



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Colorado River Valley Field Office
2300 River Frontage Road
Silt, Colorado 81652
www.co.blm.gov



CATEGORICAL EXCLUSION

DOI-BLM-CO-N040-2010-0076-CX

A. Background

BLM Office: Colorado River Valley Field Office Lease/Serial/Case File No:
COC-074466/ 281001

Proposed Action Title/Type: Issue a right-of-way on BLM Road 351

Location of Proposed Action: T. 1 S., R. 83 W., section 4, lots 5 & 6
Routt County, Colorado. Sixth Principal Meridian,

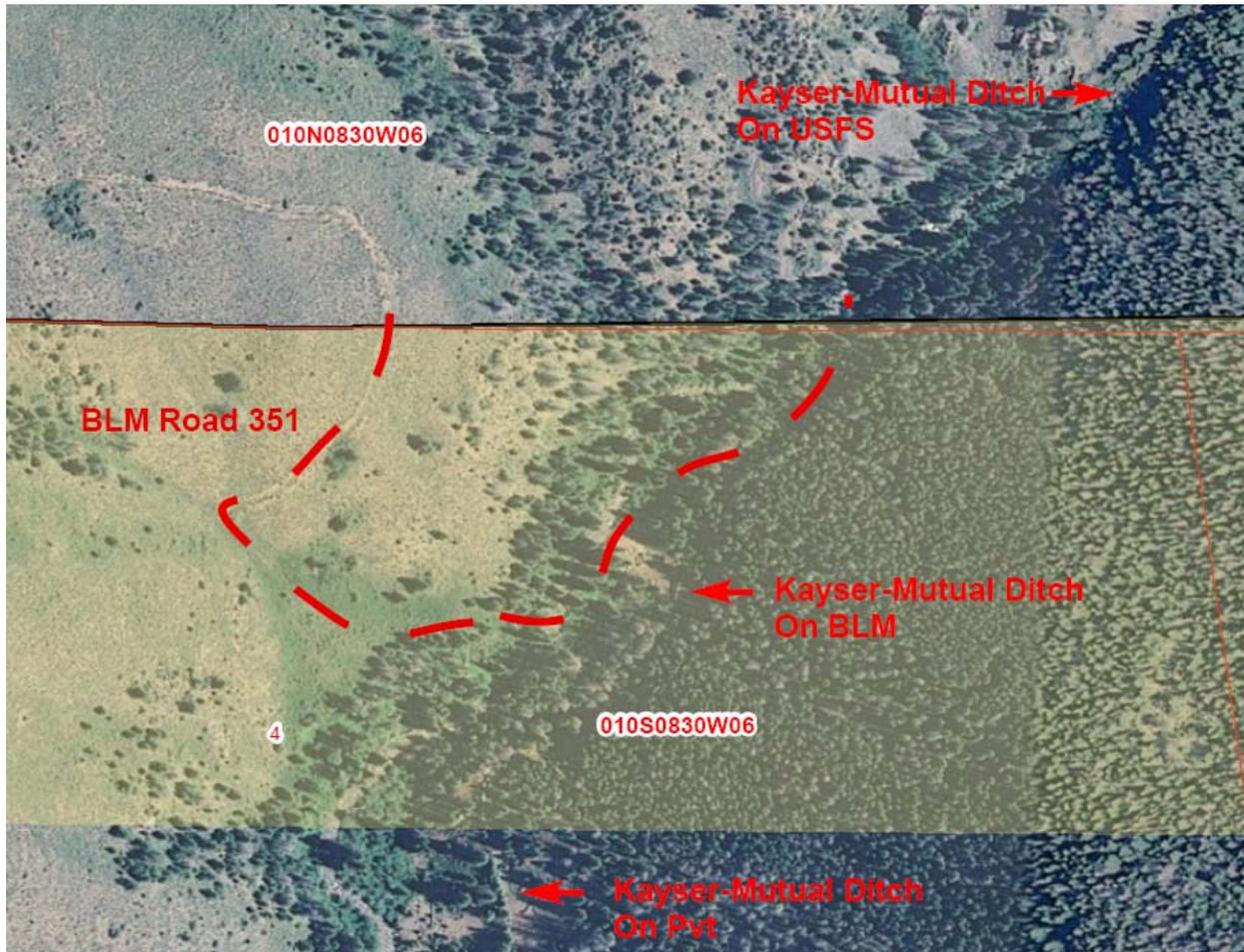
Description of Proposed Action:

Issue a right-of-way to Kayser-Mutual Ditch Company (Dale Horn) to access their Pre-FLPMA above ground water pipeline which is on National Forest, BLM and private lands. The applicant needs to replace several sections of the 36 inch pipeline on National Forest. Means of access are on an existing BLM Road 351. Some fallen trees may need to be removed from the road. As BLM Road 351 is considered an "Open Road", a right-of-way is required because this action would not be considered casual use under 43 CFR § 2800.

