



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-N040-2011-0086-CX

A. Background

BLM Office: Colorado River Valley Field Office

Lease/Serial/Case File No:

COC074810 / 281009 (Unauthorized Road)

COC074960 / 281001 (Road ROW)

Proposed Action Title/Type: The applicant has applied for a right-of-way for access to his private property and house. In trying to sell his property earlier this year, it was discovered by the title company that there was no legal access. The access was constructed prior to the applicant purchasing the property in 1972 and prior to Interstate 70's expansion into four lanes. In the 1980's, CDOT paved the applicants' driveway during the four lane expansion.

The driveway is 30 feet wide by 300 feet in length. It is paved, and no new construction is needed.

Location of Proposed Action: T. 5 S., R. 86 W., Section 3, lot 12
Sixth Principal Meridian, Eagle County, Colorado.

Description of Proposed Action: To authorize an existing 30 feet by 300 feet driveway which has been in existence since at least 1972.

The driveway is within the boundaries of seven other linear right-of-ways (CDOT, Adesta pipeline, CenturyTel, Qwest, Holy Cross Energy, Grand Valley Railway Co. and Union Pacific Railroad.

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 5, Administrative Actions

Decision Language: The proposed action is in conformance with the RMP, even though it is not specifically provided for, because it is clearly consistent with the following RMP decision:

Various types of administrative actions will require special attention beyond the scope of this plan. They include issuance of permits for ...land actions, including issuance of grants, leases, permits and resolution of trespass.

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>
John Brogan	Archaeologist	Cultural and Native American Concerns
Kimberly Miller	Outdoor Recreation Planner	WSR, Wilderness, Recreation
Greg Wolfgang	Outdoor Recreation Planner	VRM, Travel Management
Carla DeYoung	Ecologist	ACEC, T/E/S Plants, Vegetation
Brian Hopkins	Wildlife Biologist	Wildlife, T/E/S Wildlife, Migratory Birds
Pauline Adams	Hydrologist	Soils, Air, Water
Carole Huey	Realty Specialist	Lands and Realty Authorizations
Mike Kinser	Rangeland Mgt Spec.	Range, Riparian
Monte Senor	Rangeland Mgt Spec.	Invasive and Non-native plants

REMARKS:

This project is located directly adjacent (within 100-200 feet) of the Eagle River, which was found to be eligible under a Wild and Scenic Eligibility Study in 2007. The Eagle River will be managed to preserve the identified Outstanding Remarkable Values (ORV's) until such a time as a suitability study is completed. The ORV identified for the Eagle River was recreational (floatboating). The overall objective is to not allow surface disturbing activities that might impair the identified ORV or its preliminary classification, which was classified as recreational. Since no new construction or surface disturbance is anticipated, there will be no impact to the Eagle River ORV or preliminary classification. Road maintenance within the right-of-way will occur in this agreement, but will have no affect on recreational floatboating. Therefore, the ORV and preliminary classification will still be unchanged.

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: 6/21/2011
Steve G. Bennett, 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
COC-074960

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:

James L. & Lannette M. Drinkard
6026 Highway 6
Gypsum CO 81637

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

Eagle County, Colorado, 6th Principal Meridian
T. 5 S., R. 86 W., Section 3, lot 12

b. The right-of-way area granted here is **30 feet wide, 300 feet long** and contains **0.21 acres, more or less.**

c. This instrument shall terminate on December 31, 2040, 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.

