

**U.S. Department of the Interior
Bureau of Land Management**

**Categorical Exclusion
Huerfano County Road 580 ROW Authorization
July 2015**

PREPARING OFFICE

U.S. Department of the Interior
Bureau of Land Management



Categorical Exclusion

Huerfano County Road 580 ROW Authorization

DOI-BLM-CO-F020–2015–0060 CX

Prepared by
U.S. Department of the Interior
Bureau of Land Management
Royal Gorge Field Office
Cañon City, CO

July 2015

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A. Background

BLM Office: Royal Gorge Field Office

LLCOF02000

Lease/Serial/Case File No.: COC-71958

Proposed Action Title/Type: Huerfano County Road 580 Right-of-Way Authorization

Location of Proposed Action:

Sixth Principal Meridian, Colorado

T. 26S., R. 71 W.,

sec. 33, lots 2, 3, 8, and 9;

T. 27S., R. 71W.,

sec. 5, lot 2;

T. 27S., R. 72W.,

sec. 13, lot 2, SE1/4SW1/4,

sec. 23, NE1/4SE1/4.

On October 10, 2007, Huerfano County applied for a 120-foot wide right-of-way for County Road 580 which crosses public lands in four sections as described above.

Prior to the application, the County (road department) “destroyed/removed” the fence on the south side of the road (T. 26S., R. 71W., Section 33), removed a cattleguard, and utilized material from public lands for maintenance of their roads. As a result, the grazing permittee asked that the north side of the county road be fenced to keep his cattle off of the road.

In July 2007, a BLM realty specialist and the County agreed that the County should apply for a right-of-way for County Road 580 wide enough to include the disturbed area they created in Section 33, hence the 120 foot width, and to fence the north side of the road in this section.

In reviewing the application, several staff members felt that issuing a 120-foot wide right-of-way along County Road 580 was excessive for several reasons. Regarding the segment in Section 33:

1. the road is located near the section line, issuing an unvarying 120-foot width, 60 feet on each side of the centerline, would put the right-of-way onto the adjoining property in some cases;
2. the excessive width was not resolving the issue of the County removing material without prior authorization and our compliance with the requirements of the National Environmental Policy Act;
3. fencing the right-of-way along the north of the county road could create controversy with an existing grotto.

The grotto is most likely a “traditional cultural property” and construction of the fence as proposed would likely have an adverse effect on the property and it’s visitors. As for the

