



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Glenwood Springs Field Office
50629 Highway 6 and 24
Glenwood Springs, Colorado 81601
www.co.blm.gov

ENVIRONMENTAL ASSESSMENT

NUMBER: DOI-BLM-CO-N040-2009-0056-EA

CASEFILE NUMBER: COC-73581 / 287001 (Domestic well) &
COC-73582 / 281001 (Road Easement Acquisition to the BLM)

PROJECT NAME: Authorize a domestic well on public lands, and easement to the U.S. – BLM on a small corner of BLM Road #8241.

LOCATION: Domestic Well:

S ½ SW ¼ Section 30, T. 6 S., R. 90 W.,

Exclusive Road Easement to BLM:

SESW Section 30, T. 6 S., R. 90 W.,

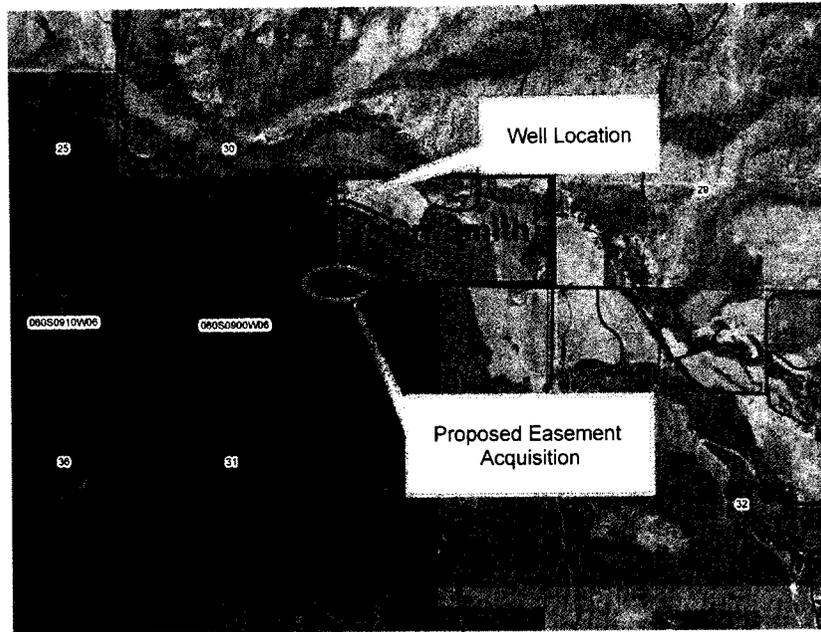
Sixth Principal Meridian, Garfield County, Colorado.

APPLICANT: Domestic Well: Lacy Orr and Howard Smith
Exclusive Road Easement: Bureau of Land Management (BLM)

DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES

Proposed Action: The proposed action is two-fold: 1) authorize a domestic water well on BLM-managed lands; and 2) issue a road easement to the BLM for a short section of BLM Road #8241 (Center Mountain Road) which crosses private property (owned by Orr & Smith).

Additional Background Information: The applicants had applied for a subdivision application, and the well was discovered during routine survey by Garfield County Planning Department. In order for the subdivision to be approved, Garfield County required that the applicant rectify the trespass well. The well had been drilled in the 1960's by the previous landowner. The applicants plan to keep the house that the well currently serves, and subdivide the remainder of the property.



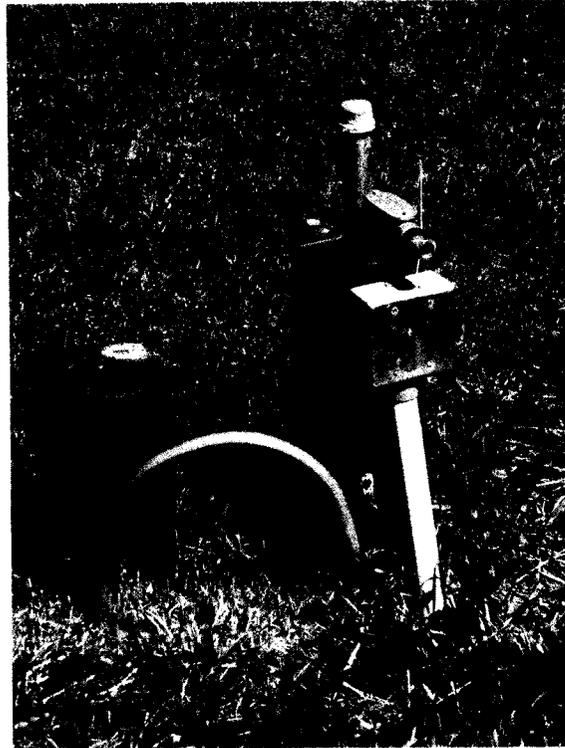
ALTERNATIVES CONSIDERED BUT ELIMINATED:

The No Action alternative has been eliminated from further consideration. The No Action alternative would be to not issue a right-of-way to the Orr & Smith, and no legal public access would be gained on BLM Road #8241. It is not reasonable to re-route the small portion of road when an easement acquisition is available as an alternative.

PURPOSE AND NEED FOR THE ACTION: An action to approve a (one year) Land Use Permit, COC-072165 authorizing the well, was approved December 18, 2007 as requested by the applicant. This short-term permit was requested by the applicant so as to give the applicant time to remove the facility and move forward with the subdivision application with the county. Because the applicant owns the water right, and is unable to move the well on their property, and right-of-way application for the well had been submitted to this office. According to Colorado Water Rights, there is no other location on the applicant's property that can meet regulations.

In addition, during the process with the applicants, it was discovered that a small portion of BLM Road #8241 (Center Mountain Road) crossed a small corner of private property owned by Orr and Smith. The owners of the private parcel have agreed to give an exclusive easement to the BLM.

