



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Glenwood Springs Field Office
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ENVIRONMENTAL ASSESSMENT

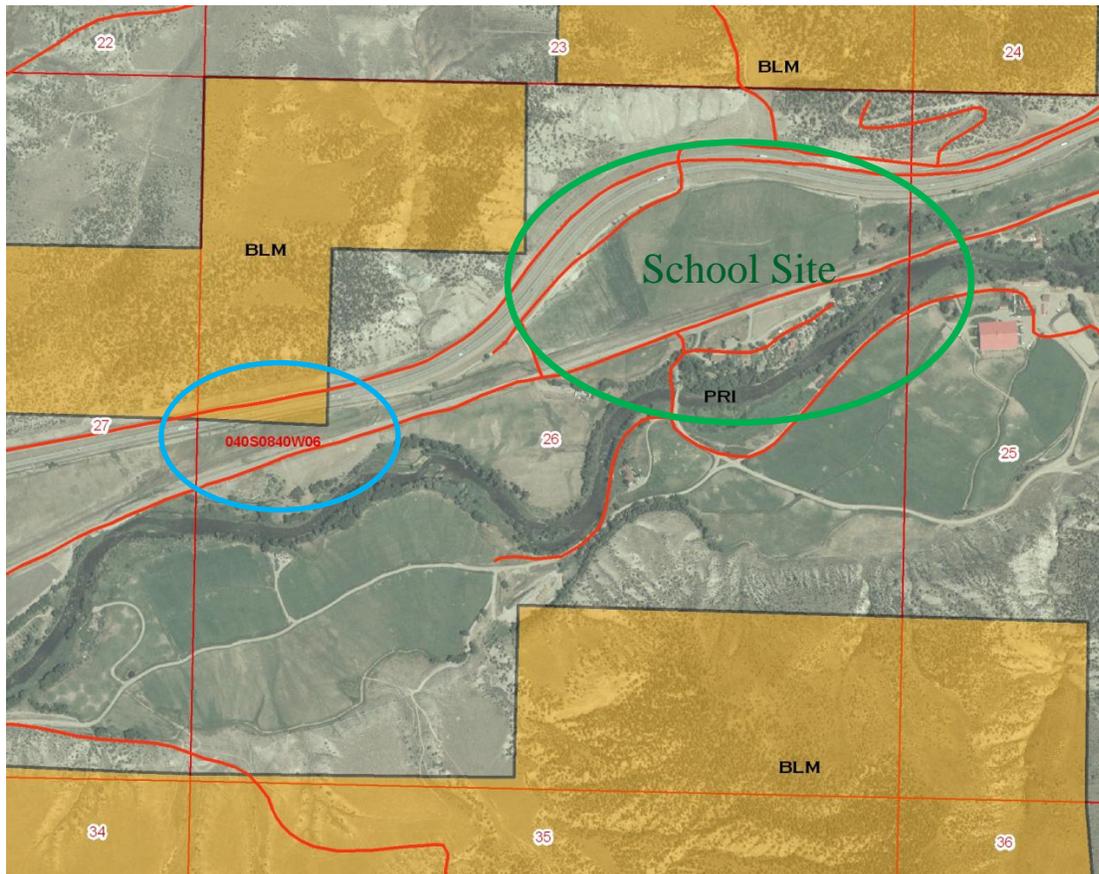
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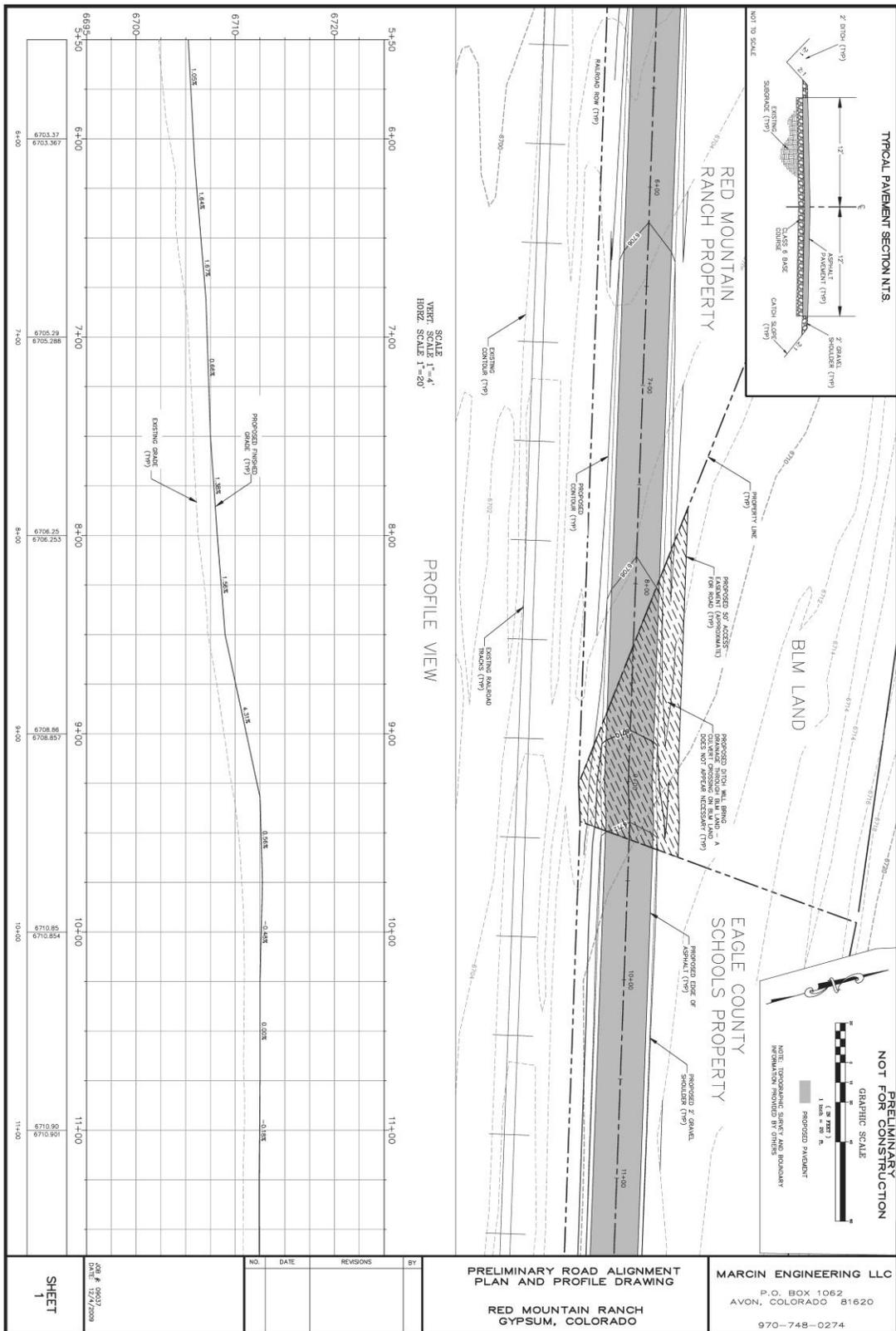
CASEFILE NUMBER: COC72989

PROJECT NAME: Eagle County School District RE-50J Access Road

APPLICANT: Merv Lapin, 232 West Meadow Drive, Vail CO 81657

LEGAL DESCRIPTION: T. 4 S., R. 84 W., Section 26, Lot 3, 6th Principal Meridian, Eagle County, Colorado





DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES

Background/Introduction (optional):

Proposed Action: The applicant, Merv Lapin is facilitating an access road through BLM and his private property for a future access route to a proposed new school. The Eagle County School District purchased a parcel of land in January of 2007. The purchase of the land was in anticipation of the need for a new high school within the next 10 years. The parcel is located between Highway 6 and Interstate 70. The current railroad crossing to access the property is not currently established and is not sufficient for a school site.

The school is anticipated to be built within the next ten years.

A road through the BLM would be the most direct route to the school and have the least amount of traffic interface. A high school is required to have two access points. The access route on BLM would be the primary access for the school site. The proposed road would be approximately 50' x 800' equaling 0.92 acres, more or less.

