

U.S. Department of the Interior
Bureau of Land Management
Little Snake Field Office
455 Emerson Street
Craig, CO 81625-1129

ENVIRONMENTAL ASSESSMENT

EA-NUMBER: CO-100-2007-111 EA

CASEFILE/PROJECT NUMBER/LEASE NUMBER: COC71590

PROJECT NAME: Access Road for Howard Cooper (Three Crown Ranch, LLC)

LEGAL DESCRIPTION: T7N, R97W, Sec. 22, E½; Sec. 23, S½SW¼; Sec. 26, NW¼NW¼, Lot 6; and Sec. 27, Lot 3, 6th PM, Moffat County, Colorado

APPLICANT: Howard Cooper

PLAN CONFORMANCE REVIEW: The proposed action is subject to the following plan:

Name of Plans: Little Snake Resource Management Plan and Record of Decision (ROD)

Date(s) Approved: April 26, 1989

Remarks: The proposed access road would be located within Management Unit 3 (Little Snake Resource Management Plan). The objectives of Management Unit 3 are to improve soil and watershed values, increase forage production and enhance livestock production. Realty actions can occur consistent with the management objectives for this unit.

Results: The proposed action has been reviewed for conformance with this plan (43 CFR 1610.5, BLM 1617.3). The proposed action is in conformance with the objectives for this management unit.

NEED FOR PROPOSED ACTION: The purpose of the proposed access road is to allow use of an existing access road, with relocation of a minor segment, for ingress to and egress from a private ranch on the Yampa River.

PUBLIC SCOPING PROCESS: The NEPA log is posted on the Little Snake Field Office web site and published in the Craig Daily Press before the grant is issued to the applicant.

DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES: The proposed action is to issue a right-of-way grant consistent with the Federal Land Policy and Management Act, Title

V and regulations at 43 CFR 2800 for an access road to Howard Cooper (Three Crown Ranch, LLC).

An existing designated BLM road (1689) would be utilized as the access road, excepting a portion of the road that crosses private property in Lot 5 of Section 26, T7N, R97W. That segment of road would be bermed to close it to public travel. A new segment would be constructed beginning in the SW¼ of Sec. 23 and connect to the existing road in Lot 6 of Section 26. Length of the re-routed segment would be 1,400 feet. Total length of the road on public land would be 9,320 feet with a width of 20 feet. Average driving surface width would be 14 feet. Total surface disturbance, including the existing road and the re-routed segment, would be 4.28 acres. New surface disturbance for the re-routed portion would be about 0.64 acre.

The re-routed segment would be constructed with a bulldozer to a standard similar to that of the existing road. All vegetation would be removed to a width of 14 feet for the driving surface. Any bar ditches necessary would be cut 1 foot deep at a 3:1 slope. Lead-off ditches 1 foot in depth would be constructed as necessary on curves. Construction time is estimated at 1 - 2 days.

Use of the road would be for the Cooper family, their visitors and essential service deliveries to the ranch. The road would remain open to public use as a designated BLM Road.

A Plan of Development (POD) was developed for the application. The POD addresses construction methods and maintenance. Howard Cooper states in his application that no hazardous materials would be used, produced, transported or stored within the proposed right-of-way. Mitigation not included in the POD would be addressed by BLM as stipulations.

NO ACTION ALTERNATIVE: The “no action” alternative is that the right-of-way application would be denied. However, since the proposed action is consistent with the Little Snake Resource Management Plan and ROD, rejection of the ROW application was considered but will not be analyzed further in this EA.

AFFECTED ENVIRONMENT/ENVIRONMENTAL CONSEQUENCES/MITIGATION MEASURES

CRITICAL RESOURCES

AIR QUALITY

Affected Environment: There are no special designation air sheds or non-attainment areas nearby that would be affected by the proposed action.

Environmental Consequences: Short term, local impacts to air quality resulting from diesel engine exhaust, other combustible engines and dust from surface disturbing operations would result during road construction activities. The emissions from these activities consist of both gaseous and particulate fractions. Gaseous constituents from diesel engine exhaust include carbon dioxide, carbon monoxide, nitric oxide, nitric dioxide, oxides of sulfur and

hydrocarbons. Fine particulates of soot from diesel exhaust and fugitive dust from soils would be localized to the project area. The proposed action would not adversely affect regional air quality.