The domestic water well will serve the small house (just east of the well), and no other facilities on the remainder of the parcel. From the well protrudes a small 2 inch pipe standing above the ground approximately 12 inches, encased by concrete and it is located approximately 19.8 feet west of the Orr and Smith property boundary on BLM-managed lands. The water is pumped underground to the house.



The exclusive easement would continue to provide public access, and full maintenance would be held by the BLM. The section of road is 20 feet wide by 167 feet long (as shown on the map below).

If approved, both rights-of-way would be authorized for a term of thirty years, and would be renewable.

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.

Decision Number/Page: The action is in conformance with Administrative Actions (pg. 5).

Decision Language: Administrative actions states, “Various types of actions will require special attention beyond the scope of this plan. Administrative actions are the day-to-day transactions

required to serve the public and to provide optimal use of the resources. These actions are in conformance with the plan”.

STANDARDS FOR PUBLIC LAND HEALTH:

The Colorado Standards for Public Land Health consist of 5 standards: upland soils, riparian systems, plant and animal communities, special status species, and water quality. Standards describe conditions needed to sustain public land health and relate to all uses of the public lands.

The area of the proposed action lies within the Divide Creek Landscape which is scheduled for a formal land health assessment in 2009. As such we are deferring from making a determination on achievement or non-achievement of the standards until after the land health assessment is completed.

However, the impact analysis herein must address whether the proposed action would result in impacts which would improve, maintain or deteriorate land health conditions for each of the parameters found in the Standards for Public Land Health.

AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

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 1). 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.**

Critical Elements

	<i>Present</i>		<i>Affected</i>			<i>Present</i>		<i>Affected</i>	
	Yes	No	Yes	No		Yes	No	Yes	No
Air Quality		X		X	Prime or Unique Farmlands		X		X
ACECs		X		X	Special Status Species*	X		X	
Cultural Resources		X		X	Wastes, Hazardous or Solid		X		X
Environmental Justice		X		X	Water Quality, Surface and Ground*	X		X	
Floodplains		X		X	Wetlands and Riparian Zones*		X		X
Invasive, Non-native Species	X		X		Wild and Scenic Rivers		X		X

Migratory Birds	X			X	Wilderness/ WSAs		X		X
Native American Religious Concerns		X		X					

* Public Land Health Standard

Cultural Resources and Native American Religious Concerns

Affected Environment: Two cultural resource inventories (GSFO# 1105-1 and 15408-3) were conducted, one for the well location and one for the road. No historic properties or areas of Native American Concern were identified. Therefore, no formal consultation with the Colorado State Historic Preservation Officer (SHPO) or the Ute Tribes was needed 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).

Environmental Consequences/Mitigation: There would be no direct impacts to cultural resources from the implementation of the proposed action. However, indirect long-term cumulative impacts from increased public use on the road could result in a range of impacts to undiscovered cultural resources. These impacts could range from illegal collection and excavation to vandalism.

A standard Education/Discovery Stipulation for cultural resource protection should be attached to the ROW permit.

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

Affected Environment: A survey of invasive, non-native plant species has not been conducted at the proposed right-of-way well site. However, given the widespread nature of noxious and invasive weed species in the Glenwood Springs Field Office, some level of weed establishment is expected.

Environmental Consequences: Past surface disturbing activities associated with the well has likely created a niche for the invasion of noxious weeds or other invasive species.

Mitigation: The applicant will monitor the project area 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) within the right-of-way. 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:

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.” *Birds of Conservation Concern 2008* (<http://www.fws.gov/migratorybirds/reports/BCC2008/BCC2008m.pdf>) is the most recent effort to carry out this mandate. The conservation concerns may be the result of population declines, naturally or human-caused small ranges or population sizes, threats to habitat, or other factors. The primary statutory authority for *Birds of Conservation Concern 2008* (BCC 2008) is the Fish and Wildlife Conservation Act of 1980 (FWCA), as amended. Although there are general patterns that can be inferred, there is no single reason why any species was is on the list. The Glenwood Springs Field Office is within the Southern Rockies/Colorado Plateau Bird Conservation Region (BCR). The 2008 list include the following birds: Gunnison Sage Grouse, American Bittern, Bald Eagle, Ferruginous Hawk, Golden Eagle, Peregrine Falcon, Prairie Falcon, Snowy Plover, Mountain Plover, Long-billed Curlew, Yellow-billed Cuckoo, Burrowing Owl, Lewis's Woodpecker, Willow Flycatcher, Gray Vireo, Pinyon Jay, Juniper Titmouse, Veery, Bendire's Thrasher, Grace's Warbler, Brewer's Sparrow, Grasshopper Sparrow, Chestnut-collared Longspur, Black Rosy-Finch, Brown-capped Rosy-Finch, and Cassin's Finch.

Habitat loss due to alteration or destruction continues to be the major reason for the declines of many species (<http://www.fws.gov/migratorybirds/reports/BCC2008/BCC2008m.pdf>). 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.

The GSFO 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, aspen, pinyon-juniper woodlands, other types of coniferous forests and riparian and wetland areas support many bird species. The pinyon jay is characteristically found in pinyon/juniper woodlands and the Brewer's sparrow (*Spizella breweri*) is found within sagebrush habitats. Other Birds of Conservation Concern 2008 may also occur locally. Many species of raptors (red-tailed hawks, golden eagles, northern goshawks, Cooper's hawks, kestrels and owls) not on the Fish & Wildlife Service's Birds of Conservation Concern list also could occur in the area.

Bald eagle (*Haliaeetus leucocephalus*). 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 mule deer and elk. Major threats include habitat loss, human disturbance and illegal shooting. 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.

Environmental Consequences/Mitigation:

Limited bird count or species data exists for the area; however the greater concern is the continued fragmentation of habitat and losses of large blocks of contiguous habitat required by many bird species. No intentional take of native bird species is anticipated under the proposed action. The impact of the proposed action is negligible due it being more of an administrative action rather than a physical, on-the-ground action. It is not expected to influence populations of migratory birds on a landscape level. In addition the action would not reduce the extent or quality of habitat available for migratory bird breeding functions.