No Action Alternative: No access to the proposed school site would occur on BLM Managed Lands, and a less direct route on private property would need to be secured.

ALTERNATIVES CONSIDERED BUT NOT CARRIED FORWARD:

NEED FOR THE ACTION:

The Eagle County School District purchased a parcel of land in January of 2007. The purchase of the land was in anticipation of the need for a new high school within the next five years. The parcel is located between Highway 6 and Interstate 70. The current railroad crossing to access the property is not currently established and is not sufficient for a school site.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with the following plan (43 CFR 1610.5, BLM 1617.3):

Name of Plan: Glenwood Springs Resource Management Plan.

Date Approved: Jan. 1984, revised 1988, amended in November 1991 - Oil and Gas Leasing and Development - Final Supplemental Environmental Impact Statement; amended Nov. 1996 - Colorado Standards and Guidelines; amended in August 1997 - Castle Peak Travel Management Plan; amended in March 1999 - Oil and Gas Leasing & Development Final Supplemental Environmental Impact Statement; amended in November 1999 - Red Hill Plan Amendment; and amended in September 2002 – Fire Management Plan for Wildland Fire Management and Prescriptive Vegetation Treatment Guidance - Roan Plateau Planning Area Including Naval Oil Shale Reserves Numbers 1 & 3 Resource Management Plan Amendment & Environmental Impact Statement.

Decision Number/Page: Page 41, Utility and Communication Facility Management.

Decision Language: To respond in a timely manner to requests for utility and communication facility authorizations on public land while considering environmental, social, economic, and interagency concerns.

Standards for Public Land Health: In January 1997, Colorado Bureau of Land Management (BLM) approved the Standards for Public Land Health. The five standards cover upland soils, riparian systems, plant and animal communities, threatened and endangered species, and water quality. Standards describe conditions needed to sustain public land health and relate to all uses of the public lands.

The proposed action is part of the North Eagle Landscape which was assessed in the summer of 2003 and the final Report and Determination Document were signed on April 9, 2004. The allotments within the North Eagle landscape were meeting all the standards, with the exception of Standard 4 for sage grouse. Although individual site conditions were generally acceptable, habitat fragmentation was considered largely responsible for the decline of sage grouse in this area.

The impact analysis must address whether the proposed action or any alternatives being analyzed would result in impacts that would maintain, improve, or deteriorate land health conditions for each of the five standards. These analyses are located in specific elements listed below:

AFFECTED ENVIRONMENT /ENVIRONMENTAL CONSEQUENCES / MITGATION MEASURES:

CRITICAL ELEMENTS

This section provides a description of the human and natural environmental resources that could be affected by the proposed action and no action alternative. In addition, the section presents comparative analyses of the direct and indirect consequences on the affected environment stemming from the implementation of the various actions.

A variety of laws, regulations, and policy directives mandate the evaluation of the effects of a proposed action and alternative(s) on certain critical environmental elements. Not all of the critical elements that require inclusion in this EA are present, or if they are present, may not be affected by the proposed action and alternative (Table 2). Only those mandatory critical elements that are present and affected are described in the following narrative.

In addition to the mandatory critical elements, there are additional resources that would be impacted by the proposed action and alternative. These are presented under **Other Affected Resources**.

Table 1 - Critical Elements of the Human Environment									
<i>Critical Element</i>	<i>Present</i>		<i>Affected</i>		<i>Critical Element</i>	<i>Present</i>		<i>Affected</i>	
	Yes	No	Yes	No		Yes	No	Yes	No
Air Quality	X		X		Prime or Unique Farmlands		X		
ACECs		X			Special Status Species*	X		X	
Cultural Resources		X			Wastes, Hazardous or Solid	X		X	
Wilderness		X			Water Quality, Drinking and Ground	X		X	
Floodplains		X			Wetlands and Riparian Zones		X		
Invasive, Non-native Species		X			Wild and Scenic Rivers	X			X
Native American Religious Concerns		X			Environmental Justice		X		
Migratory Birds	X		X		Wilderness		X		

*Standard for Public Land Health

AIR QUALITY

Affected Environment: The proposed action area (Eagle County) has been described as an attainment area under CAAQS (Colorado Ambient Air Quality Standards) and NAAQS (National Ambient Air Quality Standards). An attainment area is an area where ambient air pollution amounts are determined to be below NAAQS standards. For more information on existing air quality in the area, refer to the Roan Plateau RMPA and EIS which describes potential effects from oil and gas development (BLM 2006:4-26 to 4-37).

Proposed Action:

Environmental Consequences/Mitigation: The proposed action would result in short-term localized vehicle and equipment emissions associated with road construction activities. Additionally, there is a potential for some dust generation if these activities occur in dry conditions. These effects would be minor, of short duration, and overall would have little or no effect on air quality.

No Action Alternative:

Environmental Consequences: The no action alternative would have no effect on air quality.

CULTURAL RESOURCES

Affected Environment: A Class III cultural resource inventory (GSFO# 5408-7) was conducted of the proposed action. One site, the Wilkinson Ditch (5EA2545.2), was identified. It is not considered eligible for listing on the National Register of Historic Places.

Proposed Action

Environmental Consequences/Mitigation: As no historic properties were identified, no formal consultation with the Colorado State Historic Preservation Officer (SHPO) was undertaken and a determination of “**No Historic Properties Affected**” was made in accordance with the National Historic Preservation Act (NRHP), as amended (16 USC 470f), National BLM/SHPO Programmatic Agreement (1997), and Colorado Protocol (1998).

There would be no direct impacts to cultural resources from the implementation of the proposed action. However, indirect long-term cumulative impacts from increased access and personnel could result in a range of impacts to known and undiscovered cultural resources in the vicinity of the location. These impacts could range from exposure of previously buried remains to illegal collection, excavation and vandalism. Compliance with the Education/Discovery stipulation should help in alleviating these impacts

No Action Alternative: This alternative would be neither beneficial nor detrimental to cultural resources.

INVASIVE, NON-NATIVE SPECIES

Affected Environment: No comprehensive surveys have been conducted in the project area; however, considering the widespread nature of weeds in the field office, it is expected that some weeds occur within the project site.

Environmental Consequences/Mitigation:

Proposed Action: Noxious weed populations are a threat to land health as they contribute to loss of rangeland productivity, increased soil erosion, reduced species richness, reduced wildlife habitat quality, and reduced aesthetic quality. Weeds generally germinate and become established in areas of surface disturbing activities or other human activities such as road construction and maintenance, vehicular traffic, big game and livestock grazing. Noxious weeds or weed seed attached to construction vehicles may be introduced into the project area from other areas. Surface disturbing activities associated with the proposed action would create a niche for noxious and invasive weed species. After construction, the roadside would be an area where weeds would easily become established.

Mitigation: The applicant will be required to reseed the disturbed area with a certified native weed-free seed mixture identified in the vegetation mitigation section below. The applicant will monitor their right-of-way for the life of the easement for the presence of any noxious weeds and will be responsible for promptly controlling any noxious weeds on the Colorado State List A or B (except redstem filaree). If the applicant chooses to use herbicides as the

control method on public lands, a Pesticide Use Proposal shall be submitted to the BLM and approved prior to initiating any herbicide spraying.

MIGRATORY BIRDS

Affected Environment: BLM Instruction Memorandum No. 2008-050 provides guidance toward meeting the Bureau of Land Management's (BLM) responsibilities under the Migratory Bird Treaty Act (MBTA) and the Executive Order (EO) 13186. The guidance directs Field Offices to promote the maintenance and improvement of habitat quantity and quality. To avoid, reduce or mitigate adverse impacts on the habitats of migratory bird species of conservation concern to the extent feasible, and in a manner consistent with regional or statewide bird conservation priorities.

The 1988 amendment to the Fish and Wildlife Conservation Act mandates the U.S. Fish and Wildlife Service (USFWS) to "identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act (ESA) of 1973." The "*BIRDS OF CONSERVATION CONCERN 2008*" (U.S. Fish and Wildlife Service 2008) is the most recent effort to carry out this mandate.

The MBTA prohibits the "take" of a protected species. Under the Act, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The USFWS interprets "harm" and "kill" to include loss of eggs or nestlings due to abandonment or reduced attentiveness by one or both adults as a result of disturbance by human activity, as well as physical destruction of an occupied nest.