Mitigative Measures: None.

Name of specialist and date: Ole Olsen, 09/05/07

AREA OF CRITICAL ENVIRONMENTAL CONCERN

Affected Environment: Not present.

Environmental Consequences: Not applicable.

Mitigative Measures: Not applicable.

Name of specialist and date: Rob Schmitzer, 08/31/07

CULTURAL RESOURCES

Affected Environment: Cultural resources, in this region of Colorado, range from late Paleo-Indian to Historic. For a general understanding of the cultural resources in this area of Colorado, see *An Overview of Prehistoric Cultural Resources, Little Snake Resource Area, Northwestern Colorado*, Bureau of Land Management Colorado, Cultural Resources Series, Number 20, *An Isolated Empire, A History of Northwestern Colorado*, Bureau of Land Management Colorado, Cultural Resource Series, Number 2 and *Colorado Prehistory: A Context for the Northern Colorado River Basin*, Colorado Council of Professional Archaeologists.

Environmental Consequences: The proposed project, Cooper Road Re-route, has undergone a Class III cultural resource survey:

Morris, Robyn Watkins

2007 Class III Cultural Resources Survey of Cooper Road Re-route, Moffat County, Colorado (BLM #10.41.07)

The survey identified no eligible to the National Register of Historic Places cultural resources. The proposed project may proceed as described in this EA with the following mitigative measures in place.

Mitigative Measures: The following standard stipulations apply for this project:

1. The operator is responsible for informing all persons who are associated with the 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

encountered or uncovered during any project activities, the operator is to immediately stop activities in the immediate vicinity of the find and immediately contact the authorized officer (AO) at (970) 826-5000. Within five working days, the AO will inform the operator as to:

- Whether the materials appear eligible for the National Register of Historic Places;
- The mitigation measures the operator will likely have to undertake before the identified area can be used for project activities again; and
- Pursuant to 43 CFR 10.4(g) (Federal Register Notice, Monday, December 4, 1995, Vol. 60, No. 232) the holder of this authorization must notify the AO, by telephone at (970) 826-5000, and 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), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

2. If the operator wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the AO will assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the operator will be responsible for mitigation costs. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume construction.

Name of specialist and date: Robyn Watkins Morris, 08/23/07

ENVIRONMENTAL JUSTICE

Affected Environment: The proposed action is located in an area of isolated dwellings. Ranching, farming and oil and gas development are the primary economic activities.

Environmental Consequences: The project area is relatively isolated from population centers, so no populations would be affected by physical or socioeconomic impacts of the proposed action. The proposed action would not directly affect the social, cultural or economic well-being and health of Native American, minority or low-income populations.

Mitigative Measures: None.

Name of specialist and date: Mike Andrews, 08/27/07

FLOOD PLAINS

Affected Environment: The project area is entirely on upland sites, so no floodplains would be affected.

Environmental Consequences: None.

Mitigative Measures: None.

Name of specialist and date: Ole Olsen, 09/04/07

INVASIVE, NONNATIVE SPECIES

Affected Environment: Invasive species and noxious weeds occur within the affected area. Downy brome (cheatgrass), yellow alyssum, blue mustard and other annual weeds are common along roadsides and on adjacent rangelands. Perennial noxious weeds, such as, Canada thistle, Russian knapweed, spotted knapweed, perennial pepperweed (tall whitetop) and hoary cress (whitetop) and several species of biennial thistles are known to occur in this area, especially along the Yampa River corridor. Halogeton, an annual noxious weed that requires control, is present in the vicinity of the proposed road right-of-way. Moffat County cooperates with the Little Snake Field Office to control weeds on county roads and designated BLM roads.

