

**Categorical Exclusion Review**  
U.S. DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Boise District Office  
Owyhee Field Office

**Silver Falcon Processing Plant Access Road Short Term ROW**

<b>CE No.:</b> DOI-BLM-ID-B030-2010-0002-CE	<b>Lease/Serial/Case File No.:</b> IDI-36646
<b>Purpose and Need for Action:</b> Silver Falcon Mining Company wants to stockpile 2,000 tons of mineral material on their private land (T. 4 W., R. 2 W., section 4: N½SW¼) before winter snows close off access to their high elevation mining property. The only access to their private land is an existing road across public land. Silver Falcon needs a short term right-of-way (ROW) authorization from BLM for this commercial purpose. BLM is authorized under Title V of the Federal Land Management and Policy Act (October 21, 1976; 43 CFR 2800) to authorize ROW's for this type of land use.	
<b>Description of Proposed Action:</b> Issue Silver Falcon Mining a short-term ROW to allow temporary use of an existing road. The ROW would be approximately 1,320 feet long by 20 feet wide for a total of .61 acres (as shown on Exhibit A dated November 5, 2009). Up to 12 cubic yards of gravel would be placed at the intersection of the Silver City Road and the proposed ROW road to minimize damage to the edge of the asphalt on the Silver City roadbed. No other modifications of the road associated with the proposed ROW would be allowed. The ROW would be subject to the Boise District standard right-of-way stipulations on the attached Exhibit B, dated November 5, 2009, as well as those terms and conditions found at 43 CFR 2800. The term of the grant would be through December 31, 2009, and allow approximately 20 trips by a semi truck per day for 5-6 days – the capacity for each truck is 12 yards of material. [Note - Future access to Silver Falcon's private lands would be provided by a proposed new road and ROW located south of Diamond Creek for which BLM is currently preparing an environmental analysis (as described above). Silver Falcon mining applied for this new permanent ROW on August 7, 2009.]	
<b>Project Location:</b> The requested ROW would be on a spur road off the Silver City Road approximately 8 miles SW of Murphy, ID, located in T. 4 S., R. 2 W., section 5: NE¼SE¼.	
<b>Applicant</b> (if any): Silver Falcon Mining/Bill Earll	
<b>Part I – Plan Conformance Review</b>	
<b>This proposed Action is subject to the following land use plan:</b> Owyhee Resource Management Plan (RMP) <b>Date Plan Approved:</b>	
The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): LAND 3: Authorize and manage the use of public lands for rights-of-way, right-of-way reservations, easements, permits, leases, licenses, agreements, etc., except for those areas identified as exclusion areas. Applications for use of the public lands will be evaluated on a case by case basis using current existing laws, regulations, and procedures.	
Remarks: The proposed ROW occurs outside of any Areas of Critical Environmental Concern, Wilderness Study Areas, or exclusion areas as identified in the RMP.	
<b>Part II – NEPA Review</b>	
A. Categorical Exclusion Review: This proposed action qualifies as a categorical exclusion under 516 DM 11.9 E (17). Category description: Grant of a short right-of-way for utility service or terminal access roads	

to an individual residence, outbuilding, or water well.

- B. Exceptions Review (Departmental List of Extraordinary Circumstances Review): Review the 12 exceptions which apply to individual actions within categorical exclusion. Environmental documents (EA or EIS) must be prepared for any actions involving these exceptions. The following Departmental List of Extraordinary Circumstances apply to individual actions. Departmental instructions mandate that environmental documents **MUST BE PREPARED** for actions which may: (Mark applicable answer for each item. If "yes", prepare an EA/EIS and append this form to it.)

