

PHOENIX DISTRICT OFFICE NEPA COMPLIANCE RECORD
FOR CATEGORICAL EXCLUSIONS
AND ADMINISTRATIVE DETERMINATIONS

Type of Compliance Record:

NEPA#: DOI-BLM-AZ-P010-2010-010
Related #: AZA-35204

X Categorical Exclusion (CX) [Complete Parts I, II (A) & (B), IV & V]

_____ Administrative Determination (AD) [Complete Parts I, III, IV & V]

Proposed Action Title/Type: Gillette Investments LLC Road Right-of-Way (ROW).

Location of Proposed Action:

T. 8 N., R. 2 E., G&SR Meridian, Arizona
sec. 27, NW, SW;
sec. 28, NE, S2.

Description of Proposed Action: Gillette Investments LLC has applied for the use of a road ROW, commonly known as AZCO Mine Road, at the above described location. The road is approximately .72 miles (4.38 acres) long and 33' wide and will continue to provide access to the applicant's property. The road is located entirely within an existing (non-authorized) road. The grant will be issued for a term of 30 years.

Note: This right-of-way is tied to an Access Agreement, to the Arizona Game and Fish and Fish Department (AGFD), allowing public access across Gillette Investments LLC property.

PART I - PLAN CONFORMANCE REVIEW. This proposed action is subject to the following land use plan: The Bradshaw-Harquahala Resource Management Plan (RMP), dated April 2010. The action has been reviewed for conformance with this plan (43 CFR 1610.5-3, H-1601-1 VI, F and G). Specifically, in the Bradshaw-Harquahala Record of Decision and Approved Resource Management Plan (RMP), page 33, under Land Use Authorizations, LR-25 states,

“Continue to issue land use authorizations (rights-of-way, leases, permits, easements) on a case-by-case basis and in accordance with resource management prescriptions in this land use plan.”

Justification for the use of a CX resides in Bureau of Land Management (BLM) National Environmental Policy Act (NEPA) Handbook H-1790-1 Appendix 4 (E.)(16).

PART II - CATEGORICAL EXCLUSION DETERMINATION

A. Verification of Listing: This proposed action qualifies as a categorical exclusion under Department Manual 516 DM 2, Appendix 1 DOI-BLM-AZ-P010-2010-010-CX, 516 DM 11.9, and Appendix 4 E. (16),

“Acquisition of easements for an existing road or issuance of leases permits or rights-of-way for the use of existing facilities, improvements or sites for the same or similar purposes.”

And

B. Exception Review: Each BLM Handbook H-1790-1, Appendix 5 and 516, DM 2, Appendix 2 provide for the review of the following criteria to determine if Extraordinary Circumstances apply to this project. (NOTE: Appropriate staff should determine exception, comment and initial for concurrence. If exceptions apply to the action or project, and existing NEPA documentation does not address it, i.e., Part III, then further NEPA analysis is required).

CRITERIA	Comment (YES/NO)	Staff Initial
1. Have significant impacts on public health and safety?	<u>NO</u>	<u>HC, MS</u>
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study 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 (Executive Order 13186); and other ecologically significant or critical areas?	<u>NO</u>	<u>HC, TH, DE MR, CM, TB, MS</u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	<u>NO</u>	<u>HC MS, TB TH, DE, MR</u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	<u>NO</u>	<u>HC, TH</u>
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	<u>NO</u>	<u>HC</u>
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	<u>NO</u>	<u>HC</u>
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?	<u>NO</u>	<u>HC, CM</u>
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	<u>NO</u>	<u>TH</u>
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	<u>NO</u>	<u>HC</u>
10. 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)?	<u>NO</u>	<u>CM, HC</u>
11. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?	<u>NO</u>	<u>HC</u>

12. Contribute to the introduction, continued existence, or spread of _____ NO _____ TB, HC, TH,
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)? _____ MS _____

Persons/Agencies Consulted:

- ❖ BLM, Hassayampa Field Office (HFO) Resource Specialists [Tim Hughes (TH), Wildlife Biologist; David Eddy (DE), Geologist; Mike Rice (MR), Geologist; Chris McLaughlin (CM), Archeologist; Mary Skordinsky (MS), Recreation Planner; Tom Bikauskas (TB), Travel Management Coordinator]

PART III - EXISTING EA/EIS REVIEW FOR ADMINISTRATIVE DETERMINATION. This proposed action is addressed in the following existing BLM Environmental Analysis (EA) / Environmental Impact Statement (EIS):

This EA/EIS has been reviewed against the following criteria to determine if it covers the proposed action.

1. The proposed action is a feature of, or essentially the same as, the alternative selected and analyzed in the existing document.
2. A reasonable range of alternatives was analyzed in the existing document.
3. There has been no significant change in circumstances or significant new information germane to the proposed action.
4. The methodology/analytical approach previously used is appropriate for the proposed action.
5. The direct and indirect impacts of the proposed action are not significantly different than those identified in the existing document.
6. The proposed action would not change the previous analysis of cumulative impacts.
7. Public involvement in the previous analysis provides appropriate coverage for the proposed action.

PART IV - SIGNATURES FOR COMPLIANCE

A 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 516 DM 2 apply.

The action has been determined to be in conformance with the approved land use plan and it complies with the criteria for the categorical exclusions as described under the Department of Interior Manual 516 DM 6. None of the exceptions to categorical exclusions apply nor are there any environmental impacts, to the elements, that are considered to be significant. Therefore, an EA or an EIS is not needed.