The conservation concerns are the result of population declines - naturally or human-caused, small ranges or population sizes, threats to habitat, or other factors. Although there are general patterns that can be inferred, there is no single reason why any species was is on the list. Habitat loss is believed to be the major reason for the declines of many species. When considering potential impacts to migratory birds the impact on habitat, including: 1) the degree of fragmentation/connectivity expected from the proposed project relative to before the proposed project; and 2) the fragmentation/connectivity within and between habitat types (e.g., within nesting habitat or between nesting and feeding habitats). Continued private land development, surface disturbing actions in key habitats (e.g. riparian areas) and the proliferation of roads, pipelines, powerlines and trails are local factors that reduce habitat quality and quantity for many species.

The Colorado River Valley Field Office (CRVFO) is within the Southern Rockies/Colorado Plateau Bird Conservation Region (BCR). The 2008 list of Birds of Conservation include the following: Gunnison Sage-Grouse (*Centrocercus minimus*), American Bittern (*Botaurus lentiginosus*), Bald Eagle (*Haliaeetus leucocephalus*), Ferruginous Hawk (*Buteo regalis*), Golden Eagle (*Aquila chrysaetos*), Peregrine Falcon (*Falco peregrines*), Prairie Falcon (*Falco mexicanus*), Snowy Plover (*Charadrius alexandrinus nivosus/tenuirostris*), Mountain Plover (*Charadrius montanus*), Long-billed Curlew (*Numenius americanus*), Yellow-billed Cuckoo (*Coccyzus americanus*),

Burrowing Owl (*Athene cunicularia*), Lewis's Woodpecker (*Melanerpes lewis*), Willow Flycatcher (*Empidonax traillii*), Gray Vireo (*Vireo vicinior*), Pinyon Jay (*Gymnorhinus cyanocephalus*), Juniper Titmouse (*Baeolophus ridgwayi*), Veery (*Catharus fuscescens*), Bendire's Thrasher (*Toxostoma bendirei*), Grace's Warbler (*Dendroica graciae*), Brewer's Sparrow (*Spizella breweri*), Grasshopper Sparrow (*Ammodramus savannarum*), Chestnut-collared Longspur (*Calcarius ornatus*), Black Rosy-Finch (*Leucosticte atrata*), Brown-capped Rosy-Finch (*Leucosticte australis*), and Cassin's Finch (*Carpodacus cassinii*).

The CRVFO planning area provides both foraging and nesting habitat for a variety of migratory birds that summer, winter, or migrate through the area. The habitat diversity provided by the broad expanses of sagebrush, mixed mountain shrub, oakbrush, aspen, pinyon-juniper woodlands, other types of coniferous forests and riparian and wetland areas support many bird species. The Gray Vireo, Pinyon Jay, Juniper Titmouse, Lewis's Woodpecker and Grace's Warbler are characteristically found in pinyon/juniper woodlands. All of the pinyon-juniper species are tree nesters. The sage sparrow is a ground nester that nests in sagebrush. The Brewer's sparrow (*Spizella breweri*) is also found within sagebrush habitats.

Many species of raptors (red-tailed hawks, Cooper's hawks, kestrels and owls) not on the Fish & Wildlife Service's Birds of Conservation Concern list also can be seen in the area. Golden eagles and red-tailed hawks likely forage throughout the project area. Raptor surveys have not been conducted in the area for the project however no nest sites are known to occur in such small trees. Nesting habitat for these species is present near the project area.

Bald eagle (*Haliaeetus leucocephalus*). Bald eagles are increasing in numbers throughout their range and were removed from the federal threatened and endangered species list in 2007 however bald eagles are still protected under the Migratory Bird Treaty Act. Bald eagles are known to winter along portions of the Colorado, Eagle and Roaring Fork Rivers and its major tributaries. Wintering bald eagles are generally present from mid-November to mid-April. Large mature cottonwood trees along the rivers and their major tributaries are used as roosting and perching sites, and these waterways provide the main food sources of fish and waterfowl. Upland habitats adjacent to these waterways are used as scavenging areas primarily for winter killed animals. Major threats include habitat loss, human disturbance and illegal shooting.

Environmental Consequences/Mitigation: The BLM parcel has been previously developed for agricultural purposes and is between Highway 6 and Interstate 70. The proposed action would result in the permanent loss of approximately one acre of BLM land in the form of agricultural trespass. Limited bird count or species data exists for the area however the proposed action would have little if any impact on migratory bird species if they are present in the area. Due to the existing human developments the habitat effectiveness of the parcel for migratory birds is low.

No Action: Under the no action alternative, no ROW would be authorized and no new road constructed on BLM lands. No impacts to terrestrial wildlife would result.

NATIVE AMERICAN RELIGIOUS CONCERNS

Affected Environment: The Ute tribes claim this area as part of their ancestral homeland. At present, no Native American concerns are known within the project area and none were identified during the inventories. The Ute Tribe of the Uintah and Ouray Bands, the primary Native American tribe in this area of the GSFO, have indicated that they do not wish to be consulted for small projects or projects where no Native American areas of concern have been identified either through survey or past consultations. Therefore, formal consultation was not undertaken. If new data are disclosed, new terms and conditions may have to be negotiated to accommodate their concerns.

Proposed Action

Environmental Consequences/Mitigation: Although there would be no direct impacts from the proposed action, indirect impacts from increased access and public use in the vicinity of the proposed project could result in impacts to unknown Native American resources ranging from illegal collection to vandalism. Compliance with the Education/Discovery stipulation should help in alleviating these impacts somewhat.

No Action Alternative: This alternative would be neither beneficial nor detrimental to cultural resources.

THREATENED, ENDANGERED, AND SENSITIVE SPECIES (includes a finding on Standard 4)

Affected Environment: According to the latest species list from the U. S. Fish and Wildlife Service (<http://mountain-prairie.fws.gov/endspp/CountyLists/COLORADO.pdf>), the following Federally listed, proposed, or candidate plant and animal species may occur within or be impacted by actions occurring in Eagle County: Black-footed ferret (*Mustela nigripes*), Canada lynx (*Lynx canadensis*), Mexican spotted owl (*Strix occidentalis*), yellow-billed cuckoo (*Coccyzus americanus*), Uncompahgre fritillary butterfly (*Boloria acrocynema*), Ute ladies'-tresses orchid (*Spiranthes diluvialis*), razorback sucker (*Xyrauchen texanus*), Colorado pikeminnow (*Ptychocheilus lucius*), bonytail chub (*Gila elegans*), and humpback chub (*Gila cypha*).

Plants:

Specific to the project area, there is no potential or suitable habitat for the Ute ladies' tresses orchid within the BLM parcel that could be affected by the proposed action.

The BLM sensitive plant species, Harrington's penstemon (*Penstemon harringtonii*), has been documented approximately two miles east of the project area in natural habitat adjacent to I-70. Harrington's penstemon occurs in open sagebrush habitat on rocky loam or rocky clay loam soils usually between the elevations of 6,000 to 9,200 feet. The project area consists of irrigated and dryland pasture which supports non-native grasses

such as crested wheatgrass, wild rye, smooth brome, and Kentucky bluegrass. There is no suitable or potential habitat for Harrington’s penstemon within the project area.

Aquatic Wildlife:

Bluehead suckers and flannelmouth suckers (both BLM Sensitive Species) have been documented in the Eagle River.

Terrestrial Wildlife:

According to the latest species list from the U. S. Fish and Wildlife Service (U.S. Fish and Wildlife Service. 2008), the following Federally listed, proposed, or candidate terrestrial wildlife species may occur within or be impacted by actions occurring within the GSFO (Table 1):

Table 1.