Environmental Consequences: The surface disturbing activities required to construct the re-route for BLM Road 1689 would create an environment for invasive species and noxious weeds to become established. Construction equipment brought onto the site can introduce these weed species. Wind, water, recreation vehicles, livestock and wildlife may also disperse weed seed into the newly disturbed areas, as well as, along the existing portion of BLM Road 1689. Residential vehicles from the adjacent private lands may transport noxious weed seed, especially thistles and knapweeds that may be established along the Yampa River corridor. The annual invasive weed species (yellow alyssum, blue mustard and other annual weeds) occur on adjacent rangelands and often occupy disturbed areas; the bare soils and the lack of competition from a perennial plant community would allow these weed species to grow unchecked and can affect the establishment of seeded plant species.

The perennial and biennial noxious weeds in the area are less frequently established on the uplands, but some potential exists for their establishment in draws and swales or areas along the road that would collect additional water. The largest concern in the project area would be for these species to become established and not be detected, providing seed which can be moved onto adjacent rangelands. Once weeds are detected, they can be controlled with various integrated pest management techniques.

Mitigative Measures: None.

Name of specialist and date: Ole Olsen, 09/05/07

MIGRATORY BIRDS

Affected Environment: Brewer's sparrows and sage sparrows may be present within the project area during the spring and summer. Both of these species are listed on the USFWS 2002 Birds of Conservation Concern List. These birds may use the project area for nesting.

Environmental Consequences: Timing restrictions required for greater sage-grouse would benefit migratory species by reducing the potential for nest abandonment or destruction resulting from construction activities. There is some potential that there may be active nests present in the construction area after the sage-grouse timing restriction has elapsed. Potential for take to occur is low.

Mitigative Measures: None.

Name of specialist and date: Timothy Novotny, 08/28/07

NATIVE AMERICAN RELIGIOUS CONCERNS

A letter was sent to the Uinta and Ouray Tribal Council, Southern Ute Tribal Council, Ute Mountain Ute Tribal Council, and the Colorado Commission of Indian Affairs on January 21, 1999. The letter listed the projects that the BLM would notify them on and projects that would not require notification. No comments were received (letter on file at the Little Snake Field Office). This project requires no additional notification.

Name of specialist and date: Robyn Watkins Morris, 08/23/07

PRIME & UNIQUE FARMLANDS

Affected Environment: Not present.

Environmental Consequences: None.

Mitigative Measures: None.

Name of specialist and date: Ole Olsen, 09/04/07

T&E SPECIES – ANIMALS

Affected Environment: There are no threatened or endangered species or habitat for such species present within the project area. The access road, including the proposed re-routed portion of the road, would not be undertaken during nesting season for greater sage-grouse (March 1 to June 30). Nest abandonment or destruction could occur if construction is undertaken during that time period.

Environmental Consequences: As mitigated, there would be impact to threatened or endangered species. Construction of the re-routed portion of the access road would not be undertaken during nesting season for greater sage-grouse (March 1 to June 30). Nest abandonment or destruction could result if construction is undertaken during this time period.

Mitigative Measures: No surface-disturbing activities between March 1 and June 30 in order to protect nesting greater sage-grouse.

Name of specialist and date: Timothy Novotny, 08/28/07

T&E SPECIES – PLANTS

Affected Environment: There are no federally listed threatened or endangered plant species within or in the vicinity of the proposed action.

Environmental Consequences: None.

Mitigative Measures: None.

Name of specialist and date: Hunter Seim, 08/28/07

T&E SPECIES - SENSITIVE PLANTS

Affected Environment: There are no BLM sensitive plant species within or in the vicinity of the proposed action.

Environmental Consequences: None.

Mitigative Measures: None.

Name of specialist and date: Hunter Seim, 08/28/07

WASTES, HAZARDOUS OR SOLID

Affected Environment: If a release does occur, the environment affected would be dependent on the nature and volume of material released. If there are no releases, there would be no environmental impact.

Environmental Consequences: Consequences would be dependent on the volume and nature of the material released. In most situations involving hazardous materials, there are ways to remediate the area that has been contaminated. Short-term consequences would occur, but they can be remedied and long-term impacts would be minimal.

Mitigative Measures: None.

Name of specialist and date: Mike Andrews, 08/27/07

WATER QUALITY - GROUND

Affected Environment: The proposed action would not affect ground water resources.

Environmental Consequences: None.

Mitigative Measures: None.