The applicant plans to use the following equipment; a D-7 dozer, Cat E120b excavator (a mid-sized excavator), 2 ½ ton military 6x6 to haul welders and supplies, and a portable concrete mixer.

The Medicine Bow-Routt National Forest, Yampa Ranger District has issued their authorization to the application under the Ditch Bill Easement, and pending approval from the BLM and Corp of Engineers (COE). COE determined the project to be exempt from regulation under Section 404 of the Clean Water Act § Irrigation Exemption for "farm or stock pond or irrigation construction or maintenance".

If approved, the ROW would be 2,173 feet in length by 12 feet in width, containing 0.60 acres, more or less.



B. Land Use Plan Conformance: The Proposed Action is subject to and has been reviewed for and is in conformance with (43 CFR §1610.5 and § 2800, BLM 1617.3) the following plan:

Name of Plan: Record of Decision and 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.

C. Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E. Realty Numbers:

- (12) Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

EXCLUSIONS	YES	NO
1. Have significant impacts on public health or safety.		X
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		X
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		X
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		X
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		X
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		X
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		X

INTERDISCIPLINARY REVIEW:

<u>Name</u>	<u>Title</u>	<u>Area of Responsibility</u>
Cheryl Harrison	Archaeologist	Cultural and Native American Concerns
Greg Wolfgang	Outdoor Rec. Planner	VRM, Travel Management
Kimberly Miller	Outdoor Rec. Planner	Recreation, Wilderness, WSR
Carla DeYoung	Ecologist	T/E/S Plants, Vegetation, ACEC
Brian Hopkins	Wildlife Biologist	Wildlife, T/E/S Wildlife, Migratory Birds
Nathan Dieterich	Hydrologist	Soil, Air, Water
Mike Kinsler	Rangeland Mgt Spec.	Range, Wetlands & Riparian
Monte Senior	Rangeland Mgt Spec.	Noxious & Invasive Species

REMARKS/MITIGATION (the following mitigations will be carried forward within the permit under Special Conditions:

1. Provide for drainage with water bars on roads.
2. Place water bars, 20-40 degrees perpendicular to the fall line, where natural drainage occurs.
3. Water bars for roads should be 12"+ deep and 18-24" high for the berm.
4. If soil is loose, augment water bar with rocks
5. Ensure that each water bar has a direct outlet and drains into a vegetation or rock filter
6. On slopes >30%, water bars should be installed perpendicular to the fall line and constructed as "cup trenches" rather than drainage features
7. Water bars spacing and location should consider site-specific topography during installation.

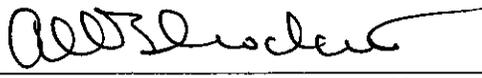
Cultural

An inventory was done for the road without identifying any cultural issues on the road; and all repair work on the ditch (which is a historic property) will be limited to pipe on Forest Service Lands and not as part of this 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. Any person who, without a permit, injures, destroys, excavates, appropriates or removes any historic or prehistoric ruin, artifact, object of antiquity, Native American remains, Native American cultural item, or archaeological resources on public lands is subject to arrest and penalty of law (16 USC 433, 16 USC 470, 18 USC 641, 18 USC 1170, and 18 USC 1361). Non-compliance could result in fines up to \$500,000 and imprisonment of up to six years or both.

I considered this action and determined that it may be categorically excluded. I have evaluated the action relative to the 12 criteria listed above and have determined that it does not represent an exception and is, therefore, categorically excluded from further environmental analysis.

D. Signature

Authorizing Official:  Date: 8/17/2010
Allen B. Crockett, Acting Associate Field Manager

Contact Person

For additional information concerning this CX review, contact Carole Huey, Realty Specialist, Colorado River Valley Field Office, 2300 River Frontage Road, Silt, CO 81652, 970.876.9023.