Special Status Species (includes an analysis of Public Land Health Standard 4)

Affected Environment:

Listed, Proposed, and Candidate Species:

According to the latest species list from the U. S. Fish and Wildlife Service (<http://mountain-prairie.fws.gov/endspp/CountyLists/COLORADO.htm>), the following Federally listed, proposed, or candidate plant and animal species may occur within or be impacted by actions occurring in Garfield County: Colorado hookless cactus (*Sclerocactus glaucus*), Ute Ladies' Tresses orchid (*Spiranthes diluvialis*), Parachute beardtongue (*Penstemon debilis*), DeBeque phacelia (*Phacelia submutica*), Canada lynx (*Lynx canadensis*), Mexican spotted owl (*Strix occidentalis*), yellow-billed cuckoo (*Coccyzus americanus*), razorback sucker (*Xyrauchen texanus*), Colorado pikeminnow (*Ptychocheilus lucius*), bonytail chub (*Gila elegans*), and humpback chub (*Gila cypha*). The U. S. Fish and Wildlife Service announced the delisting of the bald eagle in June, 2007 with an effective date of August 8, 2007. The BLM now considers the bald eagle a sensitive species.

Listed, Proposed, and Candidate Plant and Terrestrial Wildlife Species:

The project area contains no suitable habitat for any of the four federally-listed, proposed or candidate plant or federally-listed, proposed or candidate wildlife species that occur in Garfield County. No occupied habitat is present within the vicinity that could be indirectly impacted by the proposed action.

Listed, Proposed, and Candidate Fish Species:

The action would deplete water from within the Colorado River Basin. As such the four Endangered Colorado River Fishes will need to be addressed. Designated Critical Habitat for the Colorado pikeminnow and razorback sucker is located within the Colorado River and its 100-year floodplain approximately 20 miles downstream from the action area. The bonytail and humpback chub reside farther downstream near the CO-UT border.

BLM Sensitive Species:

BLM sensitive plant species with habitat and/or occurrence records in Garfield County include adobe thistle (*Cirsium perplexans*), DeBeque milkvetch (*Astragalus debequaeus*), Naturita milkvetch (*Astragalus naturitensis*), Roan Cliffs blazing star (*Mentzelia rhizomata*), Piceance bladderpod (*Lesquerella parviflora*), and Harrington's penstemon (*Penstemon harringtonii*). No suitable habitat has been identified within or adjacent to the project area for any of these sensitive plant species.

Environmental Consequences/Mitigation:

Listed, Proposed, Candidate Plant Species:

Due to the absence of any occupied or suitable habitat within or adjacent to the well site or road acquisition area, the proposed action would have **"No Effect"** to any of the four listed, proposed or candidate plant species.

Listed, Proposed, Candidate Wildlife Species:

Due to the absence of any occupied or suitable habitat within or adjacent to the well site or road acquisition area, the proposed action would have **"No Effect"** to any of the listed, proposed or candidate wildlife species.

Endangered Colorado River Fishes:

The proposed action would impact these endangered fish species by depleting water from the Colorado River Basin. Adequate flows are necessary to provide for the various life-stage requirements of these native fishes. Reduced flows can reduce the abundance and usability of important spawning and backwater habitats and result in lowered productivity and recruitment. It is anticipated that the average annual water depletion associated with the proposed action would be up to 1.5 acre-feet.

In May 1994, BLM prepared a programmatic biological assessment (BA) that addressed water-depleting activities in the Colorado River Basin. In response to the PBA, the USFWS issued a programmatic biological opinion (BO) on June 13, 1994, which determined that water depletions from the Colorado River Basin would jeopardize the continued existence of the Colorado pikeminnow, humpback chub, bonytail, and razorback sucker. Consequently, all water depletions from the Colorado River Basin, including the proposed action, result in a "May Affect, Likely to Adversely Affect" determination. The BO included reasonable and prudent alternatives developed by the USFWS to allow BLM to authorize individual projects, such as the proposed action, which result in water depletions of less than 125 acre-feet per year.

The BO was written to remain in effect until a total depletion threshold of 2,900 acre-feet per year is reached. An amendment to the BO in 2000 revised the threshold to 3,000 acre-feet per year. To date, BLM has authorized less than 3,000 acre-feet of depletions per year. Annually, BLM reports the additional per-year depletions and makes a mitigation payment via the recovery program to USFWS to offset the impacts. This agreement is currently being updated through a revised programmatic BA/BO that is nearing completion. In the meantime, the water depletion impacts associated with the proposed action (1.5 acre-feet) continue to be within the level

anticipated and disclosed in the 2000 BO update and hence can be covered by the BLM's Programmatic BA and USFWS BO. The depletion amount associated with this project will be included on the Glenwood Springs Field Office's water depletion log and will be incorporated into the statewide fee total submitted to the FWS by the BLM Colorado State Office at the end of the fiscal year.

BLM Sensitive Species:

Due to the absence of any known occupied or suitable habitat for BLM sensitive plant or wildlife species, the proposed action would have no impact on these species.

Analysis on the Public Land Health Standard for Special Status Species:

Due to the absence of any known occupied or suitable habitat for BLM sensitive plant or wildlife species, the proposed action would have no impact on Public Land Health Standards for Special Status Species.

Water Quality, Surface & Ground (includes an analysis of Public Land Health Standard 5)

Affected Environment: The project area is located southeast of the Town of New Castle, south of the Colorado River and Interstate 70, and south of the perennial Garfield Creek. East of the project area within Section 30 are three mapped ephemeral tributaries to Garfield Creek to the north, the farthest of which is Wall Gulch. These three ephemeral drainages along with Garfield Creek are within the 12,866 acre Upper Garfield Creek 6th field watershed and flow only through private land in Section 30. The closest ephemeral drainage to the proposed activities is located approximately 200 feet east of the proposed road right-of-way and 300 feet east of the existing well on BLM managed lands.