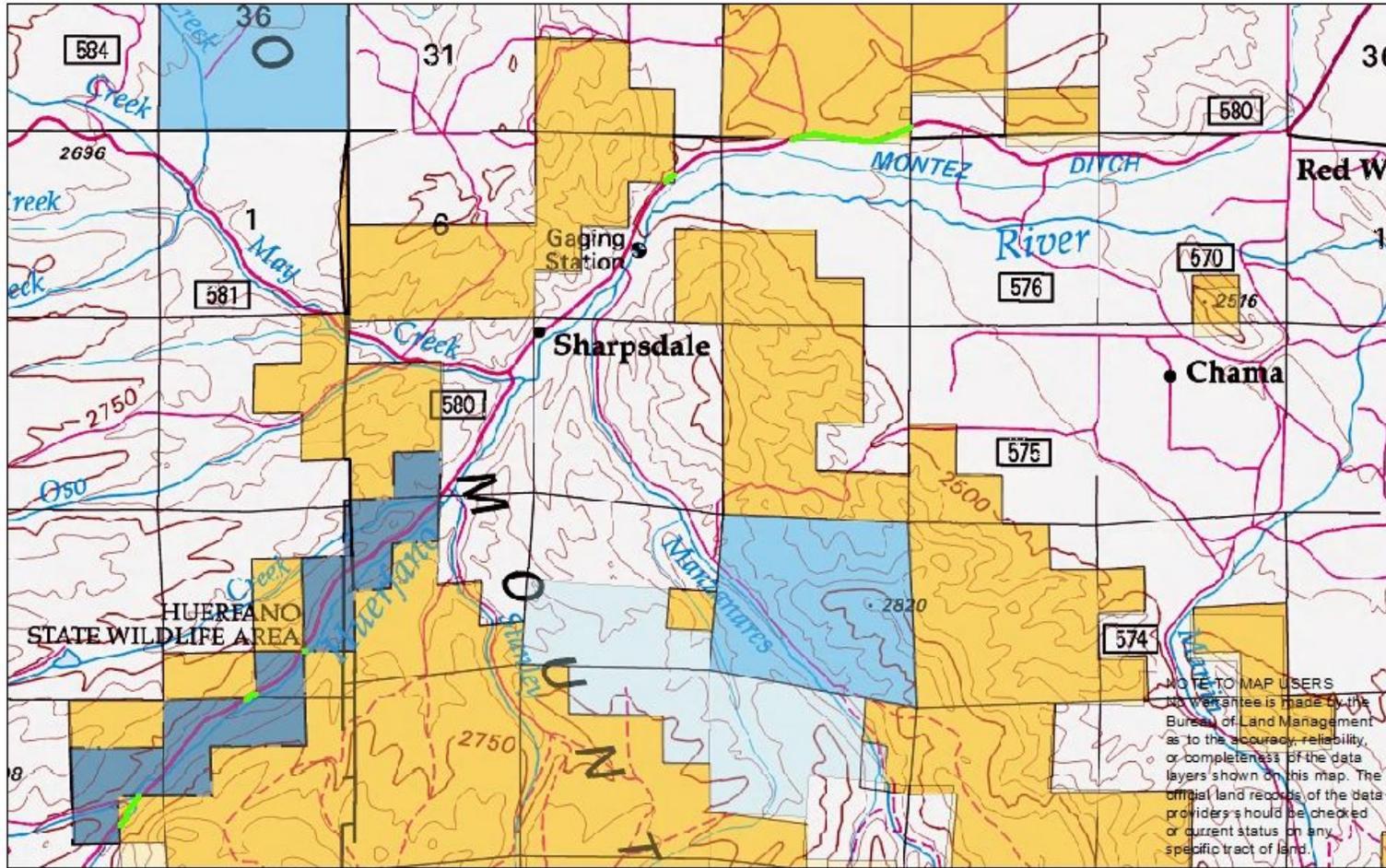
remaining segments of County Road 580 on public lands, limiting the public lands to a 60-foot right-of-way grant is sufficient for operation and maintenance as a county road.

On March 12, 2008, BLM completed a field exam and found that the cattleguard had been replaced and the fence on the south side of the county road had been repaired. It was decided that this work would be enough to keep the cattle off of the road and eliminate the need for the fencing on the north side of the road. On March 13, 2008, the Field Manager (RGFO) spoke to Roger Cain with the County. They agreed that a 60-foot wide right-of-way, 30 feet each side of the centerline, except in the area of the grotto — a 50-foot wide right-of-way, 20 feet north and 30 feet south of the centerline, for a distance of approximately 200 feet (100 feet easterly and 100 feet westerly of the grotto) was reasonable. (On December 16, 2014, Cadastral Survey approved a plat — attached as Appendix A — that will be incorporated into the right-of-way grant; the actual distance in the grotto area is 319.10 feet, not 200). The existing road is in good condition.

Applicant: Huerfano County

Description of Proposed Action:

The proposed action is to authorize County Road 580 as it traverses public land to the Huerfano County Board of County Commissioners, pursuant to Title V of the Federal Land Policy and Management Act of 1976 with the right to operate, maintain and terminate the road. The right-of-way would be granted with a width of 60 feet and a length of approximately 5,000 feet, except in the area of the grotto where the road is 20 feet north and 30 feet south of the centerline for a distance of 319.10 feet. Total acreage of public lands involved is approximately 7.25 acres. The grant would be issued in perpetuity, subject to the standard terms and conditions, attached as Appendix B.



NOTE TO MAP USERS
No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of the data layers shown on this map. The official land records of the data providers should be checked or current status on any specific tract of land.

