

**United States Department of the Interior
Bureau of Land Management**

**Decision Record
For
Environmental Assessment
UT-080-08-0238**

April 2011

Seep Ridge Road Paving Project

Location: Various, see legal description in attached Environmental Assessment

Applicant: Uintah County
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Vernal UT 84078

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DECISION RECORD
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It is my decision to amend Uintah County's existing right-of-way (ROW) grant UTU-69125-35 issued pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 as amended through September 1999 (90 Stat. 2776; 43 U.S.C. 1761). The amendment will be as described in the proposed action section (pg. 6-13) of Environmental Assessment (EA) UT-080-08-0238, Seep Ridge Road Paving Project (referred to hereafter as the EA), as modified by special stipulations (mitigation) outlined in the EA and described below.

The amended ROW grant would authorize Uintah County (and its contractors, hereafter referred to collectively as Uintah County or the County) to use a 150-foot wide temporary construction area. An initial 150-foot construction corridor ROW will be issued during the construction period. Since the entire 150-foot width is not needed on a permanent basis, the ROW grant will be amended when construction is complete to include only those areas needed to maintain the road and associated features. I have determined that authorizing the selected alternative is in the public interest while mitigating environmental impacts from the proposed action.

Authorities: The authority for this decision is Title V of the Federal Land Policy and Management Act of October 21, 1976, as amended thru September 1999 (90 Stat. 2776; 43 U.S.C. 1761).

Compliance and Monitoring:

The following monitoring will be required as described in the Seep Ridge Road EA:

Cultural Resources:

As outlined in Chapter 4 of the EA, Section 4.3.3.

- A BLM-approved licensed Archaeologist will be required to monitor the following National Register of Historic Places (NRHP) eligible sites: Site no. 42Un1779, 42Un1782, 42UN002487, and 42UN007040. Monitoring shall be conducted during and following construction activities. Subsequent monitoring reports shall be submitted to BLM. Uintah County shall be responsible for funding the monitoring.
- Sites that have been determined not eligible for NRHP listing will require no monitoring.

BLM Sensitive Plant Conservation Measures (Graham's penstemon):

- A qualified botanist will be on site during construction to prevent direct destruction of Graham's penstemon plants and ensure that existing monitoring plots are not destroyed.
- After all other conservation and mitigation measures are followed, and if direct loss of plants cannot be avoided, the BLM will coordinate with the U.S. Fish and Wildlife Service and/or Red Butte Gardens to collect plants in the right-of-way that may be destroyed by construction activities.

Terms, Conditions, and Stipulations:

All applicant committed protection measures, construction elements, reclamation & weed control plan, and conservation measures, as outlined in the EA will apply. The following terms, conditions, and stipulations are those specifically identified through analysis in Chapter 4 of the EA and shall apply in conjunction with this decision.

Cultural Resources:

- Site #42UN007633 will be subject to terms and conditions set forth in the MOA agreed upon by the SHPO, Uintah County and the BLM as follows:
 - The site will be intensively documented with all surface materials mapped prior to surface collection.
 - All surface tools will be collected.
 - A qualified archaeologist must monitor the segment of roadway that goes through site 42Un7633 during construction.
- If human remains and/or funerary objects subject to NAGPRA are discovered as a result of this or BLM authorized activity, they are to be handled in the manner described in the “inadvertent discovery” procedures found in 43 CFR 10.4.
- “Inadvertent discovery” procedures in 43 CFR 10 include ceasing all activity in the area of the discovery and protecting all discovery materials. If materials are NAGPRA materials the Field Office is required to identify and consult with any lineal descendant or culturally related tribe or any tribe for whom the area of discovery falls within the boundaries of their aboriginal lands. Consultation should focus on the BLM plan of action and final disposition of the discovered materials and must be documented.
- In order to address the potential impacts to subsurface cultural resources that could be discovered during ground disturbing activities related to construction, the BLM, SITLA, SHPO and other consulting parties shall coordinate on a site-specific basis.

Wildlife:

- Surface-disturbing activities shall be prohibited within the Monument Ridge mule deer migration corridor from April 15 to May 31.
- Road construction activities will be prohibited within crucial deer and elk winter range between December 1 and April 30.
- Project construction activities would be prohibited within crucial elk calving and deer fawning habitats from May 15 through June 30.
- Surface disturbing activities would be prohibited within 2 miles of active sage grouse leks from March 1 through June 15.