Name of specialist and date: Marilyn D. Wegweiser, 08/27/07

WATER QUALITY - SURFACE

Affected Environment: Runoff water from the area of the existing road and newly constructed re-route portion of the road would drain into the Yampa River. Water quality in this segment of the river is fully supporting the classified beneficial uses designated for it and is not listed as an impaired stream segment.

Environmental Consequences: Some sediment would be carried by runoff waters from bare surfaces on the roadway and where water discharges onto adjacent ground. The road design would reduce soil loss and sediment transport to an acceptable level.

Mitigative Measures: None.

Name of specialist and date: Ole Olsen, 09/04/07

WETLANDS/RIPARIAN ZONES

Affected Environment: Not present.

Environmental Consequences: None.

Mitigative Measures: None.

Name of specialist and date: Timothy Novotny, 08/28/07

WILD & SCENIC RIVERS

Affected Environment: Not present.

Environmental Consequences: Not applicable.

Mitigative Measures: Not applicable.

Name of specialist and date: Rob Schmitzer, 08/31/07

WSAs, WILDERNESS CHARACTERISTICS

Affected Environment: Not present.

Environmental Consequences: Not applicable.

Mitigative Measures: Not applicable.

Name of specialist and date: Rob Schmitzer, 08/31/07

NON-CRITICAL ELEMENTS

SOILS

Affected Environment: The portion of the road that would involve new construction is situated on two different soil mapping units. The majority of this construction would be on soils mapped as Coyet-Crestman, Moist complex, 20 to 50 percent slopes and the lower portion is on soils mapped as Ryan Park loamy sand, 3 to 15 percent slopes. Both soils exhibit moderately rapid percolation rates and medium runoff, except the Crestman soils, which are classified as having very rapid runoff due to steepness of slopes and shallow depth of the soil. Coyet and Crestman soils have limited utility for roads due to slope. In addition, Crestman soils have limited utility for roads, due to depth to soft bedrock. Ryan Park loamy sand soils have somewhat limited utility for local roads due to slope.

Environmental Consequences: Due to the steepness of the slope, the proposed re-route of BLM Road 1689 has been designed to avoid any grades exceeding 10 percent. Drainage along the road would be accomplished with the rolling nature of the road as it traverses the terrain and by side-sloping the hill slopes and curving the roadway to take advantage of natural drainage areas. The road design should reduce soil erosion to an acceptable level.

Mitigative Measures: None.

Name of specialist and date: Ole Olsen, 09/05/07

UPLAND VEGETATION

Affected Environment: The vegetation in this area is primarily big sagebrush/perennial grass communities. Understory species include Indian ricegrass, needle-and-thread grass, western wheatgrass, Sandberg bluegrass, longleaf phlox, aster, globe mallow, and Hoods phlox. There are areas of an old crested wheatgrass seedings as well.

Environmental Consequences: Vegetation would be completely removed in the area of the new segment. The construction areas and right-of-way would re-vegetate, but the road surface would remain bare.

Mitigative Measures: None.

Name of specialist and date: Andrea J. Minor, 08/28/07

WILDLIFE, AQUATIC

Affected Environment: Not present.

Environmental Consequences: None.

Mitigative Measures: None.

Name of specialist and date: Timothy Novotny, 08/27/07

WILDLIFE, TERRESTRIAL

Affected Environment: The proposed project area provides year-round habitat for mule deer, elk and pronghorn antelope, including severe winter range. A variety of small mammals, reptiles and songbirds may found within the project area.

Environmental Consequences: Construction of the rerouted portion of the access road during the winter season (December 1 – April 30) may displace individual animals into habitat of lesser quality. This could have a negative impact on individual animals and potentially cause degradation of other habitats. Small mammals, reptiles and songbirds would be capable of avoiding construction equipment. There is some potential that burrowing animals may be trapped and killed by construction activities. This would be a short-term impact to individual animals, but would not impact overall populations. The proposed right-of-way would not increase traffic into the project area above the current level.

Mitigative Measures: No surface-disturbing activities between December 1 and April 30 in order to protect wintering big game animals.