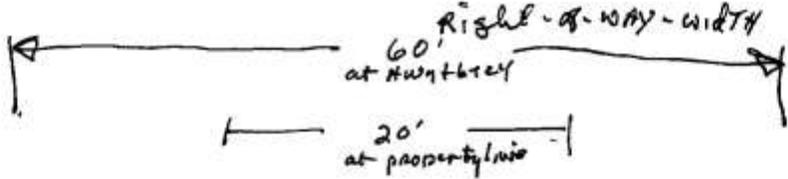
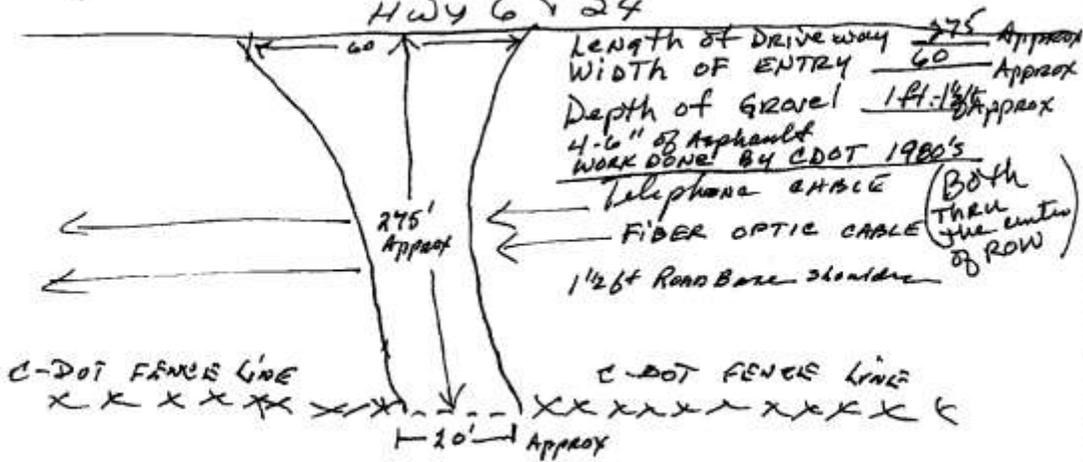
3. Rental: For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized 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 attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
 - e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
 - f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

Exhibit A, Map:

LEGAL DESCRIPTION: Eagle County, Colorado, 6th Principal Meridian
T. 5 S., R. 86 W., Section 3, lot 12



DRAWING OF EXISTING DRIVEWAY APPROX DIMENSIONS



James D. [Signature]

James M. [Signature]

EXHIBIT B: SPECIAL STIPULATIONS, COC-074960

Drinkards's Driveway

1. As defined by 43 CFR § 1810, the Authorized Officer (AO) is the Colorado River Valley Field Office Manager or his/her designee.
2. It is the holder's responsibility to coordinate with all other rights-of-way holders and adjacent landowners to make sure any conflicts are resolved both with road improvement and future maintenance.
3. This grant shall not be assignable without written permission of the authorized officer. This Grant may be renewed. If renewed, the Grant shall be subject to the regulation existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
4. **Cultural/Native American Concerns: Education/Discovery/NAGPRA Stipulation**
The National Historic Preservation Act (NHPA) requires that if newly discovered cultural resources are identified during project implementation, work in that area must stop and the agency Authorized Officer notified immediately (36 CFR 800.13). The Native American Graves Protection and Repatriation Act (NAGPRA), requires that if inadvertent discovery of Native American Remains or Objects occurs, activity must cease in the area of discovery, a reasonable effort made to protect the item(s) discovered, and immediate notice made to the BLM Authorized Officer, as well as the appropriate Native American group(s) (IV.C.2). Notice may be followed by a 30-day delay (NAGPRA Section 3(d)). Further actions also require compliance under the provisions of NHPA and the Archaeological Resource Protection Act.
5. **Wastes, Hazardous or Solid: Fuels and lubricants** would be stored in appropriate containers and refueling would occur in designated areas. While no spills are anticipated, there is potential for hazardous materials to be transported to the nearby Eagle River in the event of a spill. However, the existing railroad right-of-way, Interstate 70, and vegetative cover between the project area and the river would be sufficient to prevent hazardous materials from reaching the river.
6. **Water Quality, Surface and Ground (includes an analysis on Standard 5):** To avoid potential negative impacts associated with erosion and sediment transport, it is essential that the proponent install, inspect, and maintain stormwater controls and BMPs on a regular basis.

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

Steve G. Bennett, Field Manager

(Date)

(Effective date of Grant)