<b>List of Exceptions</b>		
1. Have significant impacts on public health or safety.		
Yes	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Matthew McCoy 11/6/09</i>
<i>Comments/Explanation:</i> Potential impacts to public health could result from material spills into Diamond Creek. At this time of year Diamond Creek is dry reducing or eliminating any chance for downstream public health or safety issues. Adequate safety precautions would be implemented to ensure public safety including: 1) limiting the material hauled to inert mining waste rock and 2) prohibiting the transport of any material classified as hazardous.		
2. 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 (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; or ecologically significant or critical areas, or is not in compliance with the Fish and Wildlife Coordination Act.		
Yes	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Matthew McCoy 11/6/09</i>
<i>Comments/Explanation:</i> The ROW would include an existing road crossing of a riparian area associated with an intermittent stream. The stream is dry this time of year. The riparian area and associated uplands provide habitat for migratory bird species; however, the use associated with the proposed ROW would occur outside the normal use period for migratory species and no improvements to the road would occur. Therefore, migratory species would not be adversely affected. None of the other resources occur in the area.		
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		
Yes	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Matthew McCoy 11/6/09</i>
<i>Comments/Explanation:</i> The BLM routinely grants ROW for temporary uses. Controversial environmental effects from these actions have not been identified in the Boise District as a result of these grants. This action would not preclude any alternative uses of other resources in the area.		
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Matthew McCoy 11/6/09</i>
<i>Comments/Explanation:</i> Environmental effects associated with ROW of this type are well known and have not been found to be significant.		
5. Establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.		
Yes	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Matthew McCoy 11/6/09</i>
<i>Comments/Explanation:</i> Silver Flacon Mining has applied for a long-term ROW to access their property. The proposal is for accessing their property without crossing Diamond Creek. This proposal, along with other possible alternatives, will be analyzed in an Environmental Assessment (EA). The grant of a temporary ROW would not have any bearing on the decision associated with the EA.		
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant environmental effects.		
Yes	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Matthew McCoy 11/6/09</i>
<i>Comments/Explanation:</i> The impacts should be negligible or unnoticeable upon completion of the temporary use of		

the ROW. They would not add, in any noticeable way, to any impacts from other activities in the area administered by the BLM.		
7. Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Brian McCabe 11/16/2009</i>
<i>Comments/Explanation:</i> There are no registered or eligible sites for listing on the National Register of Historic Places in the project area.		
8. Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or on designated Critical Habitat for these species.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date for Plants: <i>Elizabeth Corbin September 13, 2009</i> Specialist Signature/Date for Wildlife: <i>Mike McGehee September 13, 2009</i> Specialist Signature/Date for Aquatics: <i>Mike McGehee September 13, 2009</i>
<i>Plants Comments/Explanation:</i> Populations of white eatonella ( <i>Eatonella nivea</i> ) and rigid threadbush ( <i>Nemacladus rigidus</i> ) (BLM Type 4 Sensitive Species) occur within 0.5 miles of the proposed ROW. Because the ROW would occur on an existing road and no further disturbances would be allowed, occupied or suitable habitat for these species on public lands would not be expected to be adversely affected. No other sensitive plant species are known to occur within 2 miles of the proposed ROW.		
<i>Wildlife Comments/Explanation:</i> The proposed ROW occurs within habitat designated as Key Habitat for sage grouse. Use of the ROW would occur in November which would avoid grouse nesting and brood rearing periods. Activities associated with the ROW could have minimal short-term disturbance impacts to grouse as they would be limited in duration and the grouse are highly mobile and readily able to avoid the disturbances at this time of the year.		
<i>Aquatics Comments/Explanation:</i> Diamond Creek is dry at this time of year. Diamond Creek does not support redband trout ( <i>Oncorhynchus mykiss gairdneri</i> ). No other special status aquatic species are known to occur in the creek.		
9. Violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Matthew McCoy 11/6/09</i>
<i>Comments/Explanation:</i> The proposed action would be in compliance with all laws and requirements that pertain to environmental protection in the area.		
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Matthew McCoy 11/6/09</i>
<i>Comments/Explanation:</i> There are no low income or minority populations living in the project area. Low income or minority visitors to the area would not be affected any differently by the proposed activities than any other visitor.		
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Brian McCabe 11/16/2009</i>
<i>Comments/Explanation:</i> Access for such use would not be limited.		
12. 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 (Federal Noxious Weed Control Act and Executive Order 13112).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Matthew McCoy 11/6/09</i>
<i>Comments/Explanation:</i> There are currently no known populations of noxious weeds located in the project area. The holder would be responsible for preventing weeds as a condition of the right-of-way grant (Stipulation #23, Exhibit B).		

I certify that none of the Departmental exceptions (Extraordinary Circumstances) listed in the above Part II (516 DM 2, Appendix 2) apply to this action; therefore, this categorical exclusion is appropriate for this situation.

Remarks:

Authorizing Official: /s/ *Buddy W. Green*

Date: 11/12/09

Name: Buddy Green

Title: Field Manager

### **Part III – Decision**

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no further environmental analysis is required. It is my decision to implement the project, as described, with the mitigation measures either identified below or with the stipulation(s) described above.

Mitigation Measures/Other Remarks: See Stipulations attached as Exhibit B, dated November 5, 2009.

Remarks:

Authorizing Official: /s/ *Buddy W. Green*

Date: 11/12/09

Name: Buddy Green

Title: Field Manager