Terrestrial Wildlife Species	Habitat/Range	Eagle County	Garfield County	Mesa County	Pitkin County	Routt County
Black-footed Ferret (<i>Mustela nigripes</i>)	In Colorado habitat includes the eastern plains, the mountain parks and the western valleys. Specifically grasslands or shrublands that supported some species of prairie dog, the ferret’s primary prey.	X				
Canada lynx (<i>Lynx Canadensis</i>)	Mesic forests of lodgepole pine, subalpine fir, Engelmann spruce, and quaking aspen in the upper montane and subalpine zones, generally between 8,000 and 12,000 feet in elevation.	X	X	X	X	X
Mexican spotted owl (<i>Strix occidentalis lucida</i>)	Mature montane forests, shady canyons, and steep canyons. The key components in montane forests are common to old-growth forests: uneven-age stands with high canopy closure and tree density, fallen logs and snags.	X	X		X	
Yellow-billed cuckoo (<i>Coccyzus americanus</i>)	Mature riparian forests of cottonwoods and other large deciduous trees with a well-developed understory of tall riparian shrubs. Uncommon summer resident of Colorado.	X	X	X	X	X
Uncompahgre fritillary butterfly (<i>Boloria acrocnema</i>)	Patches of snow willow (<i>Salix spp.</i>) at high elevations.	X			X	

These species: their status, their distributions, habitat associations, and as appropriate their association to the project area is summarized below.

Canada Lynx (*Lynx canadensis*). Federally listed as threatened. Canada lynx (*Lynx canadensis*) was listed as a federally threatened species, effective April 24, 2000 (Federal Register Volume 65, No. 58). Canada lynx occupy high-latitude or high-elevation coniferous forests characterized by cold, snowy winters and an adequate prey base (Ruggiero et al. 1999). The preferred prey of Canada lynx throughout their range is the snowshoe hare (*Lepus americanus*). In the western United States, lynx are associated

with mesic forests of lodgepole pine, subalpine fir, Engelmann spruce, and quaking aspen in the upper montane and subalpine zones, generally between 8,000 and 12,000 feet in elevation. Although snowshoe hares are the preferred prey in Colorado, lynx in also feed on other species such as the mountain cottontail (*Sylvilagus nuttallii*), pine squirrel (*Tamiasciurus hudsonicus*), and blue grouse (*Dendragapus obscurus*).

The U.S. Forest Service (USFS) has mapped suitable denning, winter, and other habitat for lynx within the White River National Forest (WRNF). The mapped suitable habitat in the WRNF comprises several areas known as Lynx Analysis Units (LAUs). Lynx analysis units (LAUs) are management areas that contain suitable lynx habitat and approximate the size of a female home range. Several LAUs border BLM lands however no areas large enough to be considered LAUs occur within the GSFO. BLM lands within the CRVFO area generally support the movement of lynx dispersing to a new area or, potentially, moving to lower elevations during severe winter weather in search of prey. No mapped habitat or mapped linkage occurs within the area of the proposed action so this species is not considered further.

Mexican Spotted Owl (*Strix occidentalis*). Federally listed as endangered. This owl nests, roosts, and hunts in mature coniferous forests in canyons and foothills. The only extant populations in Colorado are in the Pikes Peak and Wet Mountain areas of south-central Colorado and the Mesa Verde area of southwestern Colorado. Because no known occurrences have been documented and the occurrence of the species in this area is unlikely due to range and habitat conditions, this species is not considered further.

Western Yellow-billed Cuckoo (*Coccyzus americanus occidentalis*). Candidate for Federal listing. This secretive species occurs in mature riparian forests of cottonwoods and other large deciduous trees with a well-developed understory of tall riparian shrubs. Western cuckoos breed in large blocks of riparian habitats, particularly woodlands with cottonwoods (*Populus fremontii*) and willows (*Salix* sp.). A few sightings of yellow-billed cuckoo have occurred in western Colorado along the Colorado River near Grand Junction (USFWS 2009b). Riparian areas in the project area do not provide suitable habitat for this species due to the patchy nature of the stands and the general lack of a tall-shrub understory. Because no known occurrences have been documented and the occurrence of the species in this area is unlikely due to range and habitat conditions, this species is not considered further.

BLM Sensitive - Terrestrial Wildlife Species

According to the latest *Colorado BLM State Director's Sensitive Species List (Animals and Plants) June, 2000*, the following terrestrial wildlife species may occur within or be impacted by actions occurring within the GSFO (Table 3):

Table 2.

Name	Habitat/Range	Habitat Potential Present / Absent
Townsend's big-eared bat (<i>Corynorhinus townsendii</i>) and Fringed myotis (<i>Myotis thysanodes</i>)	Occur as scattered populations at moderate elevations on the Western Slope, along the foothills of the Front Range and the mesas of southeastern Colorado. Maximum elevation is 7,500 feet. Breeds and roosts in caves, trees, mines, and buildings; hunts over pinyon-juniper, montane conifer, and semi-desert shrubland habitats. Known occurrences - Potential in caves, mines or trees	Present in area
Northern goshawk (<i>Accipiter gentilis</i>)	Resident in foothills and mountains and occasional in migration and winter at lower elevations. Predominantly uses mature stands of aspen, and pines (ponderosa and lodgepole). Uncommon - seasonal	Absent
Goldeneye, Barrow's (<i>Bucephala islandica</i>)	Rare winter resident and spring/fall migrant in lowlands and mountains; a few breed in the northern mountains. Uncommon - seasonal	Absent
Ibis, white-faced (<i>Plegadis chihi</i>)	Inhabits wet meadows, marsh edges and reservoir shorelines. Very rare, non-breeding, summer migrant to western Colorado valleys and mountain lakes. Main breeding area is in the San Luis valley.	Absent
Greater sage grouse (<i>Centrocercus urophasianus</i>)	Resident of relatively large, open sagebrush flats or rolling sagebrush hills. Uncommon and unlikely on this parcel of land.	Absent

The following narratives address species with a habitat potential to be present in the project area.

Fringed Myotis (*Myotis thysanodes*) and Townsend's Big-eared Bat (*Plecotus townsendii*). Occur as scattered populations at moderate elevations on the Western Slope of Colorado. Habitat associations are not well defined. Both of these bats will forage over water and along the edge of vegetation (pinyon-juniper woodlands, montane conifer woodlands, semi-desert shrublands) for aerial insects. Although they commonly roost in caves, rock crevices, mines, or buildings, they also may roost in tree cavities. Both species are widely distributed and usually occur in small groups. The animals roost in rock crevices, caves, mines, buildings and trees. Townsend's big-eared bat is not very abundant anywhere in its range and this is attributed to patchy distribution and limited availability of suitable roosting habitat (Gruver, J.C. and D.A. Keinath 2006).

Environmental Consequences/Mitigation:

Proposed Action:

Plants - Harrington's penstemon:

Due to the absence of potential habitat for any special status plants, there would be no impacts to these species.

Aquatic Wildlife:

Bluehead suckers and flannelmouth suckers are well adapted to the historic sediment loads carried by the Eagle River. Given the size of the road and its location, the action should have no negative impact to these native fishes.

Terrestrial Wildlife:

The location of the proposed action is not within the suitable or potential habitat of any special status terrestrial wildlife species. Some species (e.g. Townsend's big-eared bat (*Corynorhinus townsendii*), Fringed myotis (*Myotis thysanodes*), Northern goshawk (*Accipiter gentilis*)) could pass through the site however due to the location of the proposed action it is likely the proposed action would have negligible and immeasurable impacts, on these wide-ranging species.

No Action:

The No Action alternative would have no impacts to any special status plants or special status wildlife (aquatic and terrestrial).

Analysis on the Public Land Health Standard for Threatened & Endangered Species: In 2003, the BLM conducted a Land Health Assessment on the North Eagle landscape which encompassed the proposed action area. Much of the landscape was considered not meeting Standard 4 for sage grouse due to habitat fragmentation. The project area is a narrow strip of public land located between I-70 and Highway 6 and is not considered suitable habitat for sage grouse. No other threatened, endangered or sensitive species are known to occur within or have habitat within the project area. The proposed action would have no effect on the Standard for threatened and endangered species.

WASTES, HAZARDOUS OR SOLID

Affected Environment: Proposed activities would occur approximately 0.15 miles north of the Eagle River. Vehicle fuel and lubricants would be used for mechanical operations during road construction activities.

Proposed Action

Environmental Consequences/Mitigation: Fuels and lubricants would be stored in appropriate containers and refueling would occur in designated areas. While no spills are anticipated, there is potential for hazardous materials to be transported to the nearby Eagle River in the event of a spill. However, the existing railroad right-of-way, Interstate 70, and vegetative cover between the project area and the river would be sufficient to prevent hazardous materials from reaching the river.