PREPARER: /S/ Hillary Conner DATE: 10/26/2010
Hillary Conner, Realty Specialist

Contact Person

For additional information concerning this CX review, contact: Hillary Conner, Realty Specialist for the Hassayampa Field Office located at 21605 N. 7th Avenue Phoenix, Arizona 85027, e-mail at Hillary_Conner@blm.gov, or by phone 623-580-5649.

PART V - DECISION.

Compliance and assignment of responsibility: Lands & Realty Program

Monitoring and assignment of responsibility: Lands & Realty Program

Review: *We have determined that the proposal is in accordance with the categorical exclusion criteria and that it would not involve any significant environmental effects. Therefore, it is categorically excluded from further environmental review.*

Prepared by: _____ /S/ Hillary Conner _____ **Date:** _____ 10/26/2010 _____

Hillary Conner
Realty Specialist

Reviewed by: _____ /S/ Leah Baker _____ **Date:** _____ 11/1/2010 _____

Leah Baker
Planning & Environmental Coordinator

Reviewed by: _____ /S/ Jim Andersen _____ **Date:** _____ 11/4/2010 _____

Jim Andersen
Lead Realty Specialist

Project Description: Gillette Investments LLC has applied for the use of a road ROW, commonly known as AZCO Mine Road, at the above described location. The road is approximately .72 miles (4.38 acres) long and 33' wide and will continue to provide access to the applicant's property. The road is located entirely within an existing (non-authorized) road. The grant will be issued for a term of 30 years.

Decision: Based on a review of the project described above and field office staff recommendations, I have determined that the project is in conformance with the land use plan and is categorically excluded from further environmental analysis. This action will not have a direct or indirect adverse impact on energy development, production, supply and/or distribution. It is my decision to approve the action as proposed, with the following mitigation measures/stipulations.

Approved By: _____ /S/ D. Remington Hawes _____ **Date:** _____ 11/4/2010 _____

FOR Steve Cohn
Hassayampa Field Manager

MITIGATION MEASURES/OTHER REMARKS

1. All applicable regulations in accordance with 43 CFR 2800.
2. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the holder or any person working on the holders behalf, on public or federal land shall be immediately reported to the authorized officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made the authorized officer to determine the appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of the evaluation and any decision as to the proper mitigation measures will be made by the authorized officer after consulting with the holder.
3. The holder shall comply with all State and Federal laws applicable to the authorized use and such additional State and Federal laws, along with the impending regulations, that may be enacted and issued during the term of the grant.
4. The holder shall not use BLM managed land that is within, adjacent to, or outside the right-of-way for the long-term storage of any materials, equipment, or vehicles during any construction, operation, maintenance, and/or termination activities associated with the right-of-way.
5. The holder agrees that the BLM shall not be held responsible for any activities occurring as a result of fences being cut, destroyed, or altered in any way as a result of the holders' activities that are associated with the right-of-way.
6. The right-of-way reserves to the Secretary of the Interior, or lawful delegates, the right to grant additional right-of-way, leases, or easements on BLM land for compatible uses over, under, within or adjacent to the lands involved in this grant.
7. The holder shall confine all vehicular traffic to the authorized limits of the right-of-way, unless otherwise authorized in writing by the Authorized Officer.
8. The holder agrees that the Authorized Officer may prescribe additional terms and conditions to the right-of-way grant as a result of the review conducted on any proposed construction/maintenance designs and plans.
9. No debris or refuse shall be disposed of either within the right-of-way or on any other federal land. Instead, the holder shall dispose of all debris and refuse at legal off-site locations.
10. The holder shall fully indemnify or hold harmless the United States for any liability, for damage, or claims arising in connection with the holder's use and occupancy of the right-of-way.
11. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et. seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et. seq.) on the right-of-way, unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
12. 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 the limits imposed in the grant).

13. The holder shall not use BLM managed land that is within, adjacent to, or outside the right-of-way for the long-term storage of any materials, equipment, or vehicles during any construction, operation, maintenance, and/or termination activities associated with the right-of-way.
14. The holder shall conduct all activities associated with the construction, operation, inspection, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way except as provided below, or unless otherwise authorized in writing by the Authorized Officer.
15. No vegetative material that is removed shall be disposed of either within the right-of-way or on any other federal land. Instead, the holder shall dispose of all vegetative material that is removed at legal off-site locations.
16. No excess or unsuitable excavated materials shall be disposed of either within the right-of-way or on any other federal land. Instead, the holder shall dispose of all excess and unsuitable excavated materials at legal off-site locations.

SPECIALIST COMMENTS for AZA-35204
GILLETTE INVESTMENTS LLC
ROAD ROW

Tim Hughes, Wildlife Biologist:

“Authorization of these R/Ws would have no effect on any threatened, endangered, proposed or candidate species of plant or wildlife. This is a heavily used existing road. Authorization would not result on any new surface disturbance or impact to wildlife habitat. While the project area falls within Category 2 tortoise habitat, field visits conducted as part of the route designation for the Table Mesa area found no indication that the area is occupied by tortoise. The project would not result in a loss of habitat for the tortoise as there is no new disturbance proposed. The project would have no impact to migratory birds for the same reason. There are no known golden eagle nests within 10 miles of the project area.”
3/12/2010

David Eddy, Geologist:

“No issues with mineral materials.” 3/11/2010

Mike Rice, Geologist:

“No plans or notices affected. Recommend proceed.” 4/1/2010

Tom Bickauskas, Travel Management Coordinator (recreation):

“This action is consistent with recreation and travel planning progress. Please tie this R/W to an AZ Game and Fish Stewardship Agreement already in progress. The AGFD agreement will permissively allow public access across the applicant’s property for a term of 30 years.” 3/9/2010

Chris McLaughlin, Archeologist:

“No new cultural resources concerns. Please include standard archaeological stipulations.” 4/12/2010