Name of specialist and date: Timothy Novotny, 08/28/07

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

Non-Critical Element	NA or Not Present	Applicable or Present, No Impact	Applicable & Present and Brought Forward for Analysis
Fluid Minerals		MDW 08/27/07	
Forest Management	MAA 08/27/07		
Hydrology/Ground		MDW 08/27/07	
Hydrology/Surface		OO 09/05/07	
Paleontology		MDW 08/27/07	
Range Management		AJM 08/27/07	
Realty Authorizations	MAA 08/27/07		

Recreation/Travel Mgmt		RS 08/31/07	
Socio-Economics		MAA 08/27/07	
Solid Minerals		JAM 08/27/07	
Visual Resources		RS 08/31/07	
Wild Horse & Burro Mgmt	MAA 08/27/07		

CUMULATIVE IMPACTS SUMMARY: Cumulative impacts may result from use of the road for access to a private ranch, when added to non-project impacts that result from past, present and reasonably foreseeable future actions. The potential exists for additional access roads throughout the area of the proposed action. Other past or existing actions near the area of the proposed action that affect the landscape include wildfire, grazing and ranching activity and recreation.

Surface disturbance associated with new construction would increase the potential for erosion, sedimentation and establishment of noxious weeds. A small reduction in available forage for livestock and wildlife is anticipated. Some wildlife species may be temporarily displaced by construction of the re-routed segment of the right-of-way, but should return once construction is completed. Continued infrastructure development in the area would increase the fragmentation of wildlife habitat, displacement of some wildlife, disturbance to vegetation and the potential for establishment of invasive weeds.

STANDARDS:

PLANT AND ANIMAL COMMUNITY (animal) STANDARD: The proposed project area provides habitat for a variety of big game animals, small mammals, reptiles and songbirds. The proposed project, as mitigated, would not have significant negative impacts to any of these species. Some displacement of individual animals can be expected during construction of the re-routed portion of this access road. The proposed action would not prevent this standard from being met in the future.

Name of specialist and date: Timothy Novotny, 08/28/07

SPECIAL STATUS, THREATENED AND ENDANGERED SPECIES (animal) STANDARD: There are no threatened or endangered species or habitat for such species present within the project area. The proposed access road does traverse through nesting habitat for greater sage-grouse, a BLM special status species. As mitigated, it is unlikely that greater sage-grouse would be negatively impacted by the proposed action. This project would not prevent this standard from being met in the future.

Name of specialist and date: Timothy Novotny, 08/28/07

PLANT AND ANIMAL COMMUNITY (plant) STANDARD: The plant community in this area exhibits good health and diversity, exhibited by a wide variety of native species. The

standard is currently being met, and as long as disturbance is kept to a minimum and weeds are controlled, this standard should be met in the future under the proposed action.

Name of specialist and date: Andrea J. Minor, 08/27/07

SPECIAL STATUS, THREATENED AND ENDANGERED SPECIES (plant)

STANDARD: There are no federally listed threatened or endangered or BLM sensitive plant species within or in the vicinity of the proposed action. For plants, this standard does not apply.

Name of specialist and date: Hunter Seim, 08/28/07

RIPARIAN SYSTEMS STANDARD: There are no wetlands or riparian areas present within the project area. This standard does not apply.

Name of specialist and date: Timothy Novotny, 08/28/07

WATER QUALITY STANDARD: The water quality standard for healthy rangelands would be met with the implementation of the proposed action. Runoff from snowmelt and summer storms would drain from the affected area into the Yampa River. The Yampa River is presently supporting classified uses and is not listed as an impaired stream.

Name of specialist and date: Ole Olsen, 09/05/07

UPLAND SOILS STANDARD: The proposed action would require a small area of the upland soil resources to support a different activity that is not consistent with the characteristics of a healthy soil; the upland soil is capable of supporting the proposed action with road design features that reduce grade and provide for drainage. The additional road infrastructure is necessary for multiple use management on the public lands and the project area would be limited. The upland soils on the adjacent public land would continue to meet this standard.