No Action

Environmental Consequences/Mitigation: Under the no action alternative there would be no fuel or lubricants present.

WATER QUALITY, SURFACE AND GROUND (includes an analysis on Standard 5)

Affected Environment: Proposed activities would occur approximately 0.15 miles north of the Eagle River within the 15,805 acre Eagle River above Eagle 6th field watershed.

This area has been designated No Surface Occupancy (NSO) stipulation 3 for Major River Corridors, which has been established to protect: scenic and recreation values, aquatic and terrestrial wildlife and habitat, riparian values, and water quality. This NSO extends one-half mile from the high water mark on either side of the Eagle River and does have exception criteria. For more information refer to BLM Glenwood Springs Resource Area, Oil and Gas Leasing and Development Record of Decision and Resource Management Plan Amendment (March 1999). Between the proposed action area and the Eagle River are Interstate 70 and the existing railroad right-of-way.

According to the *Stream Classifications and Water Quality Standards* (CDPHE, Water Quality Control Commission, Regulation No. 33) list, the proposed activities are within the Eagle River Basin segment 9 that includes the mainstem of the Eagle River from Gore Creek to the confluence with the Colorado River. This segment has been classified aquatic life cold 1, recreation 1a, water supply, and agriculture. Aquatic life cold 1 indicates that this water course is capable of sustaining a wide variety of cold water biota. Recreation class 1a refers to waters in which primary contact recreation is presumed to be present. In addition, this segment is suitable or intended to become suitable for potable water supplies and agricultural purposes that include irrigation and livestock use.

At this time, this segment of the Eagle River is not currently listed on the State of Colorado's *303(d) List of Water Quality Limited Segments Requiring TMDLS* (CDPHE, Water Quality Control Commission, Regulation No. 93) or the *Monitoring and Evaluation List* (CDPHE, Water Quality Control Commission, Regulation No. 94). Currently there are no available water quality data for this segment of the Eagle River.

Proposed Action:

Environmental Consequences/Mitigation: Proposed activities would remove vegetation and could alter soil conditions through compaction and displacement associated with road construction operations. These impacts would result in an increase in erosion potential and possible offsite sedimentation. Additionally, there is a potential for contaminants associated with fuel and lubricant spills to be transported during precipitation events. Improperly designed culverts and stormwater controls could result in additional erosion and sediment available for transport to the nearby Eagle River. Good vegetative cover, Interstate 70, and the railroad right-of-way south of the project area would sufficiently minimize the potential for sediment to reach the river. To further avoid potential negative impacts associated with erosion and sediment transport, it is essential that the proponent install, inspect, and maintain stormwater controls and BMPs on a regular basis.

No Action

Environmental Consequences/Mitigation: The no action alternative would have no effect on water quality.

Analysis on Public Land Health Standard 5 for Water Quality: In 2003, the BLM Glenwood Springs Field Office completed the North Eagle Watershed Land Health Assessment in which personnel assessed water quality along the Eagle River and tributaries to the north. However, assessments did not occur within the proposed action

area. The proposed action and the no action alternative would not likely prevent Standard 5 for Water Quality from being met.

WILD AND SCENIC RIVER

Affected Environment: Proposed activities would occur approximately 0.15 miles north of the Eagle River, which was determined to be eligible for Wild and Scenic River status in the Final Wild and Scenic River Eligibility Report, BLM Kremmling and Glenwood Springs Field Offices, Colorado (March 2007). The Outstanding Remarkable Value (ORV) that the BLM is managing to protect is recreation (floatboating). Between the proposed action area and the Eagle River are Interstate 70 and the existing railroad right-of-way.

Proposed Action:

Environmental Consequences/Mitigation: The proposed action would not affect the recreational experience on the Eagle River since there already exists I-70 and the existing right-of-way between the proposed action and the Eagle River. Adding another road north of I-70 will not impact the recreational experience more than I-70 already impacts the experience.

No Action

Environmental Consequences/Mitigation: The no action alternative would have no effect on the recreational ORV of the Eagle River.

NON-CRITICAL ELEMENTS

The following elements must be addressed due to the involvement of Standards for Public Land Health:

SOILS (includes a finding on Standard 1)

Affected Environment: According to the *Soil Survey of Aspen-Gypsum Area, Colorado: Parts of Eagle, Garfield, and Pitkin Counties* (USDA 1992), the proposed activities would be located on the soil map unit Yamo loam. This deep, well drained soil is found on fans and toe slopes at elevations ranging from 6,200 to 7,500 feet and on slopes of 6 to 12 percent. This soil is derived primarily from sandstone, shale, and gypsum colluviums. Surface runoff for this soil is medium and the water erosion hazard is slight. Primary uses for this soil include rangeland, hayland, pasture, and homesite development.

Proposed Action:

Environmental Consequences/Mitigation: Proposed activities would remove vegetation and could alter soil conditions through compaction and displacement associated with road construction operations. These impacts would result in an increase in erosion potential and possible offsite sedimentation. Improperly designed culverts and stormwater controls could result in additional erosion and sediment available for transport to the nearby Eagle River. Good vegetative cover, Interstate 70, and the railroad right-of-way

south of the project area would sufficiently minimize the potential for sediment to reach the river. To further avoid potential negative impacts associated with erosion and sediment transport, it is essential that the proponent install, inspect, and maintain stormwater controls and BMPs on a regular basis.

No Action Alternative:

Environmental Consequences: The no action alternative would have no effect on soil resources.

Analysis on Public Land Health Standard 1 for Upland Soils: Proposed activities would occur within the Diamond J Allotment. In 2003, the BLM Glenwood Springs Field Office completed the North Eagle Watershed Land Health Assessment in which personnel assessed 939 acres of the Diamond J Allotment and rated this acreage as achieving or moving towards achieving Standard 1 for Upland Soils. The proposed action and the no action alternative would not likely prevent Standard 1 for Upland Soils from being met.

VEGETATION (includes a finding on Standard 3)

Affected Environment:

The BLM parcel in the area of the proposed action has been previously developed for agricultural purposes. Part of the parcel is irrigated and supports species such as smooth brome (*Bromus inermis*), Kentucky bluegrass (*Poa pratensis*) and curly dock (*Rumex* sp.). The remainder of the parcel is unirrigated and supports pasture grasses such as crested wheatgrass (*Agropyron cristatum*) and wild rye (*Elymus* sp.).

Environmental Consequences/Mitigation:

Proposed Action:

The proposed action would result in the permanent loss of approximately one acre of pasture vegetation on the BLM parcel.

Mitigation:

To reduce the risk of noxious weed invasion and restore some functionality to the ecosystem, the applicant will be required to reseed the disturbed area with a *certified weed-free seed* mixture. BLM recommends the following seed mix:

<u>Species</u>	<u>Variety</u>	<u>Application Rate</u> <u>(PLS/ac)</u>	<u>% of mix</u>
Western wheatgrass	Arriba, Rosanna	4.2	25
Bluebunch wheatgrass	Anatone, Goldar	2.3	17
Bottlebrush squirreltail	VNS	1.8	16
Slender wheatgrass	Revenue, Pryor	2.2	25
Sandberg bluegrass	VNS	<u>0.4</u>	<u>17</u>
		10.9	100

The seed shall be drilled to a depth of ¼ to ½ inch. If the seed cannot be applied with a drill seeder, the application rate for broadcast seed shall be *twice* the rate specified above.

Substitutions may be considered but must be approved by the Authorized Officer prior to application.

No Action:

Under the No Action alternative, a ROW would not be granted to Eagle County schools allowing the construction of an access road to the new high school property through BLM land. There would be no impacts to vegetation on public lands from this alternative.

Analysis on the Public Land Health Standard for plant and animal communities (partial, see also Wildlife, Aquatic and Wildlife, Terrestrial): In 2003, the BLM conducted a Land Health Assessment on the North Eagle landscape which encompassed the proposed action area. All of the landscape was at least marginally meeting Standard 3; however, no assessment sites were visited specifically within the project area. This parcel of public land has been developed as an agricultural pasture and has been seeded to nonnative grasses. No noxious weeds were observed on the site during a visit in October, 2008. The proposed action should have no bearing on the ability of the landscape to meet Standard 3 for healthy plant and animal communities.