Huerfano County Road 580 ROW Authorization

Legend

 Huerfano Cnty Rd 580 ROW

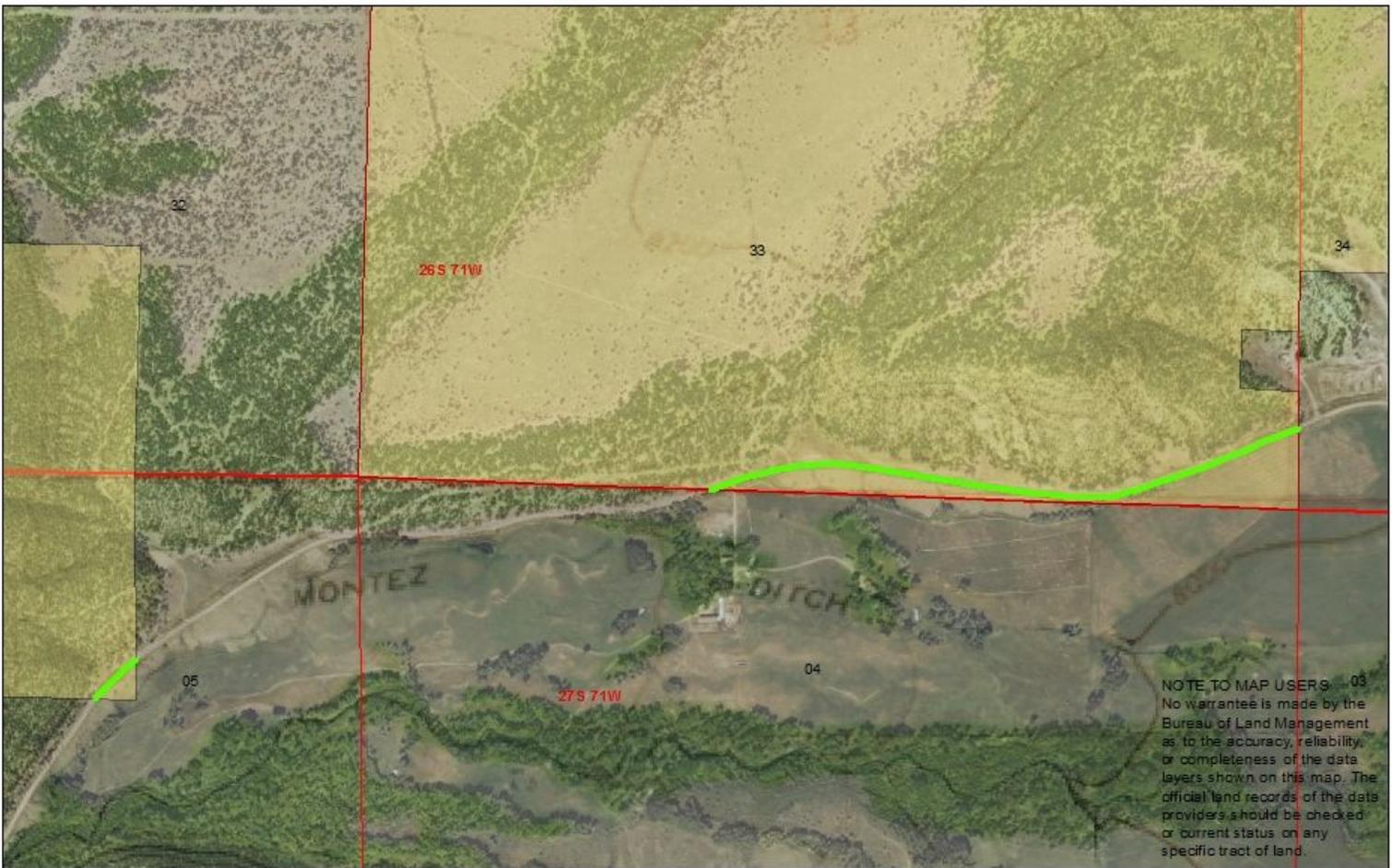
0 0.5 1 2 Miles

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6 Principal Meridian, Colorado
T 26S, R 71W, sec. 33;
T 27S, R 71W, sec. 5;
T. 27S, R 72W, sec. 13 & 23.