Name of specialist and date: Ole Olsen, 09/05/07

PERSONS/AGENCIES CONSULTED: Uintah and Ouray Tribal Council, Colorado Native American Commission, Colorado State Historic Preservation Office.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)
EA CO-100-2007-111

Based on the analysis of potential environmental impacts contained in the EA and all other available information, I have determined that the proposal and the alternatives analyzed do not constitute a major Federal action that would adversely impact the quality of the human environment. Therefore, an EIS is unnecessary and will not be prepared. This determination is based on the following factors:

1. Beneficial, adverse, direct, indirect, and cumulative environmental impacts have been disclosed in the EA. Analysis indicated no significant impacts on society as a whole, the affected region, the affected interests or the locality. The physical and biological effects are limited to the Little Snake Resource Area and adjacent land.
2. Public health and safety would not be adversely impacted. There are no known or anticipated concerns with project waste or hazardous materials.
3. There would be no adverse impacts to regional or local air quality, prime or unique farmlands, known paleontological resources on public land within the area, wetlands, floodplain, areas with unique characteristics, ecologically critical areas or designated Areas of Critical Environmental Concern.
4. There are no highly controversial effects on the environment.
5. There are no effects that are highly uncertain or involve unique or unknown risk. Sufficient information on risk is available based on information in the EA and other past actions of a similar nature.
6. This alternative does not set a precedent for other actions that may be implemented in the future to meet the goals and objectives of adopted Federal, State or local natural resource related plans, policies or programs.
7. No cumulative impacts related to other actions that would have a significant adverse impact were identified or are anticipated.
8. Based on previous and ongoing cultural surveys and through mitigation by avoidance, no adverse impacts to cultural resources were identified or anticipated. There are no known American Indian religious concerns or persons or groups who might be disproportionately and adversely affected as anticipated by the Environmental Justice Policy.
9. No adverse impacts to any threatened or endangered species or their habitat that was determined to be critical under the Endangered Species Act were identified. If, at a future time, there could be the potential for adverse impacts, treatments would be modified or mitigated not to have an adverse effect or new analysis would be conducted.

10. This alternative is in compliance with relevant Federal, State, and local laws, regulations, and requirements for the protection of the environment.

DECISION AND RATIONALE: I have determined that construction of the access road is in conformance with the approved land use plan. It is my decision to issue the right-of-way grant with the mitigation measures to Howard Cooper. The grant is for construction, operation, maintenance, and termination of an access road located on public land in T7N, R97W, Sec. 22, 23, 26 and 27, 6th P.M., Moffat County, Colorado. The ROW is 9,320 feet long and 20 feet wide. The ROW grant is issued for 20 years with the right of renewal. The ROW is subject to rental pursuant to 43 CFR 2806. The project will be monitored as stated in the Compliance Plan outlined below.

It is the policy of the Bureau of Land Management to grant R/W to occupy and use public land where such is consistent with resource values, the Bureau's planning system, and local government concerns. To this effect, no conflicts were found; the action does not result in any undue or unnecessary environmental degradation. The action is consistent with the Little Snake Resource Management Plan. The proposed use, as planned and mitigated, is a suitable use of the land, which will not conflict with the present or known future use of the area. The action is consistent with Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and the regulations authorizing use of federal land under 43 CFR 2800.

MITIGATION MEASURES: See Exhibit B, Stipulations.

COMPLIANCE PLAN(S):

Compliance Schedule: Compliance will be conducted during the construction phase and reclamation phase to insure that all terms and conditions specified in the right-of-way grant and stipulations are followed. The access road ROW will be on a five-year compliance schedule after completion of the project.

Monitoring Plan: The access road ROW will be monitored during the term of the right-of-way for compliance with the grant, stipulations, POD, and pertinent regulations until final abandonment is approved; monitoring will help determine the effectiveness of mitigation and document the need for additional mitigative measures.

Assignment of Responsibility: Responsibility for implementation of the compliance schedule and monitoring plan will be assigned to the Realty staff in the Little Snake Field Office. The primary inspector will be the Realty Specialist.

