

# FINDING OF NO SIGNIFICANT IMPACT

## Nelson ROW

### CO-800-2008-0018-EA

The Environmental Assessment (EA) and analysis of the environmental effects of the proposed action have been reviewed. The approved design criteria/mitigation measures result in a Finding of No Significant Impact (FONSI) on the human environment. Therefore, an environmental impact statement is not necessary to further analyze the environmental effects of the proposed action. Context and Intensity of effects have been examined to reach the finding of non-significance.

This FONSI is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (*40 CFR 1508.27*), both with regard to the context and the intensity of impacts described in the EA.

#### Context

The significance of the action was considered in several contexts such as the nation as a whole, regionally, and locally. Both short and long term effects were considered. The project is a site-specific action involving approximately 1.68 acres of BLM land that does not by itself have international, national, regional or state-wide importance.

#### Intensity

The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into the BLM's Critical Elements of the Human Environment list (H-1790-1), and supplemental Instruction Memorandum, Acts, regulations and Executive Orders. The following have been considered in evaluating intensity for this proposal:

1. **Impacts may be both beneficial and adverse.** The proposed action would impact resources as described in the EA. Design Criteria were developed to reduce impacts to many resources. None of the environmental effects discussed in detail in the EA are considered significant.
2. **Public health or safety.** The proposed action will not affect public health and safety, as the access road to be constructed will not be traveled by the public.
3. **Unique characteristics of the geographic area.** There are no prime or unique farmlands, wild and scenic rivers, Areas of Critical Environmental Concern, wilderness or wilderness study areas, wetlands, riparian areas, or floodplains affected by the proposal.
4. **Highly controversial effects.** There is no scientific controversy over the nature of the impacts.
5. **Highly uncertain effects or unique or unknown risks.** The project is not a uniquely new or unusual type of action with unknown effects. Road construction impacts are well known, and mitigated by the required road construction standards.

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6. **Precedent for future actions with significant impacts.** The action does not set precedence for future actions: possible future actions will require their own analyses and authorizations.
7. **Relationship to other actions with cumulatively significant issues.** The actions considered in the selected alternative were considered by the interdisciplinary team within the context of past, present, and reasonably foreseeable future actions. Significant cumulative effects are not predicted.
8. **Scientific, cultural, or historic resources.** Potential impacts to cultural and historic properties have been evaluated, and consultation was conducted with SHPO. It was determined that there would be no adverse effect to any cultural or historic site.
9. **Threatened or endangered species and their critical habitat.** A Biological Assessment was conducted and it was determined that the Canada lynx is the only listed species to occur or have habitat in the project area. The BA determined that the project “may effect but would not likely adversely affect” the lynx.
10. **Federal, State, tribal, and local laws or requirements imposed for the protection of the environment.** The project does not violate any know federal, state, tribal, or local law or environmental policy. These agencies were given the opportunity to participate and comment in the analysis process.

### Determination

This Finding of No Significant Impact is based on the information contained in the EA and my consideration of criteria for significance (*40 CFR 1508.27*). It is my determination that: 1) the implementation of the proposed action will not have significant environmental impacts; and 2) the Proposed Action does not constitute a major federal action having significant effect on the human environment. Therefore, an Environmental Impact Statement is not necessary.

Approved:



Matthew J. Janowiak

Columbine District Ranger/Field Office Manager

07/18/2011  
Date

**DECISION RECORD**  
**Nelson ROW**  
**CO-800-2008-0018-EA**

**INTRODUCTION:**

The proposed project is located in the Silverton vicinity where much of the land is administered by the Bureau of Land Management (BLM). The area has a long mining history and as a result of that mining effort, there are numerous patented mining claims interspersed within the public lands. This project is a request from the landowner of one such mining claim to obtain a right-of-way (ROW) for a road to his claim. The project area is approximately 4 miles east of Silverton at an elevation of 11,000 feet.

The proposed action is to grant a ROW access road across BLM land to provide access to the Silver Crown Lode USMS NO. 5940. The term of the ROW would be for 30 years. Road #21A, is the nearest existing road to the private property. This road is maintained by the County through a Memorandum of Understanding (MOU), between the BLM and the County, whereby the County maintains certain, specific roads on BLM land, and the BLM allows that road maintenance without agreeing that the roads are County owned roads. The BLM right-of-way authorization, if approved, would be issued from a point on the edge of the county maintained road, through the BLM, up to the point at which the road enters the applicant's private property.

The ROW would be approximately 1469 feet long with a total width of 50 feet (approximately 1.68 acres), however the proposed actual construction disturbance would be less: a 10 - 14 foot wide travel surface could require up to 22 feet of construction disturbance (approximately 0.74 acres).

