231 or jeffrey_cook@blm.gov).
14. Ips Beetle. To avoid pinyon tree mortality caused by infestations of the *Ips* beetle, any pinyon trees disturbed during road, pad, or pipeline construction work shall be chipped after being severed from the stump or grubbed from the ground, buried in the toe of fill slopes (if feasible) or cut and removed from the site within 24 hours to a location approved by the Colorado State Forest Service.
15. Reclamation. The goals, objectives, timelines, measures, and monitoring methods for final reclamation of oil and gas disturbances are described in Appendix I (Surface Reclamation) of the 1998 Draft Supplemental EIS (DSEIS). The specific measures described below shall be followed during interim reclamation of disturbed surfaces associated with well pads, access roads, and pipelines. These measures, except seedbed preparation, shall also apply to temporary reclamation of topsoil storage piles and surfaces that are subject to interim reclamation but not scheduled to undergo interim reclamation until more than 1 year has elapsed following the surface disturbance.
 - a. Seedbed Preparation. For interim reclamation, all slopes shall be reshaped prior to seedbed preparation. Initial seedbed preparation shall consist of backfilling, leveling, and ripping all areas

to be seeded to a minimum depth of 18 inches with a furrow spacing of 2 feet, followed by recontouring the surface and then spreading the stockpiled topsoil evenly. Prior to seeding, the seedbed shall be scarified and left with a rough surface. No depressions shall be left that would trap water and form ponds. Final seedbed preparation shall consist of contour cultivating to a depth of 4 to 6 inches within 24 hours prior to seeding. NOTE: Seedbed preparation is not required for topsoil storage piles or other areas of temporary reclamation.

Requests for use of soil amendments, including basic product information, shall be submitted to the BLM for approval.

- b. Seed Mixes. Selection of seed to be used in temporary or interim reclamation shall comply with the menu-based seed mixes in the letter provided to oil and gas operators dated April 16, 2007. For private surfaces, the menu-based seed mixes are recommended, but the landowner would have ultimate authority over the seed mix to be used in reclamation. The seed shall be certified free of noxious weeds. Seed may contain up to 2.0 percent of “other crop” seed by weight, including the seed of other agronomic crops and native plants; however, a lower percentage of other crop seed is recommended. Seed tags or other official documentation shall be supplied to the BLM Glenwood Springs Energy Office Ecologist (Beth Brenneman, 970-947-5232 or beth_brenneman@blm.gov) at least 14 days before the date of proposed seeding for acceptance. Seed that does not meet the above criteria shall not be applied to public lands.

Note that temporary reclamation allows use of a seed mix containing sterile hybrid non-native annual species in addition to native perennial species. Note also that for both temporary and interim reclamation, the BLM seed mixes no longer include forbs (broadleaf herbaceous species) or shrubs.

- c. Seeding Procedures. Seeding shall be conducted no more than 24 hours following completion of final seedbed preparation. A seed mix consistent with BLM standards in terms of species and seeding rate for the specific habitat type shall be used on all BLM lands affected by the project (see Attachments 1 and 2 of the letter provided to operators dated April 16, 2007).

Where practicable, seed shall be installed by drill-seeding to a depth of 0.25 to 0.5 inch. Where drill-seeding is impracticable, seed may be installed by broadcast-seeding at twice the drill-seeding rate, followed by raking or harrowing to provide 0.25 to 0.5 inch of soil cover. Hydroseeding and hydromulching may be used in temporary reclamation or in areas where drill-seeding or broadcast-seeding/raking are impracticable. Hydroseeding and hydromulching must be conducted in two separate applications to ensure adequate contact of seeds with the soil.

If interim revegetation is unsuccessful, the operator shall implement subsequent reseeding until interim reclamation standards are met. Requirements for reseeding of unsuccessful temporary reclamation will be considered on a case-by-case basis.

- d. Mulch. Mulch shall be applied within 24 hours following completion of seeding. In areas of interim reclamation that used drill-seeding or broadcast-seeding/raking, mulch shall consist of crimping certified weed-free straw or certified weed-free native grass hay into the soil. Hydromulching may be used in areas of interim reclamation where crimping is impracticable, in areas of interim reclamation that were hydroseeded, and in areas of temporary reclamation regardless of seeding method.

NOTE: As an exception to this provision, mulch is not required in areas where erosion potential mandates use of a biodegradable erosion-control blanket (straw matting).