Forestry/Woodlands:

- To offset potential lost federal revenue from commercial trees being removed in the construction areas of the Proposed Action, any marketable forestry products will be cut down in such a manner to allow utilization.

Livestock Grazing:

- Uintah County shall relocate and/or replace, if necessary; a water pipeline that crosses under the Seep Ridge Road from the well located in T14S R22E in the NW¼NW¼ of Section 2, on the Sunday School Canyon Allotment. The pipeline services private ground located south, southwest of the McCoy Corral.

Paleontology:

- If paleontological resources are uncovered during ground-disturbing activities, the County shall suspend all operations that would further disturb such materials and will immediately contact the appropriate Surface Management Agency (SMA). A determination will be made by the SMA's authorized officer as to what mitigation may be necessary for the discovered paleontological material before construction can resume at that location.

Recreation:

- To minimize impacts to hunters' expectations and to maintain access to hunting and camping areas during the big game hunting seasons, construction activities along the Seep Ridge Road shall be halted during the opening weekend of each of the big game hunts in the Book Cliffs Management Area.

Threatened, Endangered, or Candidate Plant Species:

- Reinitiation of section 7 consultation with the USFWS will be sought immediately if any unplanned loss of plants or occupied habitat for clay reed-mustard is anticipated as a result of project activities.
- Reinitiation of section 7 consultation with the USFWS will be sought immediately if any unplanned loss of plants or occupied habitat for Uinta Basin hookless cactus is anticipated as a result of project activities.

PLAN CONFORMANCE AND CONSISTENCY:

The management of public lands under the jurisdiction of the BLM and resources within the Project Area is directed and guided by the Vernal Field Office (VFO) Record of Decision (ROD) and Resource Management Plan, approved October 31, 2008. As stated in the VFO Approved ROD (pg. 86), the BLM's primary management objectives for the lands and realty programs are to:

- Process applications, permits, operating plans, mineral exchanges, leases, and other use authorizations for public lands in accordance with policy and guidance; and
- Manage public lands to support goals and objectives of other resources programs, respond to public requests for land use authorizations.

Specific lands and realty management decisions pertinent to this proposal include:

- **LAR 15:** All applications to pave routes will be evaluated in site-specific NEPA analysis to determine the need for fencing.
- **LAR 41:** These approved transportation/utility corridors are the preferred location for future major linear ROWs which meet the following criteria: Paved routes *or* routes consisting of more than two lanes.
- **LAR 42:** Major linear ROWs meeting the above thresholds that are proposed outside of the preferred, designated corridors may require a plan amendment.

A review of the alternatives in the EA against the above-stated decisions has determined that they are in conformance with the VFO Approved RMP. Consideration of an amendment to Uintah County's existing Seep Ridge Road ROW would be in conformance with the overall management goals and objectives stated above. The proposed right-of-way amendment would also be in conformance with specific lands and realty management decisions because the need for fencing of the paved Seep Ridge Road was considered (refer to Section 2.3.3 of the EA).

Relationship to Statutes, Regulations, or other Plans

The proposed activity is in conformance with FLPMA, as amended. This EA was prepared by the BLM in accordance with NEPA and in compliance with all applicable regulations and laws passed subsequently, including the President's Council on Environmental Quality (CEQ) regulations, U.S. Department of Interior requirements and guidelines listed in the BLM *Manual Handbook H-1790-1* and Utah BLM NEPA Guidebook. The EA assesses the environmental effects of the Proposed Action (Alternative A), the No Action Alternative (Alternative B), and the Buck Canyon Terminus Alternative (Alternative C). The EA also documents public participation and consultation conducted with applicable agencies.

The alternatives considered in the EA are consistent with the 2007 Uintah County General Plan (as amended). The County Plan indicates support for development proposals in its emphasis of multiple-use public land management practices and its emphasis of responsible use and optimum utilization of public land resources. Within the County Plan, multiple-use is defined as including, but not being limited to, the following historically and traditionally-practiced resource uses: grazing, recreation, timber, mining, oil and gas development, agriculture, wildlife habitat, and water resources as they become available or as new technology allows. Implementation of the paving project would allow more efficient access to multiple resources within Uintah County.

The State of Utah is obligated by both the Utah Enabling Act and the Utah Constitution to act as a trustee in managing school trust lands. The State of Utah School and Institutional Trust Lands Administration (SITLA) is the independent state agency responsible by law for the management of these lands. The BLM understands that public land management decisions affect the ability of Utah public schools to receive revenue from the in-held school lands, as intended by Congress when they were granted. Implementation of the paving project would improve efficiency in accessing SITLA lands, improving the ability of SITLA land users to utilize state owned resources.