WILDLIFE, AQUATIC (includes a finding on Standard 3)

Affected Environment:

The proposed road would be located on BLM land in what appears to be agricultural cropland situated between Interstate 70 and Highway 6. The road would be approximately 600 feet from the Eagle River. The Eagle River in this area contains brown, rainbow, and brook trout, mottled sculpin, speckled dace, and suckers.

Environmental Consequences/Mitigation:

Proposed Action:

The road segment on BLM would be small and would only impact approximately 0.5 acres of relatively flat cropland habitat. Construction of the road should have minimal impact on fish or fish habitat located in the nearby Eagle River. Long-term use of the road and the placement of sand and salts onto the road during winter to allow for winter vehicle use could accumulate and end up in the Eagle River. These fine particles can silt in pools and spawning substrates important to fish. Fish species sensitive to sedimentation such as trout would be most affected by the action as they need clean gravels and cobbles in which to spawn. Additionally, there is a potential for contaminants associated with fuel and lubricant spills to be transported to the Eagle River during precipitation events. Good vegetative cover, Interstate 70, and the railroad right-of-way south of the project area would sufficiently minimize the potential for sediment to reach the river. To further avoid potential negative impacts associated with erosion and sediment/contaminant transport, it is essential that the proponent install, inspect, and maintain stormwater controls and BMPs on a regular basis.

No Action: Under the no action alternative, no ROW would be authorized and no new road constructed on BLM lands. No impacts to aquatic wildlife would result.

Finding on the Public Land Health Standard 3 for Plant and Animal Communities (partial, see also Vegetation and Wildlife, Terrestrial): A formal Land Health Assessment was completed by BLM in 2003 on the North Eagle landscape which encompassed the proposed action area. All of the landscape was at least marginally meeting Standard 3; however, no assessment sites were visited specifically within the project area. This parcel of public land has been developed as an agricultural pasture and has been seeded to nonnative grasses. No noxious weeds were observed on the site during a visit in October, 2008. The proposed action should have no bearing on the ability of the landscape to meet Standard 3 for aquatic wildlife.

WILDLIFE, TERRESTRIAL (includes a finding on Standard 3)

Affected Environment:

The CRVFO supports a wide variety of terrestrial wildlife species that summer, winter, or migrate through the area. The habitat diversity provided by the broad expanses of sagebrush, mixed mountain shrub, aspen, pinyon-juniper woodlands, other types of coniferous forests, and riparian/wetland areas support many species. The current condition of wildlife habitats varies across the landscape. Some habitat is altered by power lines, pipelines, fences, public recreation use, residential and commercial development, vegetative treatments, livestock and wild ungulate grazing, oil and gas development, and roads/trails. These factors have contributed to some degradation/fragmentation of habitat as well as causing disturbance to some species.

Reptiles. Reptile species most likely to occur include the western fence lizard (*Sceloporus undulatus*) and gopher snake (bullsnake) (*Pituophis catenifer*) in xeric shrublands or grassy clearings and the western terrestrial garter snake (*Thamnophis elegans*) along creeks. Other reptiles potentially present along creeks, although more commonly found at lower elevations than the site, are the milk snake (*Lampropeltis triangulum*) and smooth green snake (*Opheodrys vernalis*).

Birds. Passerine (perching) birds commonly found in the area include the: American robin (*Turdus migratorius*), Pinyon jay (*Gymnorhinus cyanocephalus*) western scrub-jay (*Aphelocoma californica*), and black-billed magpie (*Pica pica*). Two gallinaceous species, the wild turkey (*Meleagris gallopavo*) and the Dusty grouse (*Dendragapus obscurus*), are found here.

Birds of prey (eagles, falcons, hawks, and owls) may migrate through the area or nest in cottonwoods, conifers, or very tall oaks, while the numerous songbirds and small mammal populations provide the primary prey base. Common raptor species in the area include the: red-tailed hawk (*Buteo jamaicensis*), golden eagle (*Aquila chrysaetos*) American kestrel (*Falco sparverius*), great horned owl (*Bubo virginianus*), Cooper's hawk (*Accipiter cooperii*), and sharp-shinned hawk (*A. striatus*).

Numerous streams, rivers, reservoirs, ponds, and associated riparian vegetation provide habitat for a wide variety of waterfowl and shorebirds. Common species include: great blue herons (*Ardea Herodias*), Canada geese (*Branta canadensis*), mallards (*Anas platyrhynchos*), pintails (*A. acuta*), gadwalls (*A. strepera*), and American wigeon (*A. americana*) are common.

Mammals. Numerous small mammals reside within the planning area, including ground squirrels (*Spermophilus* spp.), chipmunks (*Neotamias* spp.), rabbits (*Sylvilagus* spp.), skunks (*Mephitis mephitis*), and raccoons (*Procyon lotor*). Many of these small mammals provide the main prey for

raptors and larger carnivores. These species are most likely to occur along the drainages, near the margins of dense oakbrush, in pinyon-juniper woodland, or in the small area of aspen and spruce/fir. Larger carnivores expected to occur include the bobcat (*Lynx rufus*) and the coyote (*Canis latrans*). Black bears (*Ursus americanus*) make use of oaks and the associated chokecherries and serviceberries for cover and food, while mountain lions (*Felis concolor*) are likely to occur during seasons when mule deer (*Odocoileus hemionus*) are present.

Big Game. The mule deer (*Odocoileus hemionus*) is a recreationally important species that are common throughout suitable habitats in the region. Another recreationally important big game ungulate (hoofed animal), the Rocky Mountain elk (*Cervus elaphus nelsonii*), is also present. Mule deer and elk usually occupy higher elevations, forested habitat, during the summer and then migrate to sagebrush-dominant ridges and south-facing slopes at lower elevation in the winter.

Environmental Consequences/Mitigation:

Proposed Action: The BLM parcel has been previously developed for agricultural purposes and is between Highway 6 and Interstate 70. A big game fence parallels the interstate highway. The proposed action would result in the permanent loss of approximately one acre of pasture vegetation on the BLM parcel. The effectiveness of the area as wildlife habitat is already lost due to the above mentioned human developments. The proposed action would have little if any additional impact on terrestrial wildlife species in the area.

No Action:

Under the no action alternative, no ROW would be authorized and no new road constructed on BLM lands. No impacts to terrestrial wildlife would result.

Finding on the Public Land Health Standard 3 for Plant and Animal Communities (partial, see also Vegetation and Wildlife, Terrestrial): A formal Land Health Assessment was completed by BLM in 2003 on the North Eagle landscape which encompassed the proposed action area. All of the landscape was at least marginally meeting Standard 3; however, no assessment sites were visited specifically within the project area. This parcel of public land has been developed as an agricultural pasture and has been seeded to nonnative grasses. The proposed action should have no bearing on the ability of the landscape to meet Standard 3 for terrestrial wildlife.

OTHER NON-CRITICAL ELEMENTS: For the following elements, those brought forward for analysis will be formatted as shown above.

Table 2. Other Resources Considered in the Analysis.			
<i>Resource</i>	<i>NA or Not Present</i>	<i>Present and Not Affected</i>	<i>Present and Affected</i>
Access and Transportation		X	
Cadastral Survey	X		
Fire/Fuels Management	X		
Forest Management	X		
Geology and Minerals	X		
Law Enforcement	X		
Paleontology	X		
Noise	X		
Range Management	X		
Realty Authorizations		X	
Recreation		X	
Socio-Economics	X		
Visual Resources			X

VISUAL RESOURCE MANAGEMENT:

Affected Environment: The proposed action is within an area classified as VRM Class II in the 1984 RMP. The objective of this VRM Class II is to retain the existing characteristic landscape. The level of change in any of the basic landscape elements (line, form, color, texture) due to management activities should be low and not evident. VRM Class II areas were prescribed along key transportation corridors due to the high sensitivity related to the high number of viewers. The public is sensitive to a high degree of landscape modifications within areas of the landscape that have maintained a degree of naturalness and visual open space.

The project area is bound on the north by I-70 and on the south by Highway 6. The existing surrounding landscape on private property has been modified by the interstate, county road and other man made infrastructure. The proposed project is within an area dominated by sagebrush.