- e. Erosion Control. Cut-and-fill slopes shall be protected against erosion with the use of water bars, lateral furrows, or other measures approved by the authorized officer. Biodegradable straw matting, bales or wattles of weed-free straw or weed-free native grass hay, or well-anchored fabric silt fence shall be used on cut-and-fill slopes and along drainages to protect against soil erosion. Additional BMPs shall be employed as necessary to reduce erosion and offsite transport of sediment.
 - f. Site Protection. The pad shall be fenced to BLM standards to exclude livestock grazing for the first two growing seasons or until seeded species are firmly established, whichever comes later. The seeded species will be considered firmly established when at least 50 percent of the new plants are producing seed. The authorized officer will approve the type of fencing.
 - g. Monitoring. The operator shall conduct annual monitoring surveys of reclaimed areas and shall submit an annual monitoring report to the authorized officer by **December 31** of each year. The monitoring program shall use the four Reclamation Categories defined in Appendix I of the 1998 DSEIS to assess progress toward reclamation objectives. The annual report shall document whether attainment of reclamation objectives appears likely. If one or more objectives appear unlikely to be achieved, the report shall identify appropriate corrective actions. Upon review and approval of the report by the BLM, the operator shall be responsible for implementing the corrective actions or other measures specified by the authorized officer.
 - h. Deadline for Temporary and Interim Reclamation. The operator will be allowed to construct the well pad to the maximum expected pad size necessary to drill and complete the number of wells proposed for this location. After 1 year from spudding the initial well, or 1 year after spudding any successive well(s), the operator shall implement and complete the standard interim reclamation practices identified above OR submit proposed best management practices to be approved by the authorized officer that would be implemented on the "open" pad to control stormwater runoff, weed control, wildlife protection, dust abatement, and/or visual resource management. Areas subject to interim reclamation but scheduled to remain in a disturbed condition for more than 1 year shall undergo temporary reclamation, as described above. Contact Beth Brenneman, Glenwood Springs Energy Office Ecologist, at 970-947-5232 or beth_brenneman@blm.gov.
16. Weed Control. The operator shall regularly monitor and promptly control noxious weeds or other undesirable plant species as set forth in the Glenwood Springs Energy Office *Noxious and Invasive Weed Management Plan for Oil and Gas operators*, dated March 2007. A Pesticide Use Proposal (PUP) must be approved by the BLM prior to the use of herbicides. Annual weed monitoring reports shall be submitted by **December 31**. Contact Beth Brenneman, Glenwood Springs Energy Office Ecologist, at 970-947-5232 or beth_brenneman@blm.gov.
17. Visual Resources. The proposed construction area is located in an area classified as Visual Resource Management (VRM) Class II and the visually sensitive I-70 viewshed on slopes steeper than 30%. The following stipulations are intended to reduce visual contrasts in the landscape and are in addition to the closure and reclamation of the existing OHV route, as described in the proposed action:
- a. During construction, efforts shall be made to leave as much existing vegetation as possible to screen the excavated disturbances.
 - b. Following construction, efforts shall be made to recontour the backfilled trench to blend with the adjacent landscape as much as possible.
 - c. Following recontouring, the backfilled trench shall be covered with a topdressing utilizing the top 6 inches of soil excavated from the trench alignment.

- d. Following seeding, all disturbed areas on slopes steeper than 1½ (h) to 1 (v) shall be covered with an erosion-control blanket of a color selected to minimize visual contrast in color and approved by the authorized officer.
- e. Following placement and anchoring of the erosion-control blanket, salvaged rocks and limbs lopped from pinyon and juniper trees removed during edge treatments shall be strewn across the blanket to minimize visual contrast in texture and provide nursery areas for seedling plants.
- f. Reclamation of all temporarily disturbed areas shall begin as soon as possible and restored to preconstruction conditions as near as possible to reduce the exposure time of bare areas
- g. Following construction, efforts shall be made to recontour the backfilled trench to blend with the adjacent landscape as much as possible.
- h. Following recontouring, the backfilled trench shall be covered with a topdressing utilizing the top 6 inches of soil excavated from the trench alignment.
- i. Following seeding, all disturbed areas on slopes steeper than 1½ (h) to 1 (v) shall be covered with an erosion-control blanket of a color selected to minimize visual contrast in color and approved by the authorized officer.
- j. Following placement and anchoring of the erosion-control blanket, salvaged rocks and limbs lopped from pinyon and juniper trees removed during edge treatments shall be strewn across the blanket to minimize visual contrast in texture and provide nursery areas for seedling plants.
- k. Reclamation of all temporarily disturbed areas shall begin as soon as possible and restored to preconstruction conditions as near as possible to reduce the exposure time of bare areas