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:

**Kayser-Mutual Ditch Company, Dale Horn
PO Box 1070
McCoy, CO 80463**

receives a right to construct, operate, maintain, and terminate an access road as shown on public lands (or federal land for MLA Rights-of-Way) described as follows:

**T. 1 S., R. 83 W., section 4, lots 5 & 6,
Routt County, Colorado, Sixth Principal Meridian.**

- b. The right-of-way area granted here is **12 feet wide, 2,173 feet long** and contains **0.60 acres, more or less.**
- c. This instrument shall terminate on **December 31, 2029**, approximately **20 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.

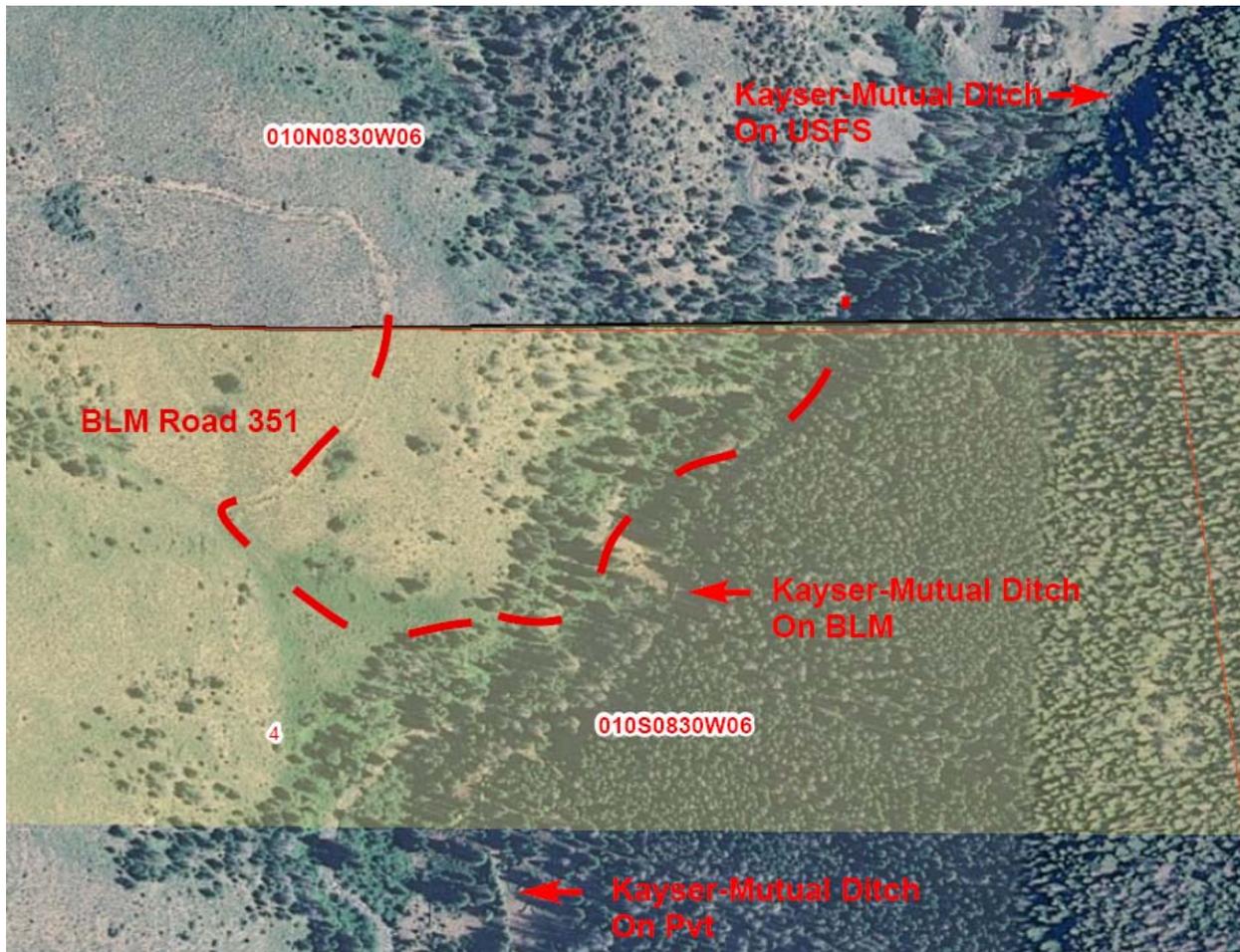
3. Rental: For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized 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, dated 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.

Map & Stipulations / COC-074456 Kayser-Mutual Ditch Company



Road Maintenance

1. Provide for drainage with water bars on roads.
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Cultural Resources

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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

\_\_\_\_\_  
Title

Allen B. Crockett, Acting Associate Field Manager

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

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