According to the *Stream Classifications and Water Quality Standards* (CDPHE, Water Quality Control Commission, Regulation No. 37) list, the drainages mentioned above are within the Lower Colorado River Basin segment 7a that includes the mainstem of Garfield Creek, including all tributaries and wetlands from the boundary of the White River National Forest to their confluences with the Colorado River. This segment has been classified aquatic life cold 1, recreation E, 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 E 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.

The State of Colorado has developed a *303(d) List of Water Quality Limited Segments Requiring TMDLS* (CDPHE, Water Quality Control Commission, Regulation No. 93) that identifies stream segments that are not currently meeting water quality standards with technology based controls alone. Garfield Creek and its tributaries are within the Lower Colorado River Basin segment COLCLC04a that includes tributaries to the Colorado River from the Roaring Fork River to Parachute Creek. This segment is listed as impaired due to Selenium and has been given medium priority by the State of Colorado.

A *Monitoring and Evaluation List* (CDPHE, Water Quality Control Commission, Regulation No. 94) was developed by the State of Colorado to identify water bodies suspected to have water quality problems. Garfield Creek and its tributaries are within the Lower Colorado River Basin segment COLCLC04a that includes tributaries to the Colorado River from the Roaring Fork River to Parachute Creek. Currently the only water bodies listed within this segment are Mamm Creek and South Canyon Creek for total recoverable iron. At this time no available water quality data are available for Garfield Creek and its ephemeral tributaries in the project area.

According to the Colorado Decision Support Systems Map Viewer, developed by the Colorado Water Conservation Board and the Colorado Division of Water Resources; four additional wells are currently in use by the applicants Orr and Smith and are located on private land in the SESE of Section 30 in between Garfield Creek to the north and Wall Gulch to the south. Following is a table summarizing available well data for the five wells currently being operated by the applicants within Section 30. The wells are organized in the table roughly west to east with Permit No. 80600 being the well currently on BLM managed lands in the SESW of Section 30.

Permit No.	Use 1	Use 2	Use 3	Issue Date	First Use	Well Yield (gal/min)	Well Depth (ft)	Well Level (ft)
80600	Domestic	-	-	8/25/1975	11/27/1975	2	100	59
266920	Other	-	Monitoring Well	12/6/2005		0	58	13
152526	Domestic	Stock	-	9/27/1988	12/31/1900	50	6	0
271766	Domestic	Stock	Issued Under Presumption 3b-IIA	12/4/2006	-	0	100	30
271770	Domestic	Stock	Issued Under Presumption 3b-IIA	12/4/2006	-	0	80	23

Environmental Consequences/Mitigation: Shallow alluvial groundwater is often tributary to area perennial and intermittent drainages and is likely the case with shallow alluvial aquifers in close proximity to the perennial Garfield Creek. High withdrawal rates from domestic wells have the potential to lower baseflows in nearby streams, which can in turn have negative effects on water quality, quantity, and aquatic species; especially in times of drought or late summer. Well No. 80600 is currently being operated at a pumping rate of approximately two gallons per minute but when proposed was authorized for up to 15 gallons per minute. This maximum pumping rate of 15 gallons per minute is equivalent to approximately 0.033 cubic feet per second; which would have little effect on baseflows except in periods of extreme drought.

Analysis on the Public Land Health Standard 5 for Water Quality: The BLM Glenwood Springs Field Office is scheduled to assess area drainages in summer 2009 as part of the Divide Creek Watershed Land Health Assessment. The proposed activities would not likely prevent Standard 5 for Water Quality from being met.

Other Affected Resources

In addition to the critical elements, the resources presented in Table 2 were considered for impact analysis relative to the proposed action and no action alternative. Resources that would be affected by the proposed action and no action alternative are discussed below.

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			
Fire/Fuels Management	X		
Forest Management			
Geology and Minerals	X		
Law Enforcement			
Paleontology	X		
Noise	X		
Range Management		X	
Realty Authorizations			
Recreation			X
Socio-Economics			
Soils*	X		
Vegetation*			
Visual Resources		X	
Wildlife, Aquatic*			
Wildlife, Terrestrial*		X	

*Public Land Health Standard

Recreation/Access and Transportation:

Affected Environment: BLM road #8241 has served as the main and only access road for full size vehicles to BLM public lands. The road had received regular maintenance on approximately 3 ½ miles every 3 years with the last maintenance occurring in 2003. Due to decreasing BLM road maintenance dollars and recent oil and gas activities and related road maintenance, the BLM has not maintained the road since 2003. The road will continue to remain on the list of main access roads that need to be maintained to provide public access.

Center Mountain is part of scattered parcels of BLM public lands that are part of the Glenwood Springs extensive recreation management area (ERMA) where management is for dispersed/undirected recreation activities. The road is used mainly for grazing administration and dispersed recreational activities including 4 wheel driving, ATV riding, and horseback riding predominately during the hunting seasons. Management presence and controls on site is minimal.

Environmental Consequences/Mitigation: The proposed action will continue to provide the only full size vehicle public access to BLM public lands on Center Mountain and will also continue to provide the public dispersed and unstructured recreation opportunities.

Range Management:

Affected Environment: The proposed action is located on the Upper Garfield Com livestock grazing allotment. Currently the allotment has two permittees authorized to graze a total of 180 cattle from June 1st to October 10th.

Environmental Consequences/Mitigation: The proposed action would not affect livestock management operations on the Upper Garfield Com Allotment.

Vegetation (includes an analysis of Public Land Health Standard 3)

Affected Environment: The project area is within oakbrush and grassland vegetation.

Environmental Consequences/Mitigation: The proposed action should have minimal impact on vegetation resources. Both the well and the road are already in place and have been in use for many years. No new vegetative disturbance is authorized as part of the proposed action.

Analysis on the Public Land Health Standard for Plant and Animal Communities (partial, see also Wildlife, Aquatic and Wildlife, Terrestrial): The BLM Glenwood Springs Field Office is scheduled to assess the landscape which encompasses the proposed action in 2009. The proposed action should have little bearing on the ability of the area to meet Standard 3 for Plant Communities.

Wildlife, Aquatic (includes an analysis of Public Land Health Standard 3):

Affected Environment:

The proposed action is within 0.2 miles of Garfield Creek. This stream contains rainbow trout, creek chubs, and speckled dace. In addition, this stream contains aquatic insects.

Environmental Consequences/Mitigation:

The proposed action should have minimal impact to resident fisheries located in Garfield Creek. The well is in place and has been in use for many years. The road is also present and has been used for many years. The action is to legitimize the use of these facilities. The only impact to fish is from water depletions that reduce flows in Garfield Creek which can get low seasonally. This can impact trout by reducing temperature and reducing usable habitat and pool depths needed for thermal refuge. Given the minimal amount of annual depletion spread out over a year, the action should have minimal impacts to the species present.

Analysis on the Public Land Health Standard 3 for Plant and Animal Communities (partial, see also Vegetation and Wildlife, Terrestrial):

A formal Land Health Assessment has not been completed for this area. The proposed action should have little bearing on the areas ability to meet Standard 3 for aquatic wildlife.

Wildlife, Terrestrial (includes an analysis of Public Land Health Standard 3)

Affected Environment:

This region provides important habitat for a variety of obligate species of birds, and are particularly important as food and cover for wintering big game. Pinyon-juniper woodlands

provide important foraging and nesting habitat for some raptor species and many migratory song birds, and provide security, foraging, and thermal cover for a variety of small game, big game, and nongame wildlife. Mixed mountain shrub and oak habitats are important to turkey, black bear, and lion among others.

Terrestrial habitats have been altered by roads (both authorized and unauthorized), powerlines, pipelines, fences, public recreation use, residential and commercial development, vegetative treatments and livestock and wild ungulate grazing. These human uses cumulatively contribute to the degradation of habitat quality, fragmentation of habitat for several species and the expansion of areas supporting noxious and exotic vegetative species.

Species of High Public Interest. . Mule deer and elk usually occupy the area yearround however the sagebrush-dominant ridges and south-facing slopes are important elk winter habitat. BLM lands within these allotments provide a small portion of the less-developed winter range available to elk.

Environmental Consequences/Mitigation:

The proposed action will not individually or cumulatively contribute to the degradation of habitat quality, fragmentation of habitat or the expansion of areas supporting noxious and exotic vegetative species. The impact of the proposed action on terrestrial wildlife is negligible due it being more of an administrative action rather than a physical, on-the-ground action.

Analysis on the Public Land Health Standard for plant and animal communities (partial, see also Vegetation and Wildlife, Aquatic): A formal Land Health Assessment has not been completed for this area. The proposed action should have little bearing on the areas ability to meet Standard 3 for terrestrial wildlife.

INTERDISCIPLINARY REVIEW:

Carole Huey	Realty Specialist	NEPA Lead, Lands & Realty
Jeff O'Connell	Hydrologist/Geologist	Soil, Air, Water, Geology
Kay Hopkins	Outdoor Recreation Planner	WSR, Wilderness, VRM, Recreation, Transportation
Cheryl Harrison	Archaeologist	Cultural Resources and Native American Concerns
Brian Hopkins	Wildlife Biologist	Migratory Birds, Terrestrial Wildlife, T/E/S Terrestrial Wildlife
Carla DeYoung	Ecologist	ACEC, Vegetation, T/E/S Plants, Land Heath Stds
Tom Fresques	Fisheries Biologist	Aquatic Wildlife and T/E/S Aquatic Wildlife
Michael Kinser	Rangeland Management Specialist	Wetlands and Riparian Zones, Range Management
Dereck Wilson	Rangeland Management Specialist	Native & Non-native Plants, Range Management

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DOI-BLM-CO-N040-2009-0056-EA

The environmental assessment, analyzing the environmental effects of the proposed action, has been reviewed. The proposed action with 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.

Rationale: The analysis of the proposed action with mitigation measures did not identify any impacts that would be significant in nature either in context or intensity. The exclusive easement to the BLM is a benefit to the public.

NAME OF PREPARER: Carole Huey

SIGNATURE OF AUTHORIZED OFFICIAL: 

DATE SIGNED: 6/10/2009

ATTACHMENTS:
Right-of-Way Grant COC-73581
Exclusive Easement COC-73582

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT

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:

**Lacy Orr and Howard Smith
PO Box 787
Darby, Montana 59829
406.531.6777**

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

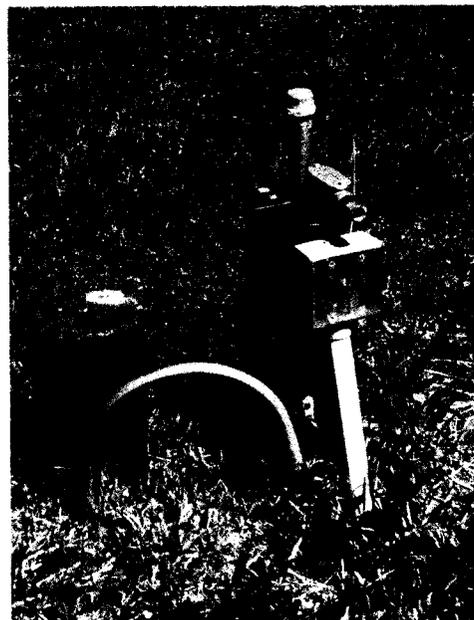
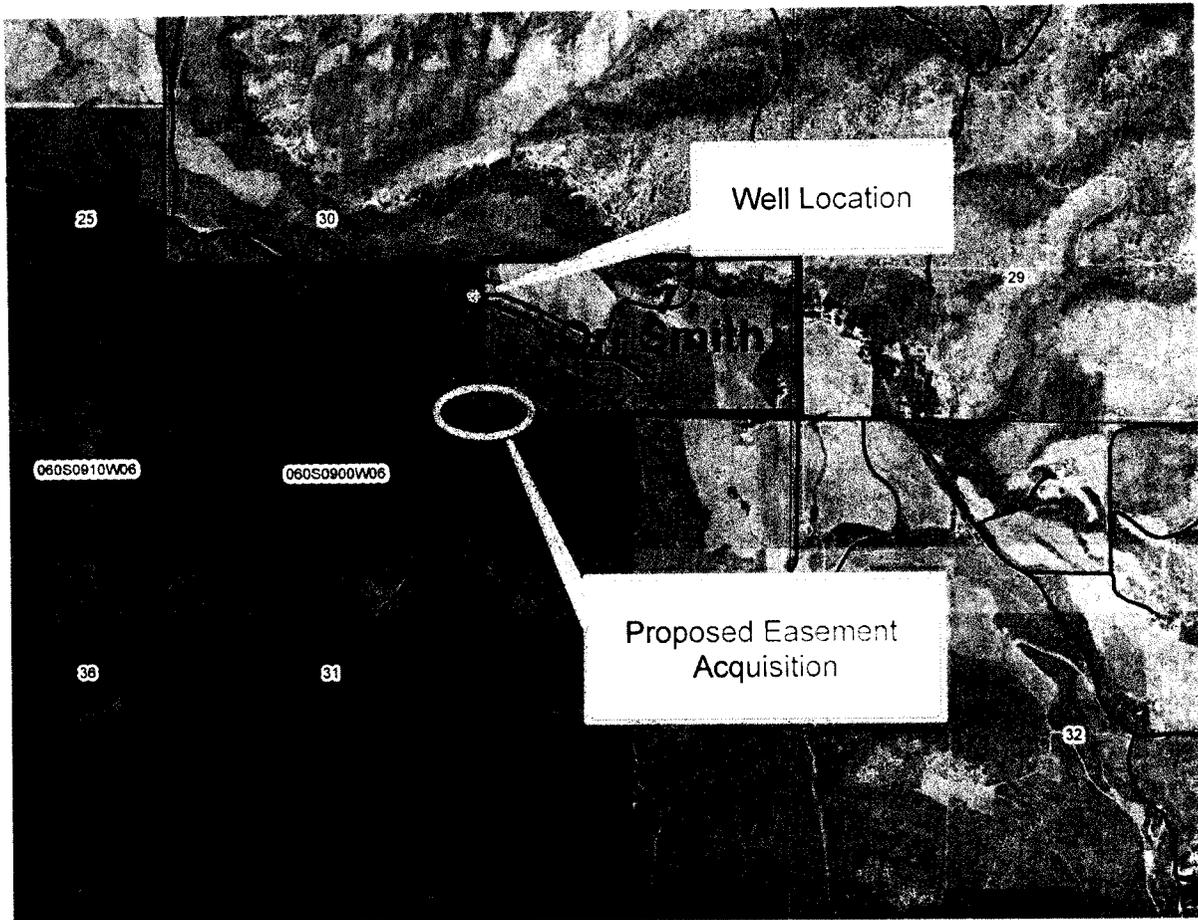
Garfield County, Colorado, Sixth Principal Meridian

**T. 6 S., R. 90 W.,
NESE, Section 30.**

- b. The right-of-way area granted here is for a road right-of-way and is **5 feet wide, 19.8 feet long** and contains **0.002 acres, more or less**. The domestic water well will serve the small house (just east of the well), and no other facilities on the remainder of the parcel. From the well protrudes a small 2 inch pipe standing above the ground approximately 12 inches, encased by concrete and it is located approximately 10 feet west of the Orr and Smith property boundary on BLM-managed lands. The water is pumped underground to the house.
 - c. This instrument shall terminate on **December 31, 2038**, approximately **30 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 and B**, dated **June 5, 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:



NW Corner S1/2SE1/4
Section 30
Found Rebar W/Alum
Cap, PLS No. 19598

Point of Beginning
Lot 1

1144.47

WELL

Lot 1
14.373 Acres

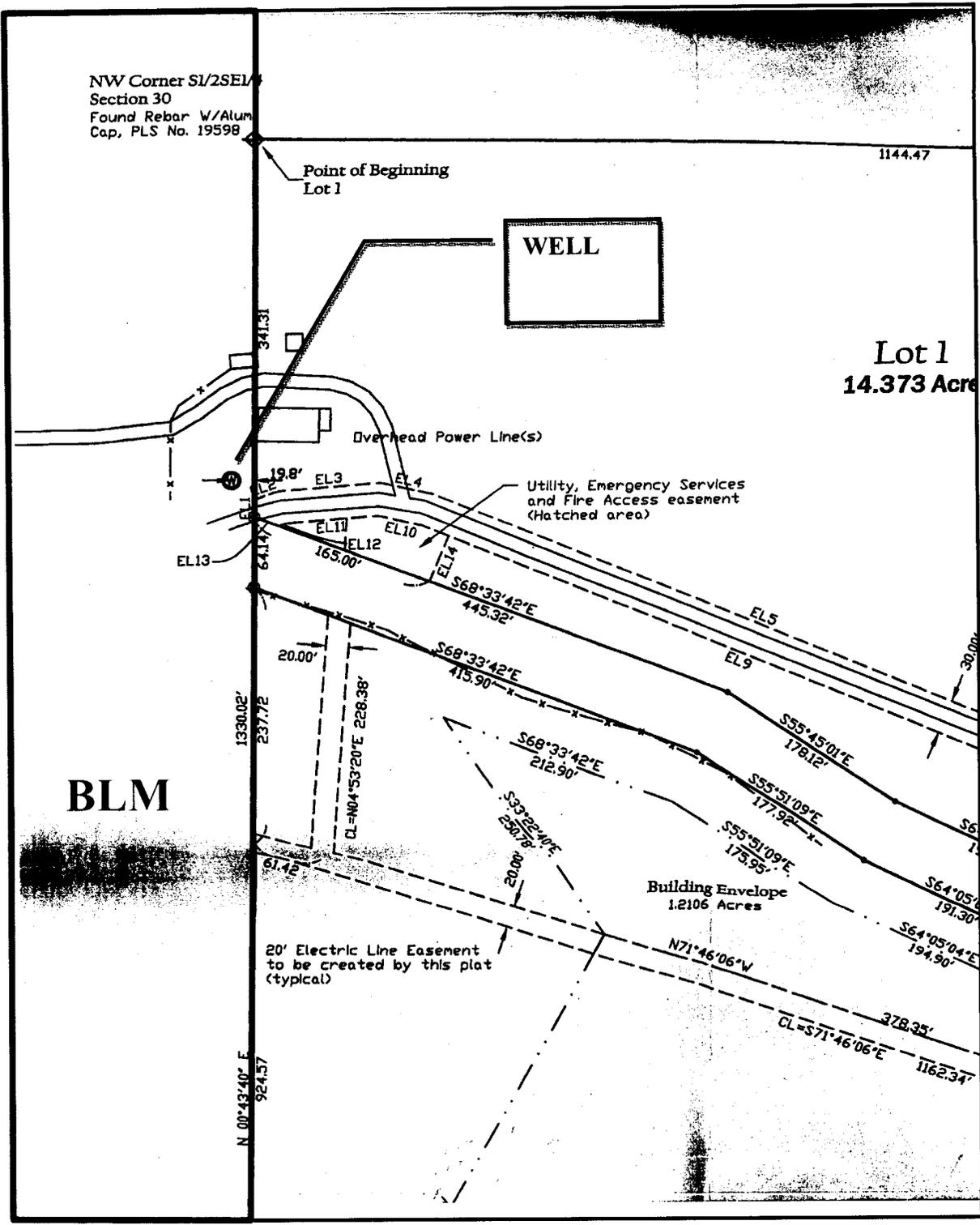
Overhead Power Line(s)

Utility, Emergency Services
and Fire Access easement
(Hatched area)

BLM

20' Electric Line Easement
to be created by this plat
(typical)

Building Envelope
1.2106 Acres



**EXHIBIT B: STIPULATIONS, COC-073581
ORR / SMITH Domestic Well**

1. As defined by 43 CFR § 1810, the Authorized Officer is the Glenwood Springs Field Office Manager or his/her designee.
2. All activities shall be confined to the COC-073581 right-of-way corridor.
3. 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.
4. The Realty Specialist will be notified at least 30 days prior to relinquishment or expiration of the ROW grant. The holder shall contact the Realty Specialist to arrange a joint inspection of the ROW. This inspection shall be held to determine if the ROW is in acceptable condition. If it is not, then the holder shall be responsible for returning the ROW to a condition acceptable to the authorized officer. This must be accomplished before relinquishment or expiration of the ROW.
5. 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.
6. The well shall be of domestic purposes only and serve the one house directly adjacent (west) of existing house. Any new or larger home would need a new right-of-way. The remainder of the parcel own by the Lessee planned for subdividing shall be serviced with water not associated with this well.
7. During conditions of extreme fire danger, operations shall be limited or suspended in specific areas, or additional measures may be required by the authorized officer.
8. Cultural Resources, Education/Discovery 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.

9. The applicant will monitor the project area 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) within the right-of-way. 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.

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

Signature of Holder: Lacy Orr

Signature of Authorized Officer

Signature of Holder: Howard Smith

Field Manager

(Date)

(Effective date of Grant)

Exclusive Road Easement

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Land Management

①

Serial No. CO-73582

EXCLUSIVE ROAD EASEMENT

For and in consideration of the sum of \$ _____, ②

③-LACY ORR and HOWARD SMITH, owners,
hereinafter called Grantor, whether one or more, does hereby grant to the UNITED STATES OF AMERICA, and its assigns, as authorized by Section 205 of the Federal Land Policy and Management Act of 1976 as amended (43 U.S.C. 1715), a perpetual exclusive easement to locate, construct, use, control, maintain, improve, relocate, and repair an existing road over and across the following described real property situated in the County of Garfield, State of Colorado, to wit: ④

A parcel of land lying in the South Half of the Southeast Quarter (S½SE¼), of Section 30, Township 6 North, Range 90 West, Sixth Principal Meridian, Garfield County, Colorado; the said parcel being all that portion of said property contained within a strip of land 20 feet in width, and 167 feet in length, more or less, being 10 feet on each side of a centerline which road is shown and more particularly described on Exhibit A, which is attached hereto and made a part hereof. ⑤

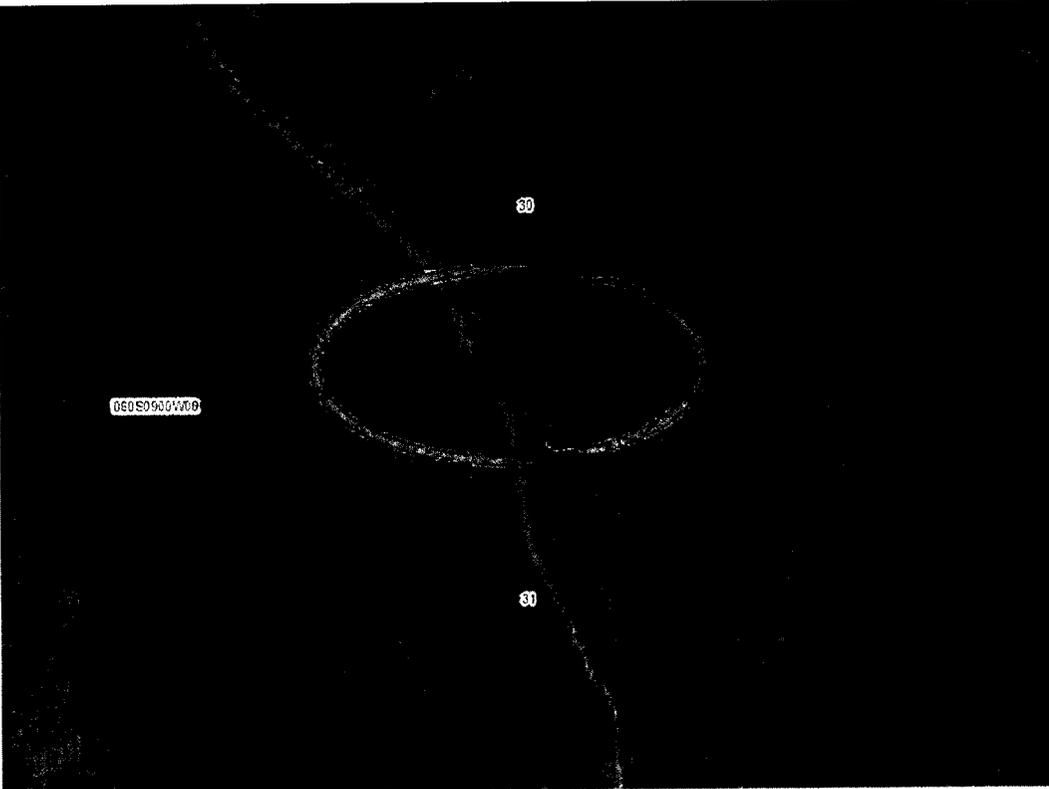
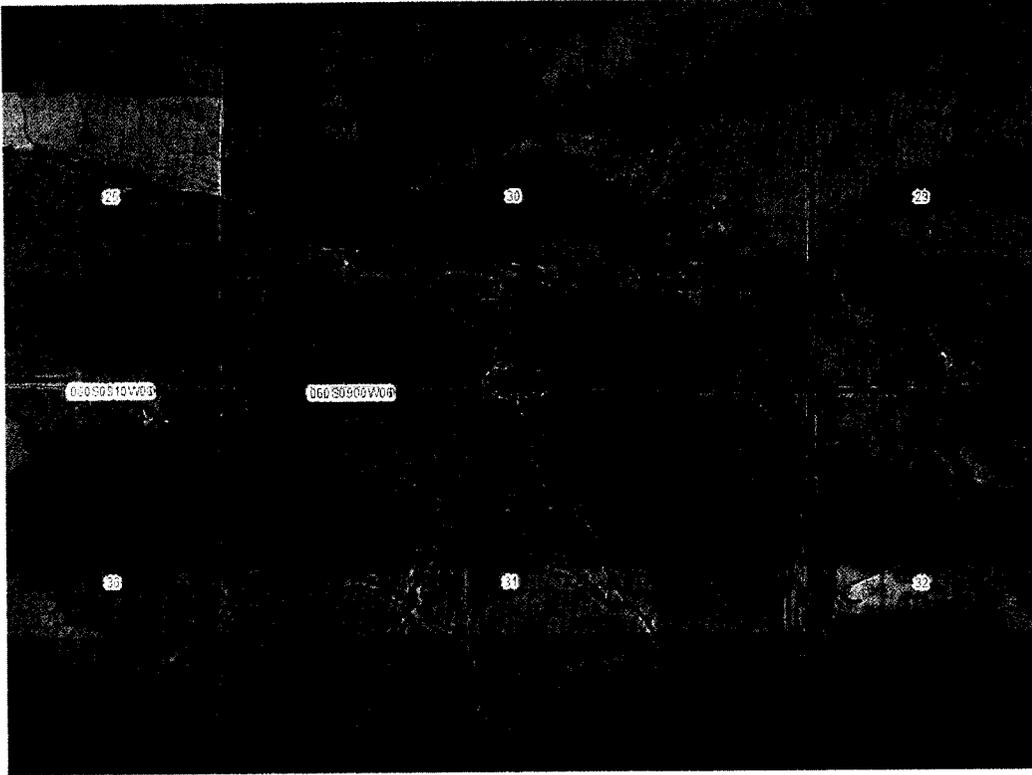
The parcel of land to which the above description applies contains 0.77 acres, more or less.

The acquiring agency is the United States Department of the Interior, Bureau of Land Management.

The easement herein granted is for the full use of the above described property as a road by the UNITED STATES OF AMERICA, its licensees and permittees, including the right of access for the people of the United States generally to lands owned, administered, or controlled by the UNITED STATES OF AMERICA for all lawful and proper purposes subject to reasonable rules and regulations of the Secretary of the Interior. Grantor reserves the right of ingress and egress over and across the road for all lawful purposes: *Provided*, that such use shall not interfere with the easement granted herein: *Provided further*, that the use of the roadway by grantor for any commercial use or any ancillary use thereto shall be subject to Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701; 90 Stat. 2743-2794) and regulation issues thereunder.

The grant of easement herein made is subject to the effect of reservations and leases, if any, of oil, gas, and minerals in and under said land.

COC-73582
Page 1 of 3 pages



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TO HAVE AND TO HOLD said easement unto the UNITED STATES OF AMERICA and its assigns forever.

⑥

Grantor covenants and warrants that they are lawfully seized and possessed of the land aforesaid and have the full right, power and authority to execute this conveyance and that said land is free and clear of liens, claims or encumbrances, except as shown of record, and that they will defend the title to the easement conveyed herein and quiet enjoyment thereof against the lawful claims and demands of all persons.

⑦

Dated this _____ day of _____, 20__.

⑧

Authorized Officer

LACY ORR ⑨

Field Manager

HOWARD SMITH

(ACKNOWLEDGMENT)

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