SIGNATURE OF PREPARER:

DATE SIGNED:

SIGNATURE OF ENVIRONMENTAL REVIEWER:

DATE SIGNED:

SIGNATURE OF AUTHORIZED OFFICIAL:

DATE SIGNED:

Exhibit B
Stipulations
COC71590 – Access Road Right-of-way

1. The holder shall construct, operate and maintain the facilities, improvements and structures within this right-of-way in strict conformity with the plan of development (POD), which was approved and made part of this grant. Any relocation, additional construction or use that is not in accordance with the POD shall not be initiated without prior approval of the authorized officer. A copy of the complete right-of-way grant, including all stipulations regarding construction, operation, approved POD and termination shall be made available on the right-of-way area during construction, operation and termination to the Authorized Officer (AO). Noncompliance with the terms above will be grounds for an immediate suspension of activities, if it constitutes a threat to public health and safety or the environment.
2. The Little Snake Field Office will be given 48-hour notification prior to commencing construction and/or reclamation work. Contact the Little Snake Field Office (970) 826-5000 to report when work will commence.
3. The access road constructed will be flat-bladed, ditched, and maintained to provide a 14-foot travel way. Total width of authorized disturbance is 20 feet, excepting lead-off ditches on new construction. Bar ditches are to be 1-foot deep at a 3:1 slope. Cut-and-fill slope ratio shall be 1½:1. Vegetation removed during any construction shall be properly disposed of by the holder.
4. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3 inches deep, the soil shall be deemed too wet to adequately support construction equipment.
5. No surface disturbing activities allowed between March 1 and June 30 in order to protect nesting greater sage-grouse.
6. No surface disturbing activities allowed between December 1 and April 30 in order to protect wintering big game animals.
7. The holder shall maintain the right-of-way in a safe, usable condition, as directed by the A.O. A regular maintenance program shall include any necessary blading, cleaning of ditches or other work to maintain the road.
8. For snow removal, the holder shall use equipment with shoes designed to keep the blade one inch off the road surface. Holder shall take special precautions during snow removal to avoid damage to the road surface, drainage structures and adjacent vegetation.
9. The right-of-way shall remain open to public use. No signs or gates are to be constructed on public land by the holder.

10. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the AO. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the AO. An evaluation of the discovery will be made by the AO to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the AO after consulting with the holder.

11. The operator is responsible for informing all persons who are associated with the 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 encountered or uncovered during any project activities, the operator is to immediately stop activities in the immediate vicinity of the find and immediately contact the authorized officer (AO) at (970) 826-5000. Within five working days, the AO will inform the operator as to:

- Whether the materials appear eligible for the National Register of Historic Places;
- The mitigation measures the operator will likely have to undertake before the identified area can be used for project activities again; and
- Pursuant to 43 CFR 10.4(g) (Federal Register Notice, Monday, December 4, 1995, Vol. 60, No. 232) the holder of this authorization must notify the AO, by telephone at (970) 826-5000, and 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), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.
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If the operator wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the AO will assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the operator will be responsible for mitigation costs. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume construction.

12. If vertebrate fossil material is discovered during construction activities, all surface disturbance shall halt until an assessment of the find is completed and appropriate protective measures are taken. The AO shall be notified as soon as possible of the discovery and any mitigation efforts that were undertaken. If the find cannot be mitigated within a reasonable time, the concurrence of the AO or official representative must be obtained. Work may not resume until approval is granted by the AO or official representative.

13. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated or stored on the site or facilities authorized under this grant. Additionally, any

release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR § 117, shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or state government as a result of a reportable release or spill of any toxic substance shall be furnished to the Authorized Officer concurrent with the filing of the reports to the responsible Federal agency or state government.

14. The holder shall be responsible for weed control on disturbed areas with the limits of the right-of-way. The holder is responsible for consultation with the AO and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).

15. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the AO written approval of the plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the AO. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

16. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a pre-termination conference. The conference will be held to review the termination provision of the grant.

17. The holder is required to use the reclamation practices necessary to reclaim all disturbed areas. Reclamation will ensure surface and subsurface stability, growth of a self-regenerating permanent vegetative cover and compatibility with post land use. The vegetation will be diverse and of the same seasonal growth as adjoining vegetation. Post land use will be determined by the authorized officer but normally will be the same as adjoining uses.