The Key Observation Point (KOP) used for this analysis will be Interstate-70.

Environmental Consequences/Mitigation: The construction of the access road will create additional contrasts within the landscape by removing the existing vegetation and exposing bare ground. The road will produce visual contrasts to color, line, form and texture. While the project will be evident and could attract attention, the surrounding landscape has been highly modified and already contains linear features. In addition, the surrounding private lands are and will continue to incur additional modifications within this busy travel corridor and Eagle’s urban interface area. Considering the small scale of disturbance on BLM lands, relatively flat topography, existing linear features and modifications to the natural landscape within the project area it is unlikely that this action will dominate the landscape.

BLM considers existing landscape modifications within the project area when analyzing Visual Resources. In addition, given the small scale of project occurring on BLM lands, the level of change to the landscape should be relatively low to moderate and would meet a VRM Class III objective. The VRM Class III objective is to partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention but should not dominate the view of the casual observer.

No Action

Under the No Action alternative, a ROW would not be granted to Eagle County schools allowing the construction of an access road to the new high school property through BLM land. There would be no impacts to visual resources on public lands from this alternative.

CUMULATIVE IMPACTS SUMMARY:

Aquatic Wildlife. The Eagle River located within 600 feet of the project area contains known occurrences of bluehead sucker and flannelmouth sucker, both of which are BLM sensitive species. While there would likely be an increased risk of offsite soil movement and erosion and sedimentation, these fish are well adapted to high sediment loads and should not be negatively impacted by the action.

In addition to the road segment on BLM lands, the road would be built on adjacent private lands for some distance. This would likely increase the risk of offsite soil movement and erosion and sedimentation of the nearby Eagle River. However, given the topography, drainage designs, and paved nature of the road, increased sediment associated with road construction should be minimal and within the background levels currently carried by the Eagle River. It is likely that long-term use of the road and the placement of sand and salts onto the road during winter to allow for winter vehicle use could accumulate and end up in the Eagle River. These fine particles can silt in pools and spawning substrates important to fish. Fish species sensitive to sedimentation such as trout would be most affected by the action.

Terrestrial Wildlife. Cumulatively many of the future actions planned on private and other lands may have some undetermined effect on wildlife including special status species habitat. The proposed action is not anticipated to result in negative cumulative impacts to wildlife when viewed in conjunction with those activities currently occurring and reasonably certain to occur on adjacent private/other lands.

REFERENCES:

Gruver, J.C. and D.A. Keinath (2006, October 25). Townsend's Big-eared Bat (*Corynorhinus townsendii*): a technical conservation assessment. USDA Forest Service, Rocky Mountain Region. Available: <http://www.fs.fed.us/r2/projects/scp/assessments/townsendbiggearedbat.pdf>.

BLM Kremmling and Glenwood Springs Field Offices, Colorado. *Final Wild and Scenic River Eligibility Report*. (March 2007)

INTERDISCIPLINARY REVIEW:

<i>Name</i>	<i>Title</i>	<i>Responsibility</i>
Jeff O'Connell	Hydrologist	Soil, Air, Water, Geology
Cheryl Harrison	Archaeologist	Cultural Resources and Native American Concerns
Brian Hopkins	Wildlife Biologist	Migratory Birds, Special Status Animals, Terrestrial Wildlife
Carla DeYoung	Ecologist	ACEC, Special Status Plants, Vegetation, Standards for Public Land Health
Tom Fresques	Fisheries Biologist	Aquatic Wildlife
Kimberly Miller	Outdoor Recreation Planner	WSR, Wilderness, Recreation
Mike Kinser	Rangeland Management Specialist	Wetlands and Riparian Zones, Range Management
Carole Huey	Realty Specialist	IDT, Lead, Lands & Realty Authorizations

Finding of No Significant Impact CO-140-2008-085EA

The environmental assessment and analyzing the environmental effects of the proposed action have been reviewed. The proposed action with any approved mitigation measures result in a Finding of No Significant Impact on the human environment. Therefore, an environmental impact statement is not necessary to further analyze the environmental effects of the proposed action.

DECISION RECORD

DECISION: It is my decision to approve the application for a right-of-way COC-72989 for a three year temporary use permit for future access to a proposed school.

RATIONALE:

1. Approval of the proposed action is validating the rights granted with the Federal Land Policy and Management Act.
2. The environmental impacts have been mitigated with measures included in the attached stipulations.

MITGATION MEASURES:

Cultural/Native American Concerns: Education/Discovery/NAGPRA Stipulation

The National Historic Preservation Act (NHPA) requires that if newly discovered cultural resources are identified during project implementation, work in that area must stop and the agency Authorized Officer notified immediately (36 CFR 800.13). The Native American Graves Protection and Repatriation Act (NAGPRA), requires that if inadvertent discovery of Native American Remains or Objects occurs, activity must cease in the area of discovery, a reasonable effort made to protect the item(s) discovered, and immediate notice made to the BLM Authorized Officer, as well as the appropriate Native American group(s) (IV.C.2). Notice may be followed by a 30-day delay (NAGPRA Section 3(d)). Further actions also require compliance under the provisions of NHPA and the Archaeological Resource Protection Act.

Invasive, Non-native Species: The applicant will be required to reseed the disturbed area with a certified native weed-free seed mixture identified in the vegetation mitigation section below. The applicant will monitor their right-of-way for the life of the easement for the presence of any noxious weeds and will be responsible for promptly controlling any noxious weeds on the Colorado State List A or B (except redstem filaree). If the applicant chooses to use herbicides as the control method on public lands, a Pesticide Use Proposal shall be submitted to the BLM and approved prior to initiating any herbicide spraying.

Wastes, Hazardous or Solid: Fuels and lubricants would be stored in appropriate containers and refueling would occur in designated areas. While no spills are anticipated, there is potential for hazardous materials to be transported to the nearby Eagle River in the event of a spill. However,

the existing railroad right-of-way, Interstate 70, and vegetative cover between the project area and the river would be sufficient to prevent hazardous materials from reaching the river.

Water Quality, Surface And Ground (includes an analysis on Standard 5): To avoid potential negative impacts associated with erosion and sediment transport, it is essential that the proponent install, inspect, and maintain stormwater controls and BMPs on a regular basis.

Vegetation: To reduce the risk of noxious weed invasion and restore some functionality to the ecosystem, the applicant will be required to reseed the disturbed area with a *certified weed-free seed* mixture. BLM recommends the following seed mix:

<u>Species</u>	<u>Variety</u>	<u>Application Rate</u> <u>(PLS/ac)</u>	<u>% of mix</u>
Western wheatgrass	Arriba, Rosanna	4.2	25
Bluebunch wheatgrass	Anatone, Goldar	2.3	17
Bottlebrush squirreltail	VNS	1.8	16
Slender wheatgrass	Revenue, Pryor	2.2	25
Sandberg bluegrass	VNS	<u>0.4</u>	<u>17</u>
		10.9	100

The seed shall be drilled to a depth of ¼ to ½ inch. If the seed cannot be applied with a drill seeder, the application rate for broadcast seed shall be *twice* the rate specified above. Substitutions may be considered but must be approved by the Authorized Officer prior to application.

COMPLIANCE/MONITORING: A three year Temporary Use Permit will be issued. When Eagle County School District gains approval to build a school, new plans and drawings shall be submitted to the BLM for final approval of the access route across BLM managed lands, and the right-of-way grant issued to Merv Lapin may be re-assigned to Eagle County School District (if the school is built).