Alternatives Considered:

No Action Alternative (Alternative B)

The No Action Alternative was analyzed to provide a baseline in comparison with the Proposed Action Alternative and the Buck Canyon Terminus Alternative. The No Action Alternative would not meet Uintah County's purpose and need for the project and would have allowed the road to remain in its current condition. Safety would continue to be an issue and efficiency in travel through the area would remain impaired. The EA demonstrates that under the No Action Alternative, the application for an amendment to the County's existing ROW UTU -69125-35 would be denied, and the County would not be authorized to complete upgrades to the Seep Ridge Road. Fugitive dust from the road would continue to impact pollination of Graham's penstemon plants, a BLM-sensitive species found near the road. In order to meet both Uintah County and BLM's purpose and need, as well as reduce impacts to Graham's penstemon, the Proposed Alternative was selected rather than the No Action Alternative.

Buck Canyon Terminus Alternative (Alternative C)

Alternative C would allow Uintah County to construct an all-weather bituminous paved surface road beginning at a point on the historic Uintah and Ouray Indian Reservation Boundary (located in the SE1/4SE1/4 section 3, T10S, R20E, SLM); and continue in a southerly direction, ending at the intersection of the Buck Canyon Road (located in the SW1/4SW1/4 section 30, T12S, R22E, SLM, refer to Exhibit 1 in Appendix F of the EA).

This alternative was brought forward for analysis based on public comments from various interested parties. Fugitive dust from the road would continue to impact pollination of Graham's penstemon under this alternative since the Buck Canyon Terminus lies north of Graham's penstemon habitat. In addition, wildlife was the only resource positively impacted by this alternative. However, a signed Interlocal Cooperative Agreement between Utah Division of Wildlife Resources (UDWR) and Uintah County effectively mitigates impacts to wildlife under the Proposed Alternative. In order to meet both Uintah County and BLM's purpose and need, and to reduce dust impacts to Graham's penstemon, the Proposed Alternative was selected instead of Alternative C.

Alternatives Considered, but Eliminated from Further Consideration:

The alternatives below were not carried forward for analysis for various reasons as outlined below:

An alternative to include the addition of a 10-foot ATV/mountain bike trail within the expanded ROW of the Proposed Action

- The trail was not identified as a key element of the County's need for the Proposed Action Alternative.
- The ATV/mountain bike trail created more safety concerns and heightened possible conflicts between the ATV and potential mountain bike users of the trail.

An alternative to fence the entire ROW to exclude livestock and/or wildlife

- Segments of comparable paved, 2-lane highways in the Uinta Basin, portions of U.S. Highway 191 in Indian Canyon and portions of Colorado Highway 139 over Douglas Pass are presently unfenced.
- Although accident records are kept for this road, no animal/vehicle collisions data are known. This absence of data would be corrected by the County's proposed 5-year study (refer to Section 2.1.4 of the EA). They have identified criteria under which fencing the ROW would be considered.

Rationale for Decision:

The decision to amend Uintah County's Title V Right-of-Way has been made in consideration of the environmental impacts analyzed in the EA. Through public involvement, the BLM received comments on the EA that were subsequently addressed prior to finalizing the document. These comments included impacts to air quality, wildlife, socioeconomic impacts to adjoining lands, extending the project to Interstate 70, calculation errors in the EA, and limiting the project to terminate at the intersection with Buck Canyon. The BLM considered the comments while evaluating impacts to resources under the proposal to upgrade the Seep Ridge Road (see Appendix G of the EA).

The Proposed Action Alternative was selected because it wholly met the purpose and need for Uintah County and the BLM, and would eliminate dust impacts to Graham's penstemon. Further, commitments agreed upon through the interlocal agreement by Uintah County, the BLM, and the UDWR would effectively address impacts to crucial elk and mule deer habitat within the southern end of the project area.

Protest/Appeal Language:

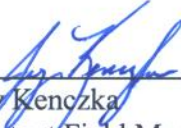
This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

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, and
- (4) Whether the public interest favors granting the stay.



Jerry Kenczka
Assistant Field Manager
Lands and Minerals

APR 13 2011

Date

Attachments:
Seep Ridge Road Paving Project EA
Form 1842-1