Figure 1.1. Huerfano County Road 580 ROW Overview Map



Huerfano County Road 580 ROW Authorization

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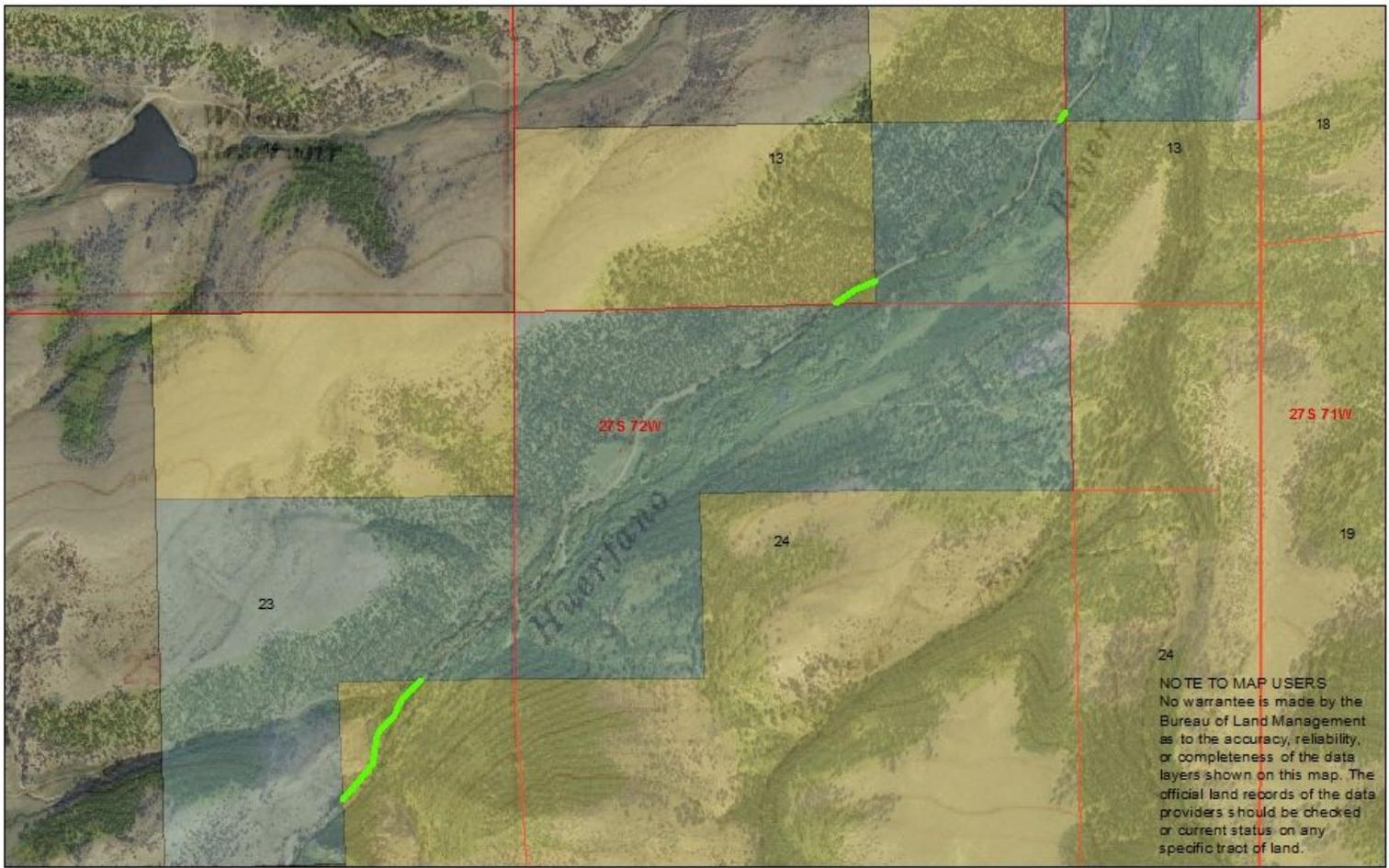
6 Principal Meridian, Colorado
 T 26S, R 71W, sec. 33;
 T 27S, R 71W, sec. 5.

Legend

 Huerfano Cnty Rd 580 ROW



Figure 1.2. Huerfano County Road 580 ROW Project Map, Sections 33 & 5



Huerfano County Road 580 ROW Authorization

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6 Principal Meridian, Colorado
T. 27S, R 72W, sec. 13 & 23.

Legend

 Huerfano Cnty Rd 580 ROW

0 0.125 0.25 0.5 Miles



Figure 1.3. Huerfano County Road 580 ROW Project Map, Sections 13 & 23

B. Land Use Plan Conformance

Land Use Plan Name:

Name of Plan: Royal Gorge Resource Management Plan

Date Approved: May 13, 1996

Decision Number: 10-47

Decision Language: Minor rights-of-way will be authorized on a case by case basis in open areas.

Date Approved/Amended: May 13, 1996

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): 10-47: Minor rights-of-way will be authorized on a case by case basis in open areas.

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 2, Appendix 1, or 516 DM 11.9, E(16): Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

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.