NAME OF PREPARER: Carole Huey, Realty Specialist

SIGNATURE OF AUTHORIZED OFFICIAL:


Karl R. Mendonca, Associate Field Manager

4/26/2011
Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT / TEMPORARY USE PERMIT (TUP)
COC-072989

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
2. Nature of Interest:
 - a. By this instrument, the holder:

Merv Lapin
232 West Meadow Drive
Vail CO 81657

receives a right to operate and maintain an **access road** as shown on public lands described as follows:

Eagle County, Colorado, 6th Principal Meridian

**T. 4 S., R. 84 W.,
Lot 3 Section 26.**

- b. The right-of-way area granted here is **50 feet wide, 800 feet long** and contains **0.92 acres, more or less.**
- c. This instrument shall terminate on December 31, 2013, approximately 3 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.
3. Rental: For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.
 4. Terms and Conditions:
 - a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800 and 2880.
 - b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within **90 days**, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
 - c. ~~Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.~~
 - d. The stipulations, plans, maps, or designs set forth in Exhibits **A, B and C**, dated **December 12, 2009** attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
 - e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
 - f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

Exhibit A, Map:

LEGAL DESCRIPTION: T. 4 S., R. 84 W., Section 26, Lot 3, 6th Principal Meridian, Eagle County, Colorado

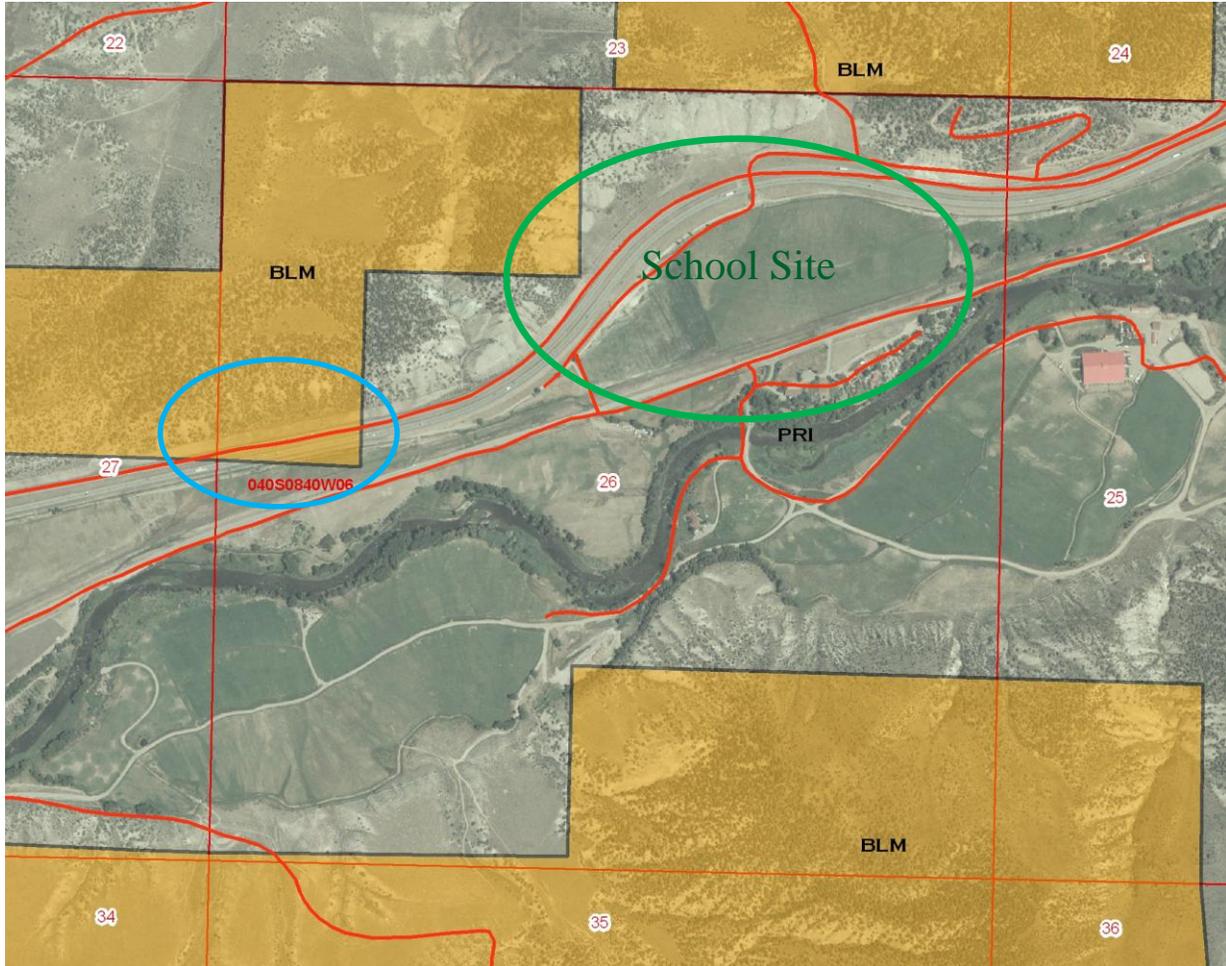


EXHIBIT C: SPECIAL STIPULATIONS, COC-072989
Merv Lapin Access Road to Proposed Eagle County School District

1. As defined by 43 CFR § 1810, the Authorized Officer (AO) is the Colorado River Valley Field Office Manager or his/her designee.
2. It is the holder's responsibility to coordinate with all other rights-of-way holders and adjacent landowners to make sure any conflicts are resolved both with road improvement and future maintenance.
3. This grant shall not be assignable without written permission of the authorized officer. This Grant may be renewed. If renewed, the Grant shall be subject to the regulation existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
4. This is a three year Temporary Use Permit. When Eagle County School District gains approval to build a school, new plans and drawings shall be submitted to the BLM for final approval of the access route across BLM managed lands, and the right-of-way grant issued to Merv Lapin may be re-assigned to Eagle County School District (if the school is built).
5. No ground disturbing activities are allowed under this TUP prior to Eagle County gaining approval to construct a school for this access: the AO shall be notified within 30 days this action.
6. Cultural/Native American Concerns: Education/Discovery/NAGPRA Stipulation
The National Historic Preservation Act (NHPA) requires that if newly discovered cultural resources are identified during project implementation, work in that area must stop and the agency Authorized Officer notified immediately (36 CFR 800.13). The Native American Graves Protection and Repatriation Act (NAGPRA), requires that if inadvertent discovery of Native American Remains or Objects occurs, activity must cease in the area of discovery, a reasonable effort made to protect the item(s) discovered, and immediate notice made to the BLM Authorized Officer, as well as the appropriate Native American group(s) (IV.C.2). Notice may be followed by a 30-day delay (NAGPRA Section 3(d)). Further actions also require compliance under the provisions of NHPA and the Archaeological Resource Protection Act.
7. Invasive, Non-native Species: The applicant will be required to reseed the disturbed area with a certified native weed-free seed mixture identified in the vegetation mitigation section below. The applicant will monitor their right-of-way for the life of the easement for the presence of any noxious weeds and will be responsible for promptly controlling any noxious weeds on the Colorado State List A or B (except redstem filaree). If the applicant chooses to use herbicides as the control method on public lands, a Pesticide Use Proposal shall be submitted to the BLM and approved prior to initiating any herbicide spraying.

8. Wastes, Hazardous or Solid: Fuels and lubricants would be stored in appropriate containers and refueling would occur in designated areas. While no spills are anticipated, there is potential for hazardous materials to be transported to the nearby Eagle River in the event of a spill. However, the existing railroad right-of-way, Interstate 70, and vegetative cover between the project area and the river would be sufficient to prevent hazardous materials from reaching the river.

9. Water Quality, Surface And Ground (includes an analysis on Standard 5): To avoid potential negative impacts associated with erosion and sediment transport, it is essential that the proponent install, inspect, and maintain stormwater controls and BMPs on a regular basis.

10. Vegetation: To reduce the risk of noxious weed invasion and restore some functionality to the ecosystem, the applicant will be required to reseed the disturbed area with a *certified weed-free seed* mixture. BLM recommends the following seed mix:

<u>Species</u>	<u>Variety</u>	<u>Application Rate</u> <u>(PLS/ac)</u>	<u>% of mix</u>
Western wheatgrass	Arriba, Rosanna	4.2	25
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Sandberg bluegrass	VNS	<u>0.4</u>	<u>17</u>
		10.9	100

The seed shall be shall be drilled to a depth of ¼ to ½ inch. If the seed cannot be applied with a drill seeder, the application rate for broadcast seed shall be *twice* the rate specified above. Substitutions may be considered but must be approved by the Authorized Officer prior to application.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant.

Signature of Holder

Signature of Authorized Officer

Title

Karl R. Mendonca, Associate Field Manager

(Date)

(Effective date of Grant)