Reclamation practices which must be applied or accomplished are: rerading to the approximate original contour, effectively controlling noxious weeds, separating, storing and protecting topsoil for redistribution during final abandonment, seeding and controlling erosion. If topsoil is not present, or quantities are insufficient to achieve reclamation goals, a suitable plant growth media will be separated, stored and protected for later use. Reclamation will begin with the salvaging of topsoil and continue until the required standards are met. If use of the disturbed area is for a short time (less than one year), practices which ensure stability will be used as necessary during the project, and practices needed to achieve final abandonment will commence immediately upon completion of the approved activity use and be completed, with the exception of vegetative establishment, within one year. If use of the area is for longer periods of time (greater than one year), interim reclamation is required on the unused areas. Interim reclamation of the unused areas will begin immediately upon completion of the permanent facility(s) and be completed, with exception of vegetative establishment, within one year. For both short and long term projects vegetative establishment will be monitored annually. If the desired vegetation is not established by the end of the second growing season, cultural practices necessary for establishment will be implemented prior to the beginning of the next growing season. Interim

reclamation, unless otherwise approved, will require meeting the same standards as final abandonment with the exception of original contour, which may be only partially achievable.

Annual reports consisting of reclamation practices completed and the effectiveness of the reclamation will be provided to the Little Snake Resource Area. The first report will be due in January following initiation of reclamation practices and annually thereafter until final abandonment is approved.

There are numerous reclamation practices and techniques which increase the success rate of reclamation and stabilization. With the exception of those stated above, it is the lessees prerogative to use those (s)he chooses to accomplish the objective. However, it is recommended that state-of-the-art reclamation, stabilization and management practices be used to achieve the desired objective in a timely and cost-effective manner.

The following definitions and measurements will be used to accomplish and determine if reclamation has been achieved.

- 'permanent vegetative cover' will be accomplished if the basal cover of perennial species, adapted to the area, is at least ninety (90) percent of the basal cover of the undisturbed vegetation of adjoining land or the potential basal cover as defined in the Soil Conservation Service Range Site(s) for the area.
- 'diverse' will be accomplished if at least two (2) perennial genera and three (3) perennial species, adapted to the area, make up the basal cover of the reclaimed area in precipitation zones thirteen (13) inches or less and three (3) perennial genera and four (4) perennial species in precipitation zones greater than thirteen (13) inches. One species will not make up more than fifty (50) percent of the perennial vegetation by basal cover.
- 'self-regenerating' and 'adapted to the area' will be evident if the plant community is in good vigor, there is evidence of successful reproduction and the species are those commonly used and accepted in the area.
- 'surface stability' will be accomplished if soil movement, as measured by deposits around obstacles, depths of truncated areas, and height of pedestalling, is no greater than three tenths (0.3) of an inch and if erosion channels (rills, gullies, etc.) are less than one (1) inch in depth and at intervals greater than ten (10) feet.

If this standard is not met by the end of the second growing season, two alternatives exist depending on the severity of the erosion:

- a. If erosion is greater than two (2) times the allowable amount, correctional action would have to be taken by the responsible company at that time.

- b. If erosion is less than or equal to two (2) times the allowable amount, and it is determined the erosion occurred during vegetative establishment and the site may become stable, no correctional action would be required at that time. Another check (and measurement) would be performed a year later to determine if stability standards had been met. If the original measurements have not increased by more than the allowed standard, the standard would be considered met. However, if the increase is greater than the allowed standard, corrective action would be required.
- 'subsurface stability' (mass wasting event) is of concern if disturbance has included excavation over four (4) feet in depth and greater than 10,000 square feet in area on slopes thirty five (35) percent and greater, or on any erosion-prone slope (Danforth Hills, Vermillion Bluffs and badland areas). When these conditions occur, length of liability for reclamation and final abandonment will continue for ten (10) years following re-contouring to original contour or for such time that climatic patterns provide two (2) consecutive years in which measurable precipitation totals at least 120 percent of average from October 1 through September 30, as measured by data averaged from nearby regional weather stations.

This stipulation, or portions of it, may be waived by the AO. Such waiver will be documented and justified when not applicable or objectives are accomplished through another method.