I considered:

CATEGORICAL EXCLUSION REVIEW: This proposed action is listed as a Categorical Exclusion in DOI Departmental Manual Part 516 Chapter 11 E(16). None of the following exceptions in 516 DM 2, Appendix 2, apply.

Table 1.1. Exclusion Criteria

Exclusion Criteria	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; lands with wilderness characteristics; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands; floodplains; 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.		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

Exclusion Criteria	YES	NO
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.		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.		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.		X

Table 1.2. Interdisciplinary Team Review

TITLE	AREA OF RESPONSIBILITY	Initials/date
Wildlife Biologist	Terrestrial Wildlife, T&E, Migratory Birds	LD, 8/13/15
Range Management Spec.	Range, Vegetation, Farmland, Weeds	JL, 8/7/2015
Fisheries Biologist	Aquatic Wildlife, Riparian/Wetlands	DG, 8/6/2015
Geologist	Minerals, Paleontology, Waste Hazardous or Solid	MJS, 8/7/2015
Hydrologist	Hydrology, Water Quality/Rights, Soils	JS, 7/24/15
Fire Management Officer	Air Quality	TW, 7/27/15
Cadastral Surveyor	Cadastral Survey	DP, 8/12/15
Outdoor Recreation Planner	Recreation, Wilderness, LWCs, Visual, ACEC, W&S Rivers,	LS, 7/28/15
Forester	Forestry	KR, 7/24/15
Archaeologist	Cultural, Native American	MMW, 7/28/15
Realty Specialist	Realty	GDV, 07/23/2015
Law Enforcement Ranger	Law Enforcement	N/A
Fire Management Officer	Fire	TW, 7/27/15

REMARKS:

Cultural Resources: One site was located during the cultural resources inventory [Report CR-RG-09-24 P, 5HF2297]. Although the site is recommended as potentially eligible for the National Register of Historic Places, the right-of-way will be narrowed in its vicinity to avoid potential impacts. Therefore, the proposed undertaking will not affect historic properties.

Native American Religious Concerns: No Native American traditional cultural properties were located during the cultural resources inventory (see above). There is no other known evidence that suggests the project area holds special significance for Native Americans.

Threatened, Endangered Species: Of the federally listed threatened, endangered and proposed species that occur in Huerfano County, suitable habitat does not occur within 1/4 mile of the action area for Mexican spotted owl or Canada lynx. There would be direct or indirect effects to federally listed threatened, endangered or proposed species or their habitats. There would be no cumulative effects to these species or their habitats. Therefore, there would be NO EFFECT to federally listed threatened, endangered or proposed species. There is no need to consult with the US Fish and Wildlife Service. No mitigation measures would be necessary.

BLM Sensitive, Migratory Birds and Terrestrial Wildlife Species: Although the site provides foraging habitat for fringed myotis, Townsend's big-eared bat, white-faced ibis, prairie falcon, there would be no detectable effects to foraging habitat for these BLM Sensitive species from this proposal. Individuals would not be affected. Similarly, for few migratory birds and mule deer, there would be no detectable effects to their foraging habitat and individuals would not be affected.

Minerals: The regulations of 43 CFR 2801.1-1(d) provide for the grant holder to pay for all materials used except for those that are necessarily removed in the construction of a project and will be used in the same right-of-way grant or permit. Material removed from a cut can be used on the same right-of-way for a necessary fill operation without a sales contract. However, material excavated from a right-of-way where cuts are not necessary are subject to disposal by BLM and cannot be used without a permit or a contract.

Wastes, Hazardous or Solid: If the project involves oil or fuel usage, transfer or storage, an adequate spill kit and shovels are required to be onsite during project implementation. The project proponent will be responsible for adhering to all applicable local, State and Federal regulations in the event of a spill, which includes following the proper notification procedures in BLM's Spill Contingency Plan.

D. Approval and Contact Information

COMPLIANCE PLAN (optional):

NAME OF PREPARER: Debbie Bellew

SUPERVISORY REVIEW: /s/ Jay M. Raiford

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Martin Weimer

DATE: 8/18/15

DECISION AND RATIONALE: I have reviewed this Categorical Exclusion and have decided to implement the Proposed Action.

This action is listed in the Department Manual as an action that may be categorically excluded. I have evaluated the action relative to the 10 criteria listed above and have determined that it does not represent an exception and is, therefore, categorically excluded from further environmental analysis.

SIGNATURE OF AUTHORIZED OFFICIAL:

