



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Glenwood Springs Field Office
2300 River Frontage Road
Silt, Colorado 81652
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ENVIRONMENTAL ASSESSMENT

NUMBER: DOI-BLM-CO-N040-2009-0023EA

CASEFILE/PROJECT NUMBER:

COC-73307 & 73308 / 281001971 / Access Road
COC-73309 & 73310 / 285003 / Holy Cross Energy
COC-73311 & 73312 / 286203 / CenturyTel of Eagle

PROJECT NAME: Hell's Gate Ranch, LLC / Utilities Trespass

LEGAL DESCRIPTION: Section 1, lot 13 (within), T. 4 S., R. 87 W.,
Section 36 (within), T. 3 S., R. 87 W., and
Section 33 (within), T. 3 S., R. 86 W.,
6th P.M., Eagle County, CO.

APPLICANT: Hell's Gate Ranch, LLC, contact: Ray Nielsen, 970.328.0237

DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES

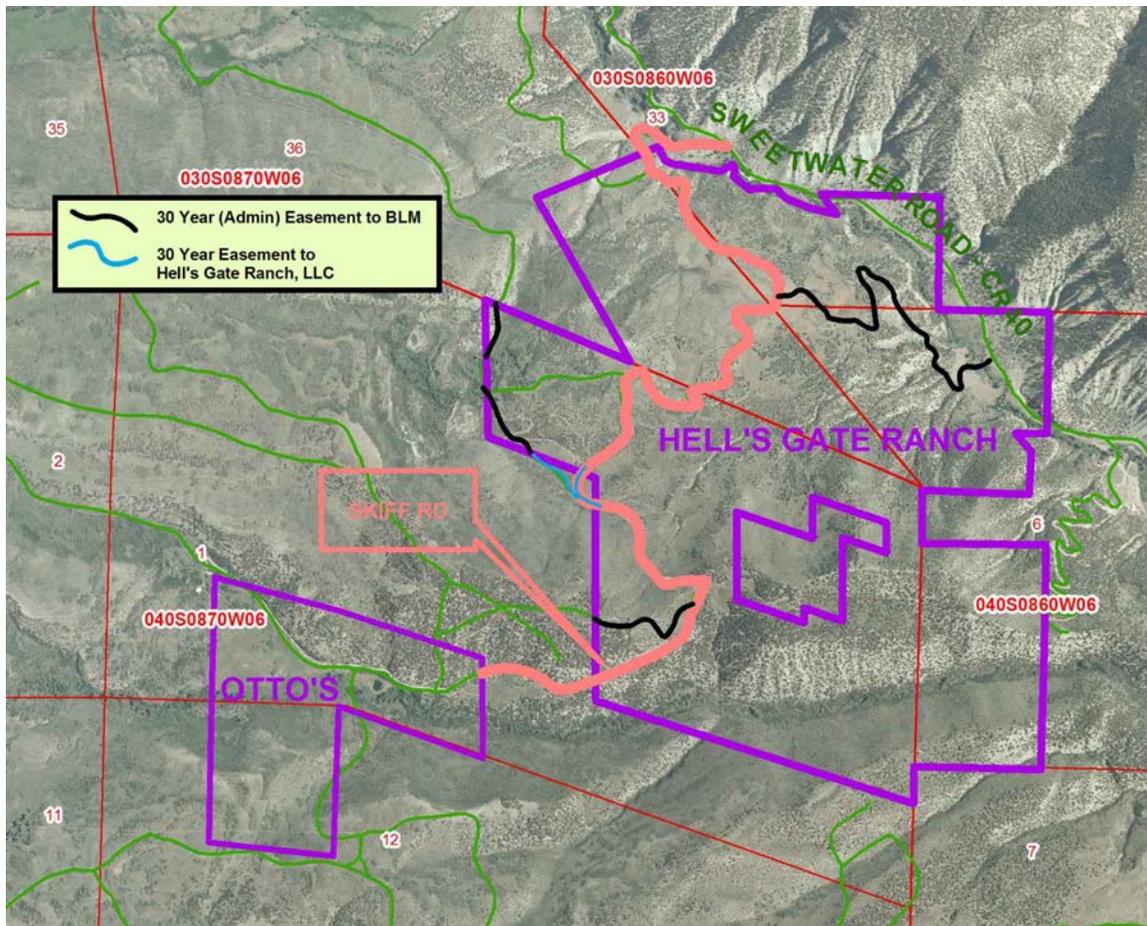
Background/Introduction: On August 13, 2008, BLM discovered that a small portion of a road and underground utilities had been constructed on BLM-managed lands within Section 1, T. 4 S., R. 87 W. The BLM contacted the property owner, Hell's Gate Ranch, LLC (Ray Nielsen, Ranch Manager). Hell's Gate Ranch, LLC plans to develop a 50+ parcel subdivision in the future.

In 1999, a court finding filed by Frederick S. Otto against other land owners (Oscar Tang, Douglas Fasi, Dona Fasi, First Bank of Avon, Public Trustee of Eagle County and Tom Edwards) concluded that the "Skiff Road" was a public road (and the public would have continued access on this road). However, this road is not regularly maintained, and the applicant has agreed to give the BLM a reciprocal easement for administrative purposes (as shown on the map below) on another ingress and egress into the Hell's Gate Ranch to access BLM-managed lands.

In addition, granting a right-of-way to the applicant would include granting rights-of-way to Holy Cross Energy (who is currently in trespass for above ground poles and

underground utilities), CenturyTel telephone lines, and any other future utilities within the road easement.

Holy Cross Energy constructed a 14.4kV single phase overhead distribution line occupying 2.005 acres in Section 1, T. 4 S., R. 87 W., and 0.145 acres in Section 36, T. 3 S., R. 87 W. (within the unauthorized road built by Hells Gate). The overhead distribution line was constructed without authorization.



Proposed Action: On August 26, 2008, Hell’s Gate Ranch, LLC applied for a road right-of-way (ROW) at the request of the BLM across public land in Eagle County, Colorado (the road is commonly called the Skiff Road). In addition, both Holy Cross Energy, and CenturyTel have already constructed their utilities are also are in trespass.

Since these facilities have already been built, issuing the grants would be “after the fact”, and would remove the applicants out of trespass, and into an authorized grant.

If approved, a reciprocal thirty year right-of-way would be granted to BLM for administrative purposes: and in total; three grants would be issued (Hells Gate LLC, Holy

Cross Energy and CenturyTel).

No Action Alternative: A no action alternative would deny the right-of-way grants, however, the Skiff Road (a court decreed public road) would still be utilized for access by the public. The current unauthorized upgrades of the road which includes graveling, and overhead and underground utilities would be removed, and there would be no administrative access reciprocated to the BLM on the private route of Hell's Gate (black line on map above).

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: January, 1984; revised in 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; amended in August 2006 - 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 trespass road and utilities are located within the Deep Creek Landscape which had fieldwork conducted in summer, 2008 and the Final Land Health Assessment Report and Determination Document were signed on September 21, 2009. The evaluation team determined that this portion of the landscape was meeting all the standards for public land health.

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		X
ACECs		X		X	Threatened or Endangered Species		X		X
Cultural Resources		X		X	Wastes, Hazardous or Solid	X		X	
Wilderness		X		X	Water Quality, Drinking and Ground		X		
Floodplains		X		X	Wetlands and Riparian Zones	X			X
Invasive, Non-native Species	X		X		Wild and Scenic Rivers	X			X
Native American Religious Concerns		X		X	Environmental Justice		X		

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 vehicle emissions and dust generation during construction of the subdivision and road upgrading activities. Additionally, vehicle emissions and dust generation would continue throughout the life of subdivision through continued vehicular access. Given the scale of the proposed activities and the existing conditions, it is anticipated that the effects of the proposed action would be minor and overall would have little or no effect on local air quality.

No Action Alternative:

Environmental Consequences: The no action alternative would have little or no affect on air quality.

CULTURAL RESOURCES

Affected Environment: A Class III cultural resource inventory (GSFO#5409-11) was conducted on BLM administered lands. No cultural properties were identified that are eligible or potentially eligible for listing on the National Register of Historic Places (NRHP). Therefore, no formal consultation with the Colorado State Historic Preservation Officer (SHPO) 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).

Proposed Action

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 access and the presence of project 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 illegal collection and excavation to vandalism.

Mitigation: Any additional improvements outside the inventoried area, 50 ft on each side of the centerline of the Skiff Road will require additional cultural inventory.

A standard Education/Discovery/NAGPRA Stipulation for cultural resource protection would be attached to the permit. The importance of this stipulation should be stressed to permittee informing them of their responsibilities to protect and report any cultural resources encountered

No Action Alternative:

Environmental Consequences/Mitigation: Under this alternative the Skiff Road would continue to be used even without the upgrades and the utility companies would have to remove their improvements. These actions might result in the

discovery of cultural resources. The Education/Discovery/NAGPRA Stipulation would somewhat protect undiscovered cultural resources.

ENVIRONMENTAL JUSTICE

Affected Environment: Review of 2004 data from US Census Bureau indicates the median annual income of Garfield County averages \$50,119 and is neither an impoverished or wealthy county. Median annual income of Eagle County averages \$59,037 and is not impoverished but is considered a wealthy county. U.S. Census Bureau data from 2006 shows the minority population of Garfield and Eagle County comprises less than 0.6 % of the total population of Colorado¹.

Garfield County	Eagle County
Median Household Income (2004)	Median Household Income (2004)
Estimate	Estimate
\$50,119	\$59,037

Environmental Consequences/Mitigation: The proposed action and alternatives are not expected to create a disproportionately high and adverse human health impact or environmental effect on minority or low-income populations within the area.

INVASIVE, NON-NATIVE SPECIES

Affected Environment: No noxious weeds have been documented in the specific project area; however, noxious weeds occur in the general vicinity and are likely to invade the road right-of-way (ROW).

Environmental Consequences/Mitigation: Weeds generally germinate and become established in areas of surface disturbing activities such as road construction and maintenance, vehicular traffic. Vehicular traffic, in particular, often serves as a conduit for the transportation of weeds or weed seeds. The risk of noxious weeds invading the site following the construction of the road is high.

Mitigation: To reduce the opportunities for weeds to become established, the disturbed areas will be reseeded with a certified weed-seed free mixture of native grasses adapted to the site (as indicated in the Vegetation Section). The right-of-way holder will continue to monitor the project area to detect the presence of any noxious weeds for the life of the ROW and will be responsible for promptly controlling any noxious weeds on the Colorado State List A or B (except redstem

¹ Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, Census of Population and Housing, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits, Consolidated Federal Funds Report
Last Revised: Wednesday, 02-Jan-2008 15:11:03

filaree). If the right-of-way holder 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.

The right-of-way holder is to ensure equipment involved in land disturbing actions be clean of noxious weed seeds or preparative parts prior to entry on site. When working in areas with noxious weeds, equipment should be cleaned prior to moving off site.

No Action Alternative: Under the No Action alternative, no new surface disturbance would occur in the project area and the risk of noxious weed invasion would remain the same as the current situation.

MIGRATORY BIRDS

Affected Environment:

The action area is comprised primarily of sagebrush and scattered pinyon juniper in the flats and mixed mountain shrub (serviceberry, mountain mahogany, snowberry, oakbrush) on the steeper slopes. Given the mix and diversity of vegetation present, the area provides cover, forage and nesting habitat for a variety of migratory bird species. Priority species on the USFWS Birds of Conservation Concern List that may nest in the area include: sage sparrow, Virginia's warbler, pinyon jay and black-throated gray warbler. Golden eagles, red tailed hawks and other raptors likely forage in the area.

Environmental Consequences/Mitigation:

Proposed Action:

The proposed action is to grant an after the fact right-of-way. Improvements to the road if conducted during the spring nesting season could have resulted in temporary displacement of birds to adjacent habitats due to noise and human commotion. The action resulted in very little new habitat loss and likely didn't result in the intentional take of any native bird species. It is unlikely that the action reduced the extent or severely impaired the quality of habitat available for migratory bird breeding functions.

Impacts may result from the upgrading of the road which will facilitate increased use. Birds may shy away from nesting in the vicinity of the road as vehicle use increases. Thus the amount of functional or usable habitat will be insignificantly reduced. No intentional take of native bird species is anticipated under the proposed action or the anticipated long-term use of the road.

No Action:

Under the no action alternative, no right-of-way would be granted. The buried utilities would be removed and the road would be left to nature with no regular maintenance. Impacts to migratory birds would be slightly reduced.

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 inventory. The Ute Tribe of the Uintah and Ouray Bands, the primary Native American tribe with ties to 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 in the vicinity of the proposed project could result in impacts to unknown Native American resources ranging from illegal collection to vandalism. The standard Education/Discovery/NAGPRA Stipulation for cultural resource protection would be attached to the permit. The importance of this stipulation should be stressed to the permittee informing them of their responsibilities to protect and report any cultural resources encountered during vegetative clearing, rock removal, ramp removal, and reseeding.

No Action Alternative:

Environmental Consequences/Mitigation: Under this alternative the Skiff Road would continue to be used even without the upgrades and the utility companies would have to remove their improvements. These actions might result in the discovery of Native American areas of concern. The Education/Discovery/NAGPRA Stipulation would somewhat protect undiscovered cultural resources.

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

Affected Environment:

Federally Listed, Proposed or Candidate Plant Species:

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 and candidate fish, wildlife, and plant species may reside, have habitat, and/or be impacted by actions occurring in Eagle County: Canada lynx, black-footed ferret, Mexican spotted owl, western yellow-billed cuckoo, razorback sucker, Colorado pikeminnow, bonytail chub, humpback chub, Uncompahgre fritillary butterfly, Ute ladies'-tresses orchid (*Spiranthes diluvialis*).

On the BLM portion of the project area, there is no potential or suitable habitat for any of the above noted species that would have been affected by upgrading and widening of the small road segment or placement of the buried utilities.

BLM Sensitive Fish, Wildlife, and Plant Species:

The BLM sensitive plant species, Harrington's penstemon (*Penstemon harringtonii*), has been documented in similar habitat less than 0.5 miles from the proposed road and utilities right-of-way.

Environmental Consequences/Mitigation:

Federally Listed, Proposed and Candidate Fish, Wildlife, and Plant Species:

There are no federally listed, proposed or candidate species or suitable habitat for these species within the project area. Therefore, the improvements to the road, the burial of the associated utilities is likely to have had "No Effect" on these species. Future maintenance and anticipated use of the road is also likely to have "**No Effect**" on these species.

BLM Sensitive Fish, Wildlife, and Plant Species

Due to the nearby occurrence of Harrington's penstemon, a BLM Sensitive plant species, and the similar habitat which is found within the project area, the project area is considered suitable habitat for this species. It is likely that during construction, some Harrington's penstemon plants were lost. Given that the road was already in existence prior to upgrading and that the improved road is only slightly wider than the original footprint, direct losses of Harrington's penstemon plants was probably minimal.

Finding on the Public Land Health Standard for Threatened & Endangered Species:

A land health assessment was conducted in the Deep Creek Landscape which encompasses this proposed action in the summer of 2008. The report indicated that this portion of the landscape was meeting Standard 4 for special status, threatened, and endangered species. Granting the after-the-fact right-of-way is not likely to result in a failure to achieve Standard 4.

WASTES, HAZARDOUS OR SOLID

Affected Environment: Vehicle fuel and lubricants would be used during the construction of the subdivision and road upgrading activities. Fuel and lubricants would be present throughout the life of the subdivision associated with continued vehicular access.

Proposed Action

Environmental Consequences/Mitigation: It is anticipated that fuel and lubricants would be stored in appropriate containers during project implementation. Based on the distance of the proposed activities from area drainages, the existing slope angles, and sufficient vegetative cover; it is unlikely that fuel or lubricants would be transported to area drainages.

No Action Alternative

Environmental Consequences/Mitigation: Under the no action alternative there would be no fuel or lubricants present associated with project implementation. However, fuel and lubricants would continue to be used by recreationists in the area.

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

Affected Environment: Proposed activities would occur on BLM lands within the 13,125 acre Lower Sweetwater Creek 6th field watershed and approximately 1 mile southeast of the perennial Sweetwater Creek and approximately 400 feet north of the ephemeral Irrawaddy Creek which is directly tributary to Sweetwater Creek to the east. At this time, neither of these drainages is listed on the State of Colorado's 303(d) list or the Monitoring and Evaluation list.

Proposed Action

Environmental Consequences/Mitigation: The proposed activities would involve disturbing nearby ground and upgrading the existing two track road. These activities could result in additional sediment available for transport to nearby drainages during runoff events. Construction BMPs would be used during these activities to provide proper drainage from the road and to prevent sediment and pollutants from entering nearby drainages.

No Action: The no action alternative would result in no road upgrades and the primitive two track would likely deteriorate over time contributing additional sediment during runoff events to nearby drainages.

Finding on the Public Land Health Standard for water quality: In 2008, the BLM Glenwood Springs Field Office collected water quality data on Irrawaddy Creek and Sweetwater Creek. During that time, water quality was overall good.

NON-CRITICAL ELEMENTS

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

SOILS (includes a analysis 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 two separate soil map units both of which are described as having severe water erosion hazard. Following is a brief description of the two soil map units within the project area.

- Cushool-Rentsac complex (25) – This soil map unit is found on mountains and mesa side slopes at elevations ranging from 6,200 to 7,600 feet and on

slopes of 15 to 65 percent. Approximately 45 percent of this soil map unit is Cushool soil and 40 percent Rentsac soil. The Cushool soil is moderately deep, well drained, derived from sandstone and shale, and is found on slopes of 15 to 50 percent. Surface runoff for this soil is rapid and the erosion hazard is classified as severe. The Rentsac soil is shallow, well drained, derived from sandstone, and is found on slopes of 25 to 65 percent. Surface runoff for this soil is rapid and the erosion hazard is classified as severe. Primary uses for this soil map unit include rangeland, wildlife habitat, Christmas trees, firewood, and fence posts.

- Torriorthents-Camborthids-Rock outcrop complex (104) – This soil map unit occurs on south-facing mountainsides, hills, and ridges with slopes ranging from 6 to 65 percent. Approximately 45 percent of this unit is Torriorthents, 20 percent Camborthids, and 15 percent Rock outcrop. The Torriorthents are shallow to moderately deep, well drained, and are derived from sedimentary rock. Surface runoff is rapid and the water erosion hazard is severe. The Camborthids are shallow to deep, well drained, and are derived from sandstone, shale, and basalt. Surface runoff is rapid and the water erosion hazard is severe. The Rock outcrop component of this unit consists of exposed sandstone, shale, and basalt. This soil map unit is used primarily for wildlife habitat.

Proposed Action

Environmental Consequences/Mitigation: Proposed activities would result in soil compaction and displacement associated with construction of the subdivision and road upgrades. This could result in an increase in erosion and sediment available for transport to area drainages where sufficient groundcover is unavailable. Based on the distance of the proposed activities from area drainages, the existing slope angles, the proposed application of gravel, and sufficient vegetative cover; it is unlikely that sediment would be transported to area drainages and that these disturbed areas would serve as future significant sediment sources.

No Action Alternative

Environmental Consequences: The no action alternative could have potential negative impacts on soil resources. Continued vehicular traffic on a primitive two track would result in soil compaction and detachment. In addition, these impacted areas would serve as potential erosion and sediment sources while the proposed activities would provide sufficient groundcover in the form of gravel to prevent excessive erosion and sediment transport.

Analysis on Public Land Health Standard 1 for Upland Soils: In 2008, the BLM Glenwood Springs Field Office evaluated soil conditions within the project area. During that time, it was determined that area soils were meeting Standard 1.

VEGETATION (includes a finding on Standard 3)

Affected Environment: The project area is comprised primarily of mesic mountain shrubs such as Gambel oak, serviceberry, snowberry and mountain big sagebrush.

Environmental Consequences/Mitigation: The road has already been upgraded and the utilities already buried. The proposed action is to grant an after-the-fact right-of-way. The original road which existed in the project area was a light-duty two-track route. The upgraded road with buried utilities is slightly wider than the original footprint. Since the road was already in existence, loss of vegetation associated with the improvements was minimal.

Use of the road is anticipated to increase following granting of the right-of-way since the road will facilitate planned development of a subdivision on private lands. The additional traffic associated with the housing development may result in some additional impacts to vegetation. Noxious weeds may be introduced into the area on vehicles. Seeding of the disturbed areas and timely, targeted noxious weed control would help minimize any reduction in the diversity of native vegetation composition.

Mitigation: To help prevent invasion of noxious weeds and reestablish native, perennial vegetation on the site, the disturbed areas adjacent to the road will be seeded with native grasses and forbs. The seed mix will be as follows:

<u>Species of Seed</u>	<u>Variety</u>	<u>Application Rate (PLS lbs/ac)</u>
Mountain brome	Garnet, Bromar	7.0
Slender wheatgrass	San Luis	3.5
Bluebunch wheatgrass	Anatone, Goldar, P-7	3.0
Muttongrass	VNS	0.5
Total		14.0 PLS lbs/ac

The seed mix will be certified free of noxious weed seeds, i.e. the seed shall contain no noxious, prohibited, or restricted weed seeds and shall contain no more than 0.5 percent by weight of other weed seeds.

Where practical, seed shall be **installed by drill-seeding** to a depth of 0.25 to 0.5 inches. Where drill-seeding is impracticable, seed may be installed by broadcast-seeding at twice the drill-seeding rate shown in the table above. The seeded area shall be raked or harrowed following broadcast seeding to provide 0.25 to 0.5 inches of soil cover.

Hydroseeding and hydromulching may be used where drill-seeding or broadcast-seeding/raking are impracticable. Hydroseeding and hydromulching must be conducted in two separate applications to ensure adequate contact of seeds with the soil.

Prior to seeding, the seedbed shall be scarified and left with a rough surface. No depressions shall be left that would trap water and form ponds. Final seedbed preparation shall consist of contour cultivating to a depth of 4 to 6 inches within 24 hours prior to seeding.

Biodegradable straw matting, bales or wattles of weed-free straw or native grass hay, or well-anchored fabric silt fence shall be used on all cut-and-fill slopes and along drainages to protect against soil erosion. Mulch shall be applied within 24 hours following completion of seeding. Mulch shall consist of crimping certified weed-free straw or certified weed-free native grass hay into the soil. Hydromulching may be used in areas where crimping is impracticable.

Finding on the Public Land Health Standard for plant and animal communities (partial, see also Wildlife, Aquatic and Wildlife, Terrestrial): A land health assessment was conducted in the Deep Creek Landscape which encompasses this proposed action in the summer of 2008. The report indicated that this portion of the landscape was meeting Standard 3 for healthy plant communities. Granting the after the fact right-of-way is not likely to result in a failure to achieve the Standard for healthy plant communities.

WILDLIFE, AQUATIC (includes a finding on Standard 3)

Affected Environment:

The road in question is located upslope and within 0.5 miles of Sweetwater Creek. This creek contains rainbow, brown, cutthroat, and brook trout. In addition, aquatic insects are abundant and diverse.

Environmental Consequences/Mitigation:

Proposed Action:

The road has already been upgraded and the utilities already buried (through a utility conduit). The action is to grant an after the fact right-of-way. The original road was a small two-track that received very limited use or maintenance. The new road is much nicer and is graveled and ditched. It is likely that during construction sediment was moved offsite and into nearby ephemeral drainages and eventually into Sweetwater Creek. Impacts were likely the addition of fine sediments into the stream that filled in important spawning substrates and impaired aquatic insect productivity. These impacts were likely very limited and short term. If BMP's were used to retain disturbed soils on site then impacts would have been reduced.

The main impact now will be the long-term use and maintenance of the road. Long-term use of the road will continue to add sediments into ephemeral drainages and eventually Sweetwater Creek. Again, sediment can impact trout by silting in stream substrates important for aquatic insect production which is an important food source for trout, and by silting in spawning areas which could lead to smothering of eggs and reduced fish productivity. Proper drainage via properly

sized and placed culverts and subsequent culvert and road maintenance will help to minimize erosion and sediment concerns in the long-term.

No Action:

Under the No Action alternative, an after the fact right-of-way would not be granted. The utilities would be removed and the roadbed would be left to nature as was the case before construction. The road would still be used but maintenance would not likely occur very often if at all and offsite erosion and movement of sediments would be a greater concern regarding trout located in Sweetwater Creek.

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

A land health assessment was conducted in the landscape which encompasses this proposed action in the summer of 2008. The report indicated that this portion of the landscape was meeting the Standard for healthy aquatic wildlife. Granting the after the fact right-of-way is not likely to result in a failure to achieve the Standard for aquatic wildlife.

WILDLIFE, TERRESTRIAL (includes a finding on Standard 3)

Affected Environment:

The project area is comprised primarily of sagebrush and pinyon juniper with some mountain mahogany, serviceberry, and snowberry on the upper slopes. These communities typically provide habitat for big game species as well as small mammals, reptiles and birds. The area is mapped as important big game winter habitat - winter concentration area and severe winter range (CDOW 2008).

Environmental Consequences/Mitigation:

Proposed Action:

The road has already been upgraded and the utilities already buried. The action is to grant an after the fact right-of-way. The original road was a small two-track that received very limited maintenance. The new road is much nicer and is graveled and ditched. Since the road was already in existence prior to upgrading, new habitat disturbance is minimal as the road is only slightly larger than the original footprint. Thus impacts associated with direct habitat loss are minimal.

Impacts to wildlife will result from the anticipated increased use of the road and increased speeds that the upgraded road will facilitate. It is likely that use of the BLM road segment will increase as construction of houses begins on adjacent private lands, and as residents take occupancy of these houses. Because the old road was not maintained especially for winter travel, use of the road was very limited. Use will now occur year round. This may displace big game out of the area during the winter months when they are concentrated on their winter range. Studies have shown that mule deer and elk use of habitats located within 0.2 to 0.5 miles of frequently traveled roads is significantly reduced. Animals will be

forced to move to other winter range habitats and may be more heavily concentrated on remaining tracts of intact habitat. Increased speeds will result in the increased risk and likelihood of direct mortality to wildlife, especially small mammals. Adherence to residential speed limits would help to minimize this impact/risk.

No Action:

Under the no action alternative no after the fact right-of-way would be granted. The utility lines would be removed and the road would be left to nature and would receive limited maintenance. Use would be reduced and impacts to terrestrial wildlife would be reduced.

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

A land health assessment was conducted in the landscape which encompasses this proposed action in the summer of 2008. The report indicated that this portion of the landscape was meeting the Standard for healthy terrestrial wildlife. Granting the after the fact right-of-way is not likely to result in a failure to achieve the Standard 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			
Fire/Fuels Management			
Forest Management			
Geology and Minerals	X		
Law Enforcement			
Paleontology	X		
Noise	X		
Range Management		X	X
Realty Authorizations			
Recreation		X	
Socio-Economics			
Visual Resources		X	

ACCESS AND TRANSPORTATION

Affected Environment: The road in question is a court decreed public road (Skiff Road). However, more use is planned because of the future development planned (subdivision), and the road has been upgraded with gravel and slightly wider.

Environmental Consequences/Mitigation: The road has already been upgraded and the utilities already buried (through a utility conduit). The action is to grant an after the fact right-of-way. The original road was a small two-track that received very limited use or maintenance. The new road is much nicer and is graveled and ditched. Best Management Practices shall be adhered to to protect the resources.

Proposed Action: The administrative easement obtained by the BLM would improve access to BLM managed lands.

No Action: Administrative access to conduct land health assessments, vegetation monitoring/inventory, and grazing permit compliance, and other administrative needs would not be obtained.

RANGE MANAGEMENT

Affected Environment: The proposed action is located on or near the Moniger Ridge 1 and Moniger Ridge 2 grazing allotments.

Proposed Action: The administrative easements obtained by the BLM would improve access to the two grazing allotments mentioned above and increase the BLM's efficiency in conducting land health assessments, vegetation monitoring/inventory, and grazing permit compliance.

No Action: Administrative access to conduct land health assessments, vegetation monitoring/inventory, and grazing permit compliance would not be obtained.

CUMULATIVE IMPACTS SUMMARY:

MIGRATORY BIRDS:

The BLM road segment in question is part of a larger constructed road network located on adjacent private lands that was constructed to facilitate the construction of a 50+ parcel residential housing development. The additional roads and planned houses will result in cumulative impacts to migratory birds as additional direct and indirect habitat losses occur. This will impact birds as they shift use away from the developed areas and concentrate use on limited remaining intact pieces of suitable nesting and breeding habitats.

WILDLIFE, AQUATIC:

The BLM road segment in question is part of a larger constructed road network located on adjacent private lands that was constructed to facilitate the construction of a 50+ parcel residential housing development. The additional roads and planned houses will result in cumulative impacts to Sweetwater Creek and the trout located within the stream. Potential for offsite erosion and sediment movement will increase as more ground is disturbed to construct planned houses and associated infrastructure. Sediment impacts

trout species by silting in important spawning habitat which can result in the smothering of eggs and reduced productivity and recruitment. In addition, aquatic insect productivity can be impaired which impacts fish and certain terrestrial wildlife that rely on these insects as an important food source.

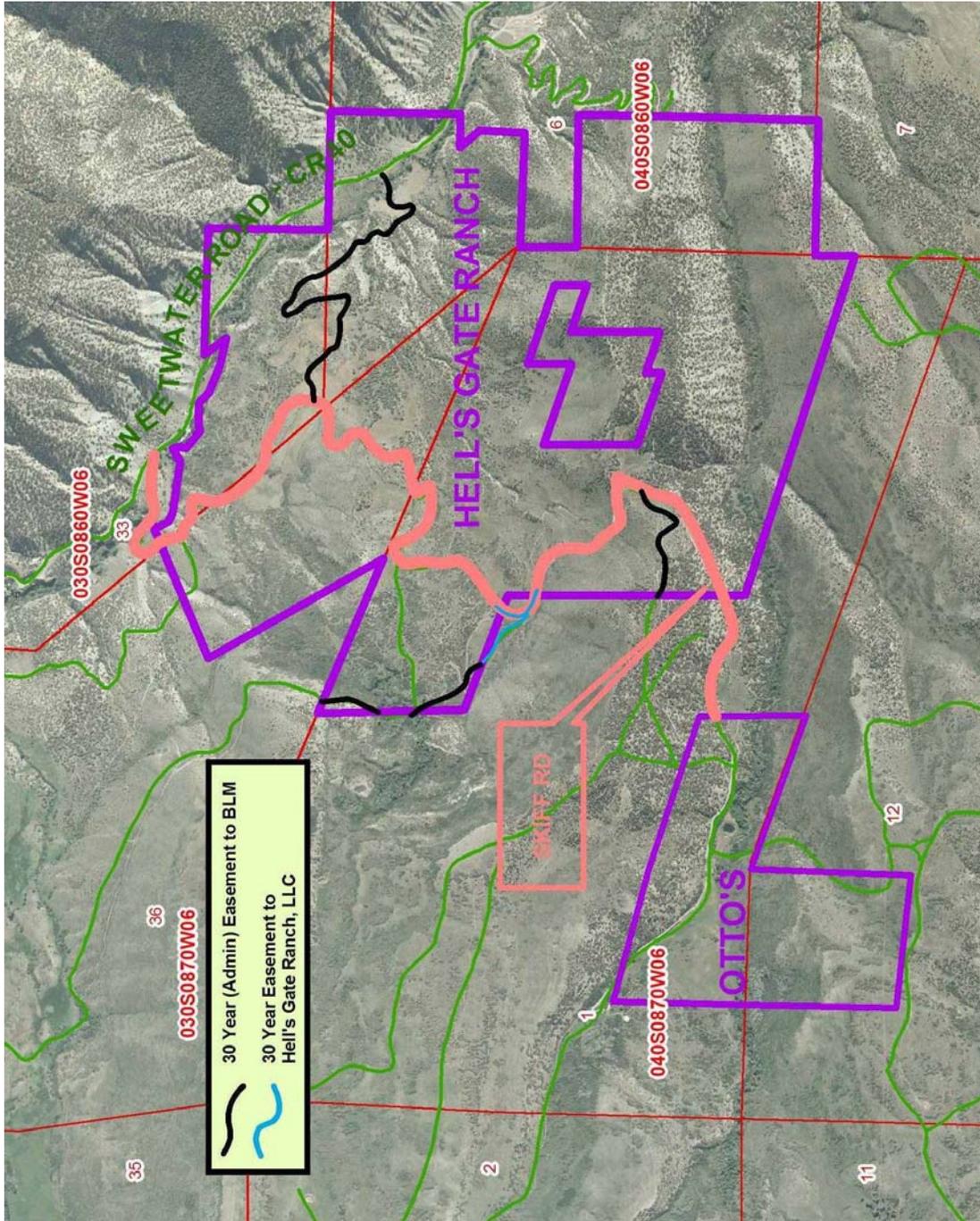
WILDLIFE, TERRESTRIAL:

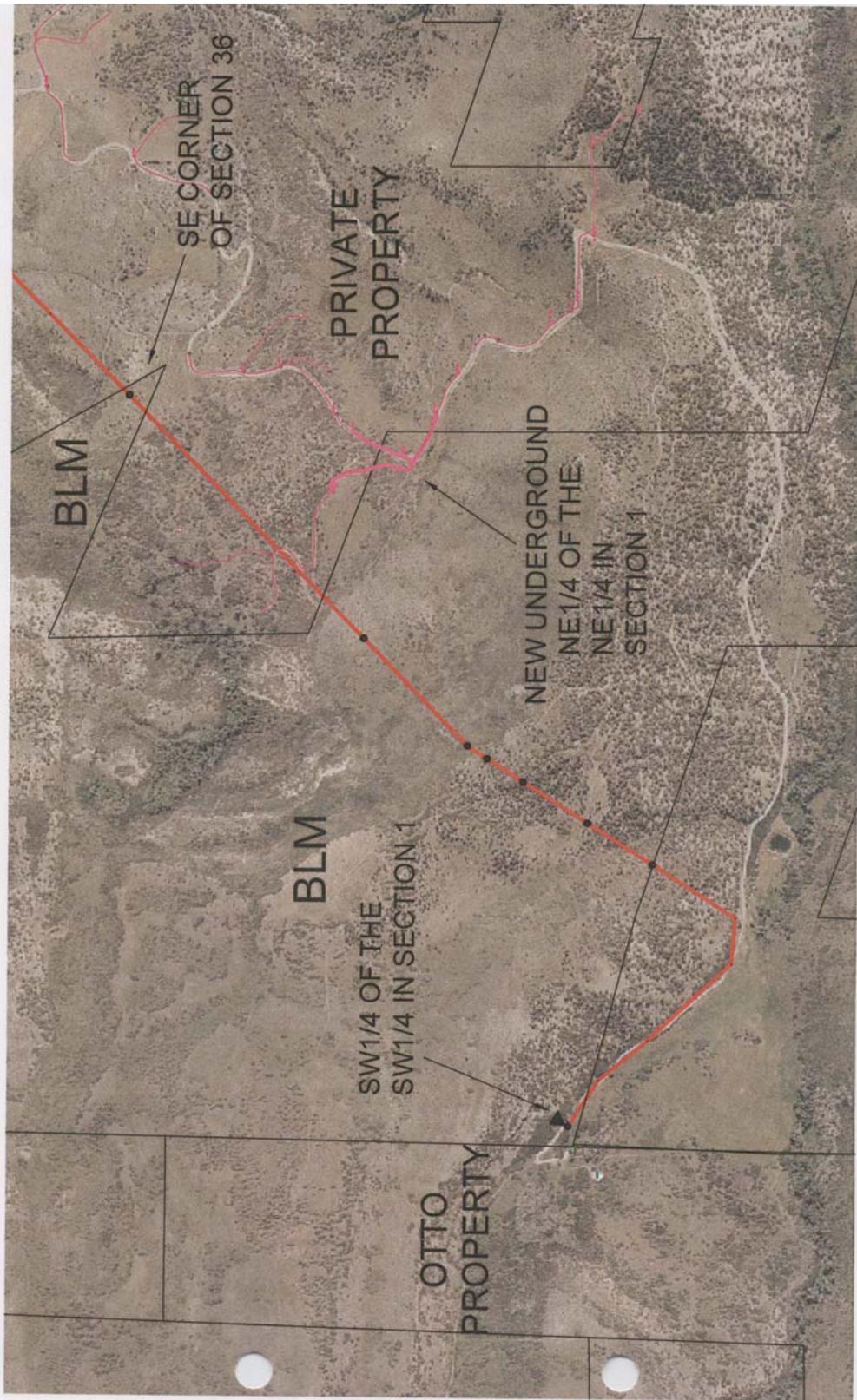
The BLM road segment in question is part of a larger constructed road network located on adjacent private lands that was constructed to facilitate the construction of a 50+ parcel residential housing development. The additional roads and planned houses will result in cumulative impacts to terrestrial wildlife as additional direct and indirect habitat losses occur. This will impact big game as they shift use and concentrate on limited remaining intact pieces of suitable winter range in nearby areas.

INTERDISCIPLINARY REVIEW:

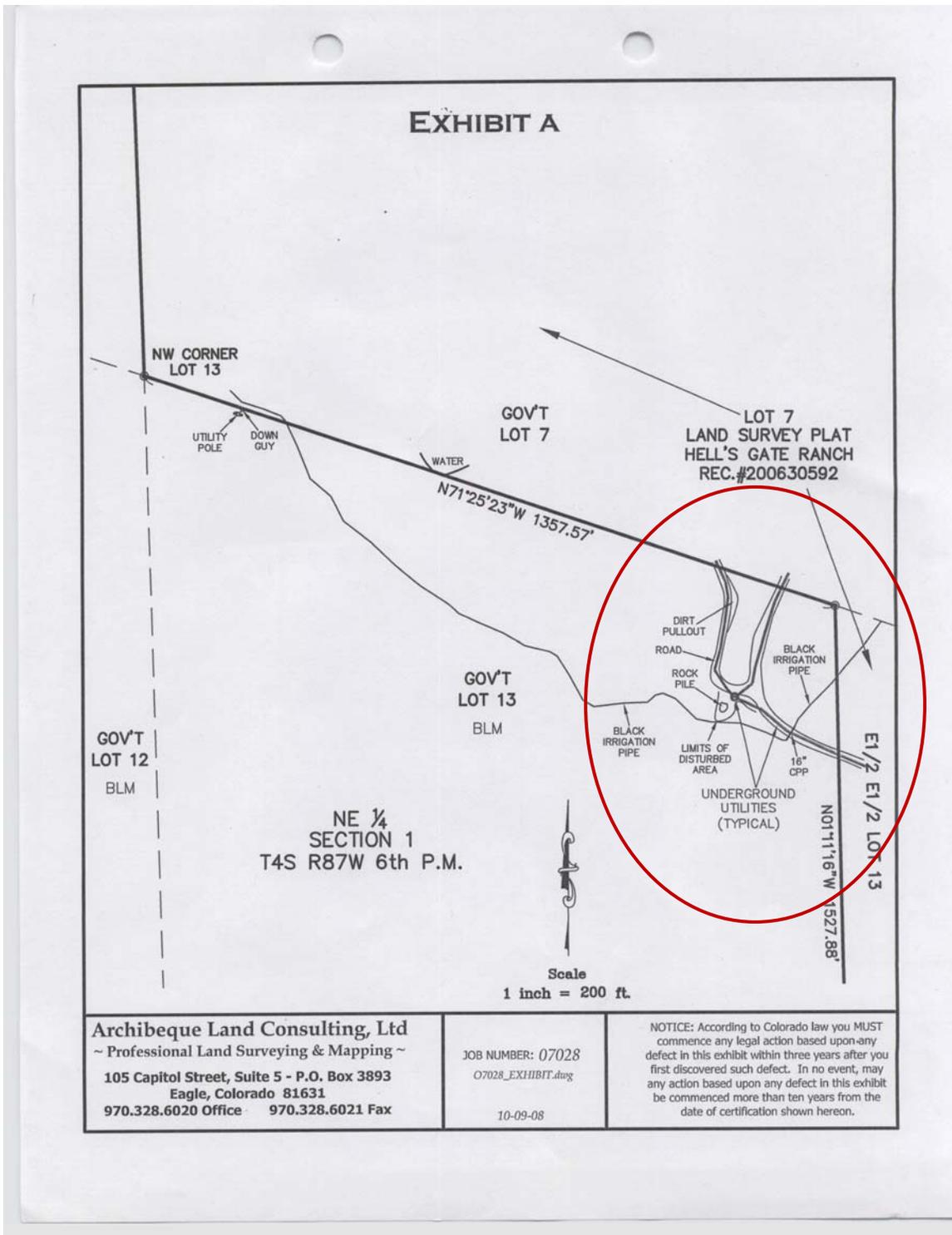
<i>Name</i>	<i>Title</i>	<i>Responsibility</i>
Jeff O'Connell	Hydrologist	Soil, Air, Water, Geology
Cheryl Harrison	Archaeologist	Cultural Resources and Native American Concerns
Brian Hopkins	Wildlife Biologist	Migratory Birds, Special Status Animals, Aquatic and Terrestrial Wildlife
Carla DeYoung	Ecologist	Land Health Stds, ACEC, T/E/S Plants, Vegetation
Kay Hopkins	Outdoor Recreation Planner	WSR, Wilderness, VRM
Mike Kinser	Rangeland Management Specialist	Wetlands and Riparian Zones
Dereck Wilson	Rangeland Management Specialist	Invasive, Non-Native Species

APPENDICES: Location map, drawings and specifications





Holy Cross Energy Underground Utility



Holy Cross Energy and CenturyTel Underground Utility Lines within 2-inch conduits provided by Hells Gate LLC)

**Finding Of No Significant Impact
DOI-BLM-CO-N040-2009-0023**

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.

DECISION: Approve the current three trespasses:

1. Hells Gate LLC, approve upgrade to existing "Skiff Road"
2. Holy Cross Energy, approve 14.4kV Overhead Distribution Line and a 14.4kV Underground Distribution Line, and
3. CenturyTel, approve underground copper telephone line housed in a 2-inch conduit.

RATIONALE: Denying this action is unreasonable since the road (Skiff) already exists and access has been affirmed by a court decree. The upgrade of the Skiff Road, and the two underground utilities are within compatible rights-of-way and affect a very small portion of public lands. The proposed action is a part of the Federal Land Policy and Management Act of 1976, specifically, Title V, Section 501, authorization to grant rights-of-way.

MITIGATION MEASURES: Mitigation measures presented in this environmental analysis will be incorporated as Stipulations into the Grants.

NAME OF PREPARER: Carole Huey, Realty Specialist

SIGNATURE OF AUTHORIZED OFFICIAL:


Authorized Officer

DATE SIGNED: _____

10/28/09

ATTACHMENTS:
Right-of-Way Grants

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:

Hells Gate Ranch, LLC (Ray Nielsen AIA / 970.328.0237)
PO Box 5050
Eagle, CO 81631

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

Eagle County, Colorado, Sixth Principal Meridian

T. 4 S., R. 87 W.,
Lot 13, E2E2, Section 1.

b. The right-of-way area granted here is for a graveled road right-of-way and is **30 feet wide, 1,754 feet long** and contains **1.21 acres, more or less**. The underground utility conduits are within the road right-of-way.

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 **October 27, 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:

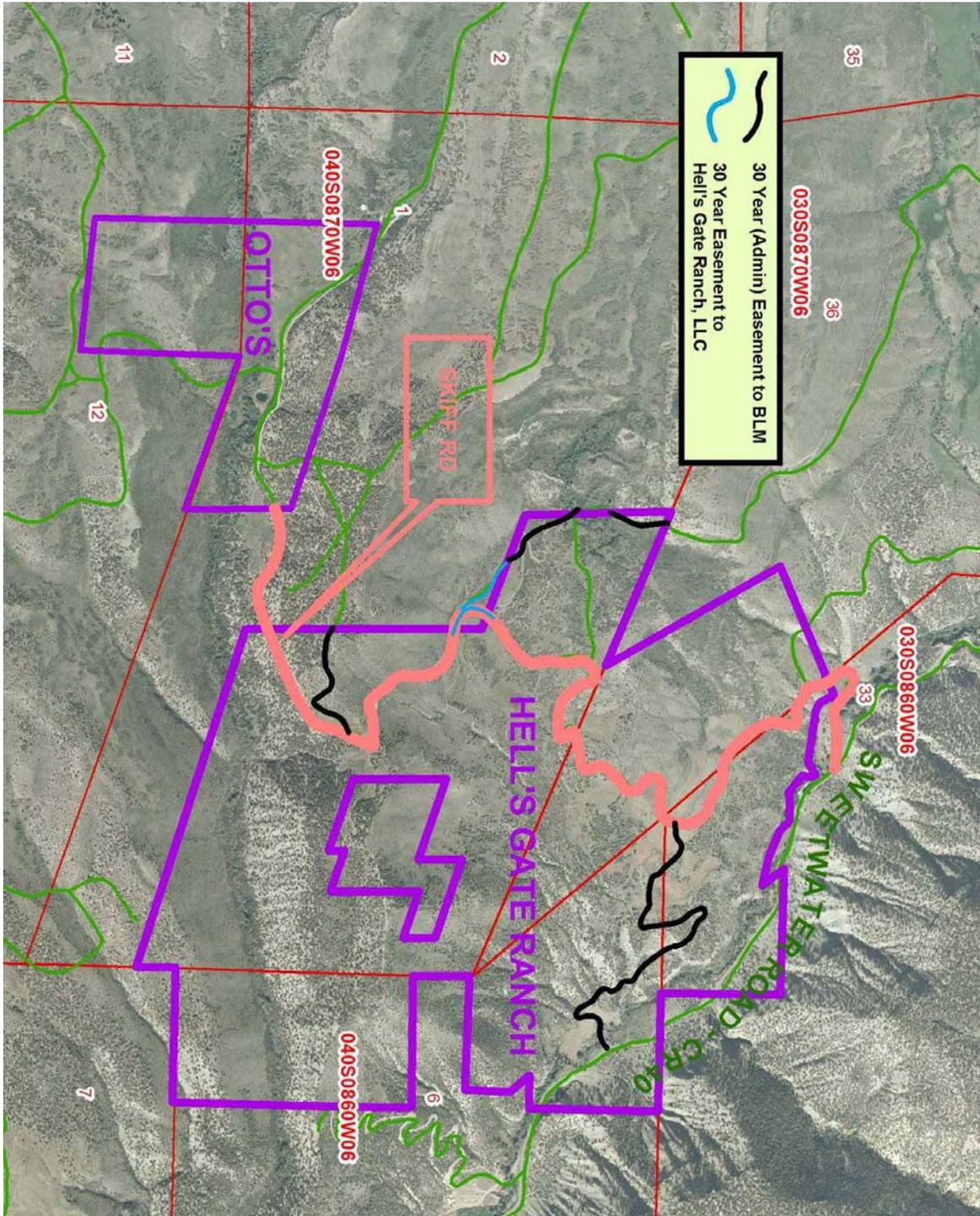
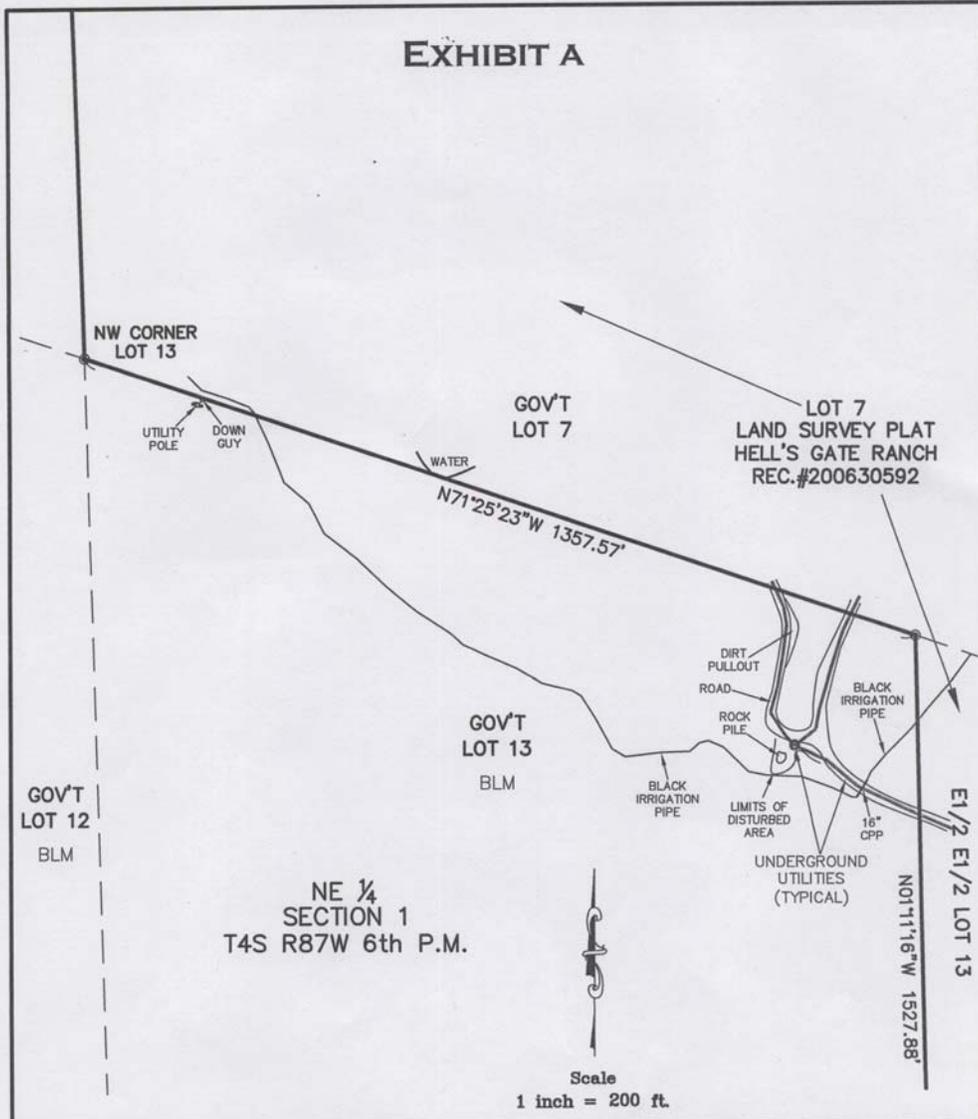


EXHIBIT A



Archibeqe Land Consulting, Ltd
 ~ Professional Land Surveying & Mapping ~
 105 Capitol Street, Suite 5 - P.O. Box 3893
 Eagle, Colorado 81631
 970.328.6020 Office 970.328.6021 Fax

JOB NUMBER: 07028
 07028_EXHIBIT.dwg
 10-09-08

NOTICE: According to Colorado law you MUST commence any legal action based upon any defect in this exhibit within three years after you first discovered such defect. In no event, may any action based upon any defect in this exhibit be commenced more than ten years from the date of certification shown hereon.

EXHIBIT B: STIPULATIONS, COC-073307

Hells Gate Ranch, LLC

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-073307 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 90 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. An administrative easement to the United States will be reciprocated for the life of this grant (as shown in black on attached map).
7. In order to protect the resources, Best Management Practices (BMPs) will be used; these practices can be found on the following website,

http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices.html

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.

Any additional improvements outside the inventoried area, 50 ft on each side of the centerline of the Skiff Road will require additional cultural inventory.

9. To reduce the opportunities for weeds to become established, the disturbed areas will be reseeded with a certified weed-seed free mixture of native grasses adapted to the site (as indicated in the Vegetation Section). The right-of-way holder will continue to monitor the project area to detect the presence of any noxious weeds for the life of the ROW and will be responsible for promptly controlling any noxious weeds on the Colorado State List A or B (except redstem filaree). If the right-of-way holder 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.
10. The right-of-way holder is to ensure equipment involved in land disturbing actions be clean of noxious weed seeds or preparative parts prior to entry on site. When working in areas with noxious weeds, equipment should be cleaned prior to moving off site.
11. To help prevent invasion of noxious weeds and reestablish native, perennial vegetation on the site, the disturbed areas adjacent to the road will be seeded with native grasses and forbs. The seed mix will be as follows:

<u>Species of Seed</u>	<u>Variety</u>	<u>Application Rate (PLS lbs/ac)</u>
Mountain brome	Garnet, Bromar	7.0
Slender wheatgrass	San Luis	3.5
Bluebunch wheatgrass	Anatone, Goldar, P-7	3.0
Muttongrass	VNS	0.5
Total		14.0 PLS lbs/ac

The seed mix will be certified free of noxious weed seeds, i.e. the seed shall contain no noxious, prohibited, or restricted weed seeds and shall contain no more than 0.5 percent by weight of other weed seeds.

Where practical, seed shall be **installed by drill-seeding** to a depth of 0.25 to 0.5 inches. Where drill-seeding is impracticable, seed may be installed by broadcast-seeding at twice the drill-seeding rate shown in the table above. The seeded area shall be raked or harrowed following broadcast seeding to provide 0.25 to 0.5 inches of soil cover.

Hydroseeding and hydromulching may be used where drill-seeding or broadcast-seeding/raking are impracticable. Hydroseeding and hydromulching must be conducted in two separate applications to ensure adequate contact of seeds with the soil.

Prior to seeding, the seedbed shall be scarified and left with a rough surface. No depressions shall be left that would trap water and form ponds. Final seedbed

preparation shall consist of contour cultivating to a depth of 4 to 6 inches within 24 hours prior to seeding.

Biodegradable straw matting, bales or wattles of weed-free straw or native grass hay, or well-anchored fabric silt fence shall be used on all cut-and-fill slopes and along drainages to protect against soil erosion. Mulch shall be applied within 24 hours following completion of seeding. Mulch shall consist of crimping certified weed-free straw or certified weed-free native grass hay into the soil.

Hydromulching may be used in areas where crimping is impracticable.

11. Proper drainage via properly sized and placed culverts and subsequent culvert and road maintenance will help to minimize erosion and sediment concerns in the long-term (refer to BMPs).

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

Hells Gate Ranch, LLC

Associate Field Manager, Karl R. Mendonca

Date

Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT

SERIAL NUMBER COC-073309
14.4kV Distribution line serving Hells Gate Ranch, LLC

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:

Holy Cross Energy
3799 Highway 82
P.O. Box 2150
Glenwood Springs, Colorado 81602

receives a right to construct, operate, maintain, and terminate a 14.4 kV, single phase overhead power line (30ft x 3201ft), and buried line (10ft x 700ft) to serve Hells Gate Ranch, LLC as shown on public lands described as follows:

Section 1, T. 4 S., R.87 W., and
Section 36, T. 3 S., R 87 W.
6th Principal Meridian, Eagle County, Colorado

b. The right-of-way area granted here is 30 feet wide, 3201 feet long and contains 2.20 acres, more or less within Section 1, T. 4 S., R.87 W., and 10 feet wide by 700 feet long and contains 0.161, more or less within Section 36, T. 3 S., R 87 W, for a total of 2.36 acres, more or less.

c. The right of ingress and egress is granted on existing roads.

d. This instrument shall terminate on December 31, 2038, unless, prior

thereto, it is renewed, relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

- e. This instrument may be renewed. If renewed, the right-of-way 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.
 - f. 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 issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800, and all other applicable federal, state, and local laws, regulations, and standards.
- 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 plans, maps, or designs set forth in the Application, and Special Stipulations and Conditions (Exhibits A and B 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.
- e. 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.

SPECIAL STIPULATIONS AND CONDITIONS

1. The holder shall notify the Glenwood Springs Field Manager (Authorized Officer) at least ten (10) days prior to the start of construction or any surface disturbing activities. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction or surface disturbing activities.

2. The plans, maps, and designs set forth in the application 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.

3. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices. 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.

4. In order to protect the resources, Best Management Practices (BMPs) will be used; these practices can be found on the following website,

http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices.html

5. 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.

Any additional improvements outside the inventoried area, 50 ft on each side of the centerline of the Skiff Road will require additional cultural inventory.

6. To reduce the opportunities for weeds to become established, the disturbed areas will

be reseeded with a certified weed-seed free mixture of native grasses adapted to the site (as indicated in the Vegetation Section). The right-of-way holder will continue to monitor the project area to detect the presence of any noxious weeds for the life of the ROW and will be responsible for promptly controlling any noxious weeds on the Colorado State List A or B (except redstem filaree). If the right-of-way holder 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.

7. The right-of-way holder is to ensure equipment involved in land disturbing actions be clean of noxious weed seeds or preparative parts prior to entry on site. When working in areas with noxious weeds, equipment should be cleaned prior to moving off site.
8. To help prevent invasion of noxious weeds and reestablish native, perennial vegetation on the site, the disturbed areas adjacent to the road will be seeded with native grasses and forbs. The seed mix will be as follows:

<u>Species of Seed</u>	<u>Variety</u>	<u>Application Rate (PLS lbs/ac)</u>
Mountain brome	Garnet, Bromar	7.0
Slender wheatgrass	San Luis	3.5
Bluebunch wheatgrass	Anatone, Goldar, P-7	3.0
Muttongrass	VNS	0.5
Total		14.0 PLS lbs/ac

The seed mix will be certified free of noxious weed seeds, i.e. the seed shall contain no noxious, prohibited, or restricted weed seeds and shall contain no more than 0.5 percent by weight of other weed seeds.

Where practical, seed shall be installed by drill-seeding to a depth of 0.25 to 0.5 inches. Where drill-seeding is impracticable, seed may be installed by broadcast-seeding at twice the drill-seeding rate shown in the table above. The seeded area shall be raked or harrowed following broadcast seeding to provide 0.25 to 0.5 inches of soil cover.

Hydroseeding and hydromulching may be used where drill-seeding or broadcast-seeding/raking are impracticable. Hydroseeding and hydromulching must be conducted in two separate applications to ensure adequate contact of seeds with the soil.

Prior to seeding, the seedbed shall be scarified and left with a rough surface. No depressions shall be left that would trap water and form ponds. Final seedbed preparation shall consist of contour cultivating to a depth of 4 to 6 inches within 24 hours prior to seeding.

Biodegradable straw matting, bales or wattles of weed-free straw or native grass hay, or well-anchored fabric silt fence shall be used on all cut-and-fill slopes and along drainages to protect against soil erosion. Mulch shall be applied within 24 hours following

completion of seeding. Mulch shall consist of crimping certified weed-free straw or certified weed-free native grass hay into the soil. Hydromulching may be used in areas where crimping is impracticable.

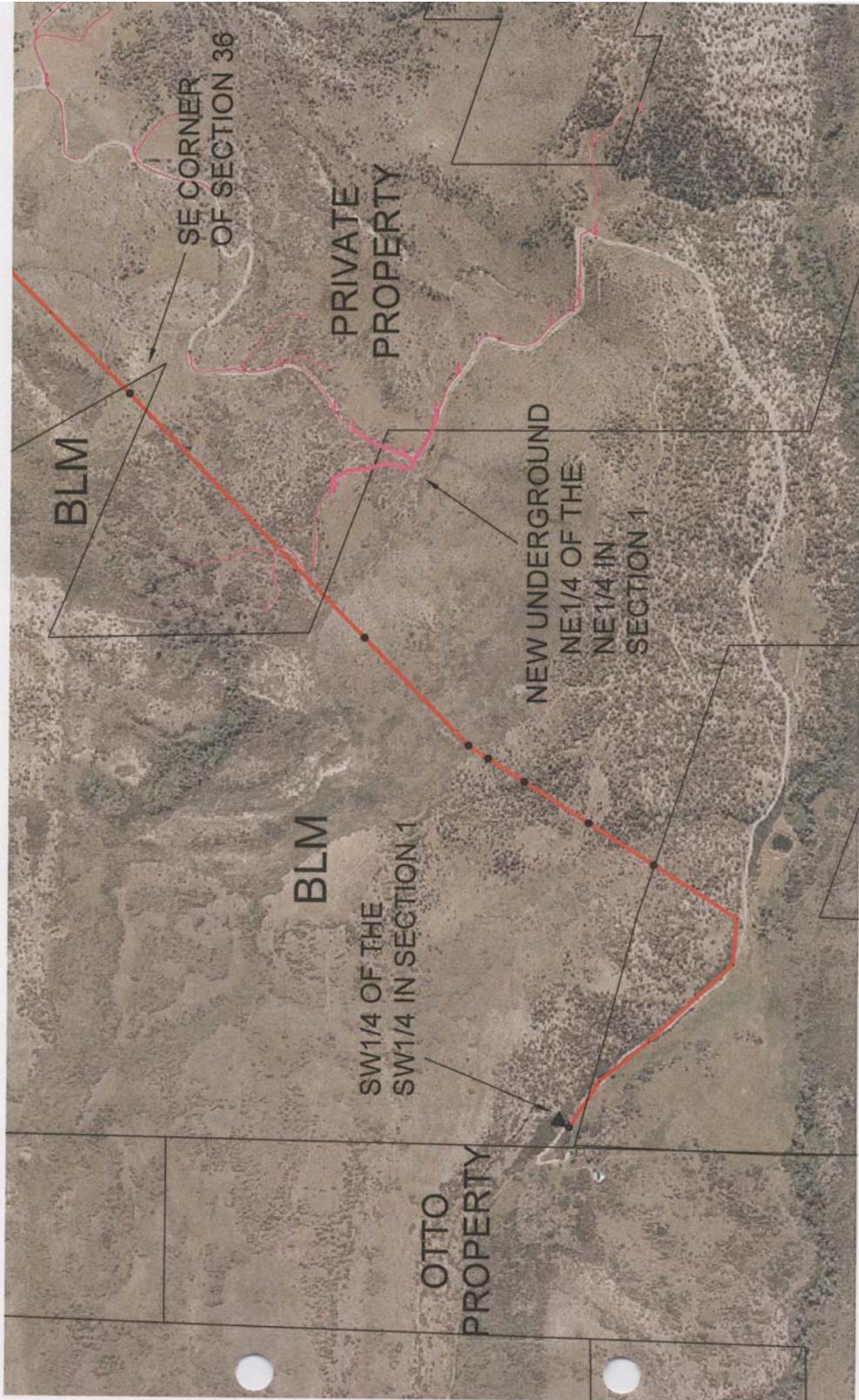
9. Proper drainage via properly sized and placed culverts and subsequent culvert and road maintenance will help to minimize erosion and sediment concerns in the long-term (refer to BMPs).
8. The holder shall comply with all county, state, and federal regulations and permit requirements.
10. The National 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. Further actions also require compliance under the provisions of NHPA and the Archaeological Resource Protection Act.
11. Pursuant to 43 CFR 10.4(g) the holder of this authorization or its contractor must notify the AO, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
12. The operator or its contractor is responsible for informing all persons who are associated with the project operations that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are uncovered during any project or construction activity, the operator must stop work in the area of the discovery that might further disturb such materials, and immediately contact the AO. Within five working days the AO will inform the operator as to the mitigation measures the operator will likely have to undertake before the site can be used (assuming in place preservation is not necessary).
13. The holder shall notify the AO at least 180 days prior to non-emergency activities that would cause surface disturbance in the ROW or TUP. The BLM will determine if a cultural resource inventory, treatment, or mitigation is required.
14. A "Notice to Proceed" stipulation shall be required for any non-emergency activities

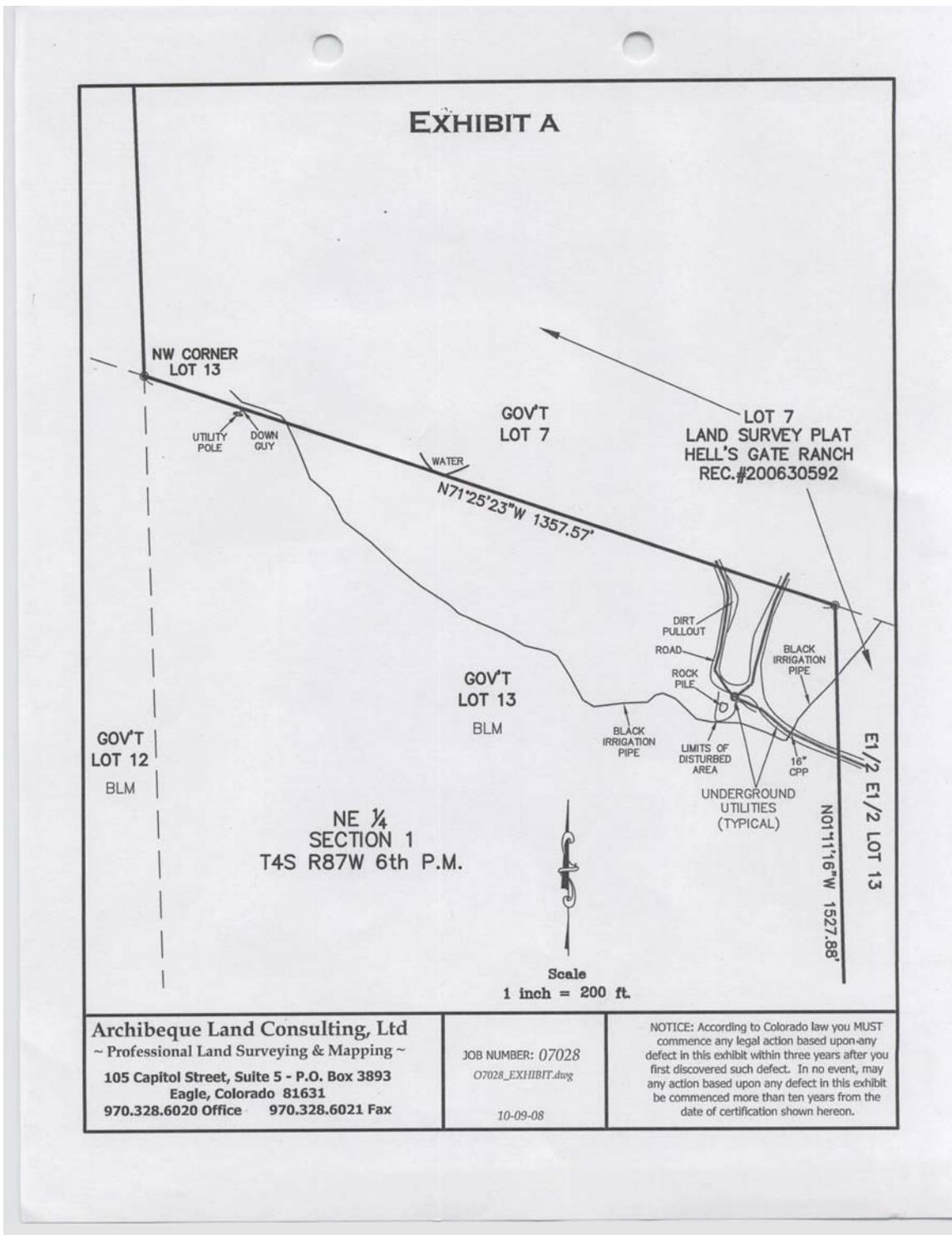
as defined above that would cause surface disturbance on the ROW or TUP. Any request for a "Notice to Proceed" should be made to the AO, who shall review the proposed action for consistency with resource management concerns such as wildlife, big game winter range, paleontology, threatened and endangered species, and cultural resource protection. Additional measures may be required to protect these resources.

15. To prevent impacts to raptors and migratory bird species, the power line shall comply with the APLIC's *Suggested Practices for Raptor Protection on Power Lines* publication, and the National Electric Safety Code

Reference: Avian Power Line Interaction Committee (APLIC). 2006. *Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 2006*. Edison Electric Institute, APLIC and the California Energy Commission. Washington, D.C. and Sacramento, CA.

16. This Grant shall not be assignable without written permission of the authorized officer.
17. This Grant may be renewed. If renewed, the Grant 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.





Archibeque Land Consulting, Ltd
 ~ Professional Land Surveying & Mapping ~
 105 Capitol Street, Suite 5 - P.O. Box 3893
 Eagle, Colorado 81631
 970.328.6020 Office 970.328.6021 Fax

JOB NUMBER: 07028
 07028_EXHIBIT.dwg
 10-09-08

NOTICE: According to Colorado law you MUST commence any legal action based upon any defect in this exhibit within three years after you first discovered such defect. In no event, may any action based upon any defect in this exhibit be commenced more than ten years from the date of certification shown hereon.

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

Signature of Holder

Signature of Authorized Officer

Name and Title

Associate Field Manager

(Date)

(Effective date of Grant)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT

SERIAL NUMBER COC-073311
Copper Telephone Line serving Hells Gate Ranch, LLC

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:

CenturyTel of Eagle, Inc.
PO Box 570
Eagle, Co 81631

receives a right to construct, operate, maintain, and terminate a 2 inch copper cable housed within a buried conduit owned by Hells Gate Ranch, LLC to serve Hells Gate Ranch, LLC as shown on public lands described as follows:

Section 36, T. 3 S., R 87 W.
6th Principal Meridian, Eagle County, Colorado

b. The right-of-way area granted here is 10 feet wide, 700 feet long and contains 0.161 acres, more or less.

c. The right of ingress and egress is granted on existing roads.

d. This instrument shall terminate on December 31, 2038, unless, prior thereto, it is renewed, relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

- e. This instrument may be renewed. If renewed, the right-of-way 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.
- g. 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 issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800, and all other applicable federal, state, and local laws, regulations, and standards.
- 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 plans, maps, or designs set forth in the Application, and Special Stipulations and Conditions (Exhibits A and B 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.

SPECIAL STIPULATIONS AND CONDITIONS: COC-073311

1. The holder shall notify the Glenwood Springs Field Manager (Authorized Officer) at least ten (10) days prior to the start of construction or any surface disturbing activities. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction or surface disturbing activities.
2. The plans, maps, and designs set forth in the application 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.
3. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices. 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.
4. In order to protect the resources, Best Management Practices (BMPs) will be used; these practices can be found on the following website,

http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices.html

5. 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.

Any additional improvements outside the inventoried area, 50 ft on each side of the centerline of the Skiff Road will require additional cultural inventory.

6. To reduce the opportunities for weeds to become established, the disturbed areas will be reseeded with a certified weed-seed free mixture of native grasses adapted to the site (as indicated in the Vegetation Section). The right-of-way holder will continue to

monitor the project area to detect the presence of any noxious weeds for the life of the ROW and will be responsible for promptly controlling any noxious weeds on the Colorado State List A or B (except redstem filaree). If the right-of-way holder 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.

7. The right-of-way holder is to ensure equipment involved in land disturbing actions be clean of noxious weed seeds or preparative parts prior to entry on site. When working in areas with noxious weeds, equipment should be cleaned prior to moving off site.
8. To help prevent invasion of noxious weeds and reestablish native, perennial vegetation on the site, the disturbed areas adjacent to the road will be seeded with native grasses and forbs. The seed mix will be as follows:

<u>Species of Seed</u>	<u>Variety</u>	<u>Application Rate (PLS lbs/ac)</u>
Mountain brome	Garnet, Bromar	7.0
Slender wheatgrass	San Luis	3.5
Bluebunch wheatgrass	Anatone, Goldar, P-7	3.0
Muttongrass	VNS	0.5
Total		14.0 PLS lbs/ac

The seed mix will be certified free of noxious weed seeds, i.e. the seed shall contain no noxious, prohibited, or restricted weed seeds and shall contain no more than 0.5 percent by weight of other weed seeds.

Where practical, seed shall be **installed by drill-seeding** to a depth of 0.25 to 0.5 inches. Where drill-seeding is impracticable, seed may be installed by broadcast-seeding at twice the drill-seeding rate shown in the table above. The seeded area shall be raked or harrowed following broadcast seeding to provide 0.25 to 0.5 inches of soil cover.

Hydroseeding and hydromulching may be used where drill-seeding or broadcast-seeding/raking are impracticable. Hydroseeding and hydromulching must be conducted in two separate applications to ensure adequate contact of seeds with the soil.

Prior to seeding, the seedbed shall be scarified and left with a rough surface. No depressions shall be left that would trap water and form ponds. Final seedbed preparation shall consist of contour cultivating to a depth of 4 to 6 inches within 24 hours prior to seeding.

Biodegradable straw matting, bales or wattles of weed-free straw or native grass hay, or well-anchored fabric silt fence shall be used on all cut-and-fill slopes and along drainages to protect against soil erosion. Mulch shall be applied within 24 hours following completion of seeding. Mulch shall consist of crimping certified weed-free straw or

certified weed-free native grass hay into the soil. Hydromulching may be used in areas where crimping is impracticable.

9. Proper drainage via properly sized and placed culverts and subsequent culvert and road maintenance will help to minimize erosion and sediment concerns in the long-term (refer to BMPs).
10. 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. Further actions also require compliance under the provisions of NHPA and the Archaeological Resource Protection Act.
11. Pursuant to 43 CFR 10.4(g) the holder of this authorization or its contractor must notify the AO, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
12. The operator or its contractor is responsible for informing all persons who are associated with the project operations that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are uncovered during any project or construction activity, the operator must stop work in the area of the discovery that might further disturb such materials, and immediately contact the AO. Within five working days the AO will inform the operator as to the mitigation measures the operator will likely have to undertake before the site can be used (assuming in place preservation is not necessary).
13. To prevent impacts to raptors and migratory bird species, the power line shall comply with the APLIC's *Suggested Practices for Raptor Protection on Power Lines* publication, and the National Electric Safety Code

Reference: Avian Power Line Interaction Committee (APLIC). 2006. *Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 2006*. Edison Electric Institute, APLIC and the California Energy Commission. Washington, D.C. and Sacramento, CA.

14. This Grant shall not be assignable without written permission of the authorized officer.
15. This Grant may be renewed. If renewed, the Grant 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.

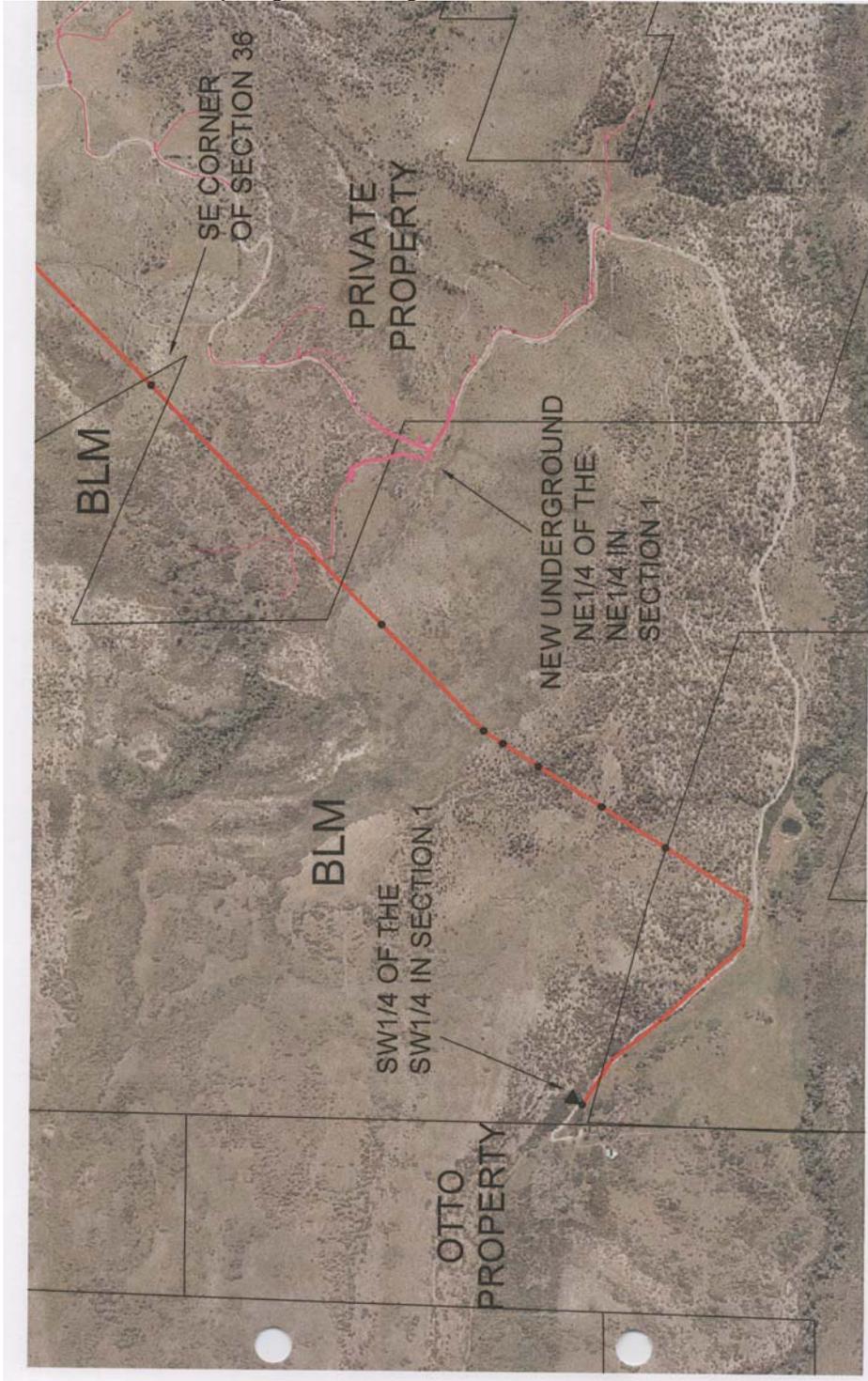
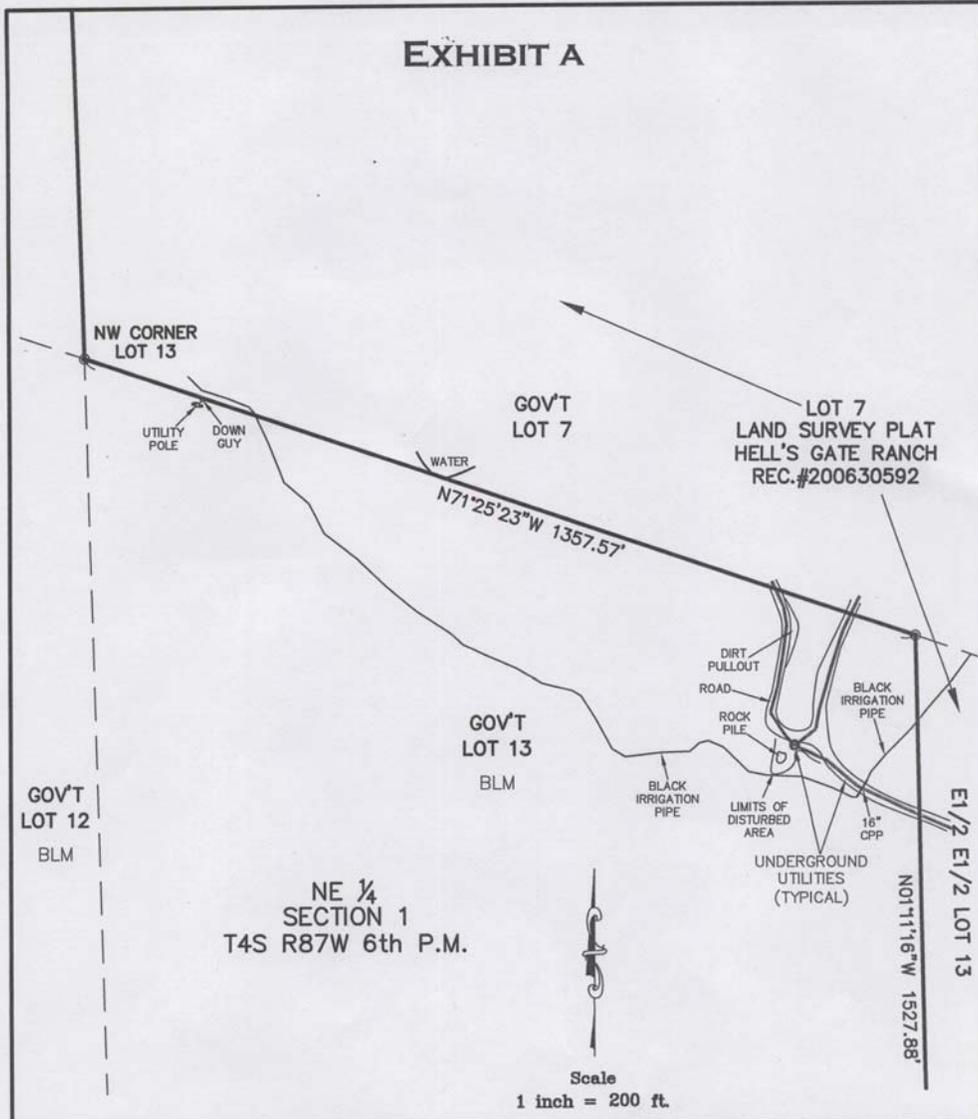


EXHIBIT A



Archibeque Land Consulting, Ltd
 ~ Professional Land Surveying & Mapping ~
 105 Capitol Street, Suite 5 - P.O. Box 3893
 Eagle, Colorado 81631
 970.328.6020 Office 970.328.6021 Fax

JOB NUMBER: 07028
 07028_EXHIBIT.dwg
 10-09-08

NOTICE: According to Colorado law you MUST commence any legal action based upon any defect in this exhibit within three years after you first discovered such defect. In no event, may any action based upon any defect in this exhibit be commenced more than ten years from the date of certification shown hereon.

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

\_\_\_\_\_  
Signature of Holder

\_\_\_\_\_  
Signature of Authorized Officer

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Associate Field Manager

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Effective date of Grant)