**DECISION:**

It is my decision to authorize a 30-year Right-of-Way across BLM administered lands to access the Silver Crown Lode. This ROW will be approximately 1430 feet long with a total width of 50 feet, and will abide by the following criteria:

DESIGN CRITERIA:

- Road construction and maintenance would follow all standards in Attachment 1.
- The applicant would be required to install a lockable gate at the junction of Road 21A and the ROW, and keep the gate closed and locked at all times year round. This gate will limit vehicular traffic on the ROW to the applicant and those with specific permission from the applicant, and BLM administrative use.
- The applicant would be required to purchase and remove all designated timber resulting from ROW clearing limits.
- All wood material 8" dbh (diameter at 4'5" from base) or larger would be removed from BLM land.
- All stumps would be removed from BLM lands.

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- Tree limbs would be severed from the bole, on the top and all sides from the base of the tree to a 2" diameter top.
- Tree slash and wood smaller than 8" in diameter would be lopped in 6 foot lengths and scattered to lie within 18" of the ground surface. Slash would be scattered outside of the road clearing limits.
- No clearing slash would be placed within 50 feet of stream courses, road drainage ditches or the tram tower located southeast between the beginning of the proposed road and Road 21A.
- No trees would be felled within striking distance of the tram tower located southeast between the beginning of the proposed road and Road 21A.
- The buried tram cable located under the road base of Road 21A along the beginning of the proposed road construction area would either be avoided, or, if disturbance is necessary, would be cut and anchored via mechanical clamps and cable loops to a buried concrete deadman (an historical anchoring method), all designed by a professional engineer.
- All other terms and conditions deemed necessary by the BLM.

### **RATIONALE:**

The San Juan/San Miguel RMP directs the BLM to make public land available for utility and transportation corridor development and make every reasonable effort to provide primary access to private landowners when such access will not cause significant, adverse impacts to other resources (p.20). The RMP further directs that BLM will not grant additional ROWs when a reasonable access already exists unless there is a compelling public need.

In this case, I have decided to permit the requested ROW across BLM lands because there is no reasonable access already existing. Furthermore, the alternative route which would avoid BLM lands is not practical, and due to topography, would result in higher levels environmental damage than the approved route.

### **PUBLIC INVOLVEMENT:**

The access road project has been listed on the quarterly Schedule of Proposed Actions for the Columbine Public Lands Center since January of 2008. This list is provided on the web site and mailed quarterly to those who have requested it. There has been no public interest expressed in these projects during this time.

### **COMPLIANCE WITH LAWS, REGULATION, AND POLICY:**

This decision is in compliance with implantation of the San Juan/San Miguel Resource Management Plan (1985).

This decision is in compliance with other major laws to minimize environmental impacts to public lands, including: Endangered Species Act of 1973 (P.L. 94-325); Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703-712); Federal Water Pollution Control Act of 1948 (Clean Water Act), as amended (33 U.S.C. Chap. 26); Clean Air Act of 1963, as amended (P.L. 88-206); Federal Noxious Weed Act of 1974, as amended (P.L. 93-629, 7 U.S.C. 2801 *et seq*); National Historic Preservation Act of 1966, as amended (P.L. 89-665); Archaeological and Historic Preservation Act of 1974 (P.L. 86-253); Archaeological Resources Protection Act of

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1979, as amended (P.L. 96-95); and Native American Graves Protection and Repatriation Act of 1990 (P.L. 101-601).

### **APPEAL OPPORTUNITIES:**

This decision shall take effect immediately upon issuance of a "Grant Issued" decision signed by the Authorized Officer and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay. In accordance with 43 CFR 4.400. Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4.

Within 30 days of the decision, a notice of appeal must be filed in the office of the Authorized Officer at Field Office Manager, Columbine Public Lands Office, 367 Pearl Street, P.O. Box 439, Bayfield, CO 81122. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21 (b), the petition for a stay should accompany your notice of appeal and 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.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for a stay must be served on each party named in this decision from which the appeal is taken, and with the Interior Board of Land Appeals at the same time it is filed with the Authorized Officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the U.S. Department of the Interior, Office of the Solicitor, Rocky Mountain Region, 755 Parfet Street, Suite 151, Lakewood, CO 80215, not later than 15 days after filing the document with Authorized Officer and/or IBLA.

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**Implementation Date**

Pursuant to CFR 4.21, if no appeal is filed within the 30 day time period, implementation of this decision may occur immediately at the close of the appeal-filing period. If an appeal is received along with a request for stay of decision, the decision does not go into effect for an addition 45 days, or until the Office of Hearings and Appeals denies the petition, whichever is first.

Communications received in response to this notice, including personal identifying information, will be considered part of the public record for this proposed action and will be available for public inspection.

**SIGNATURE OF AUTHORIZED OFFICIAL:**



MATTHEW J. JANOWIAK  
Columbine District Ranger/Field Office Manager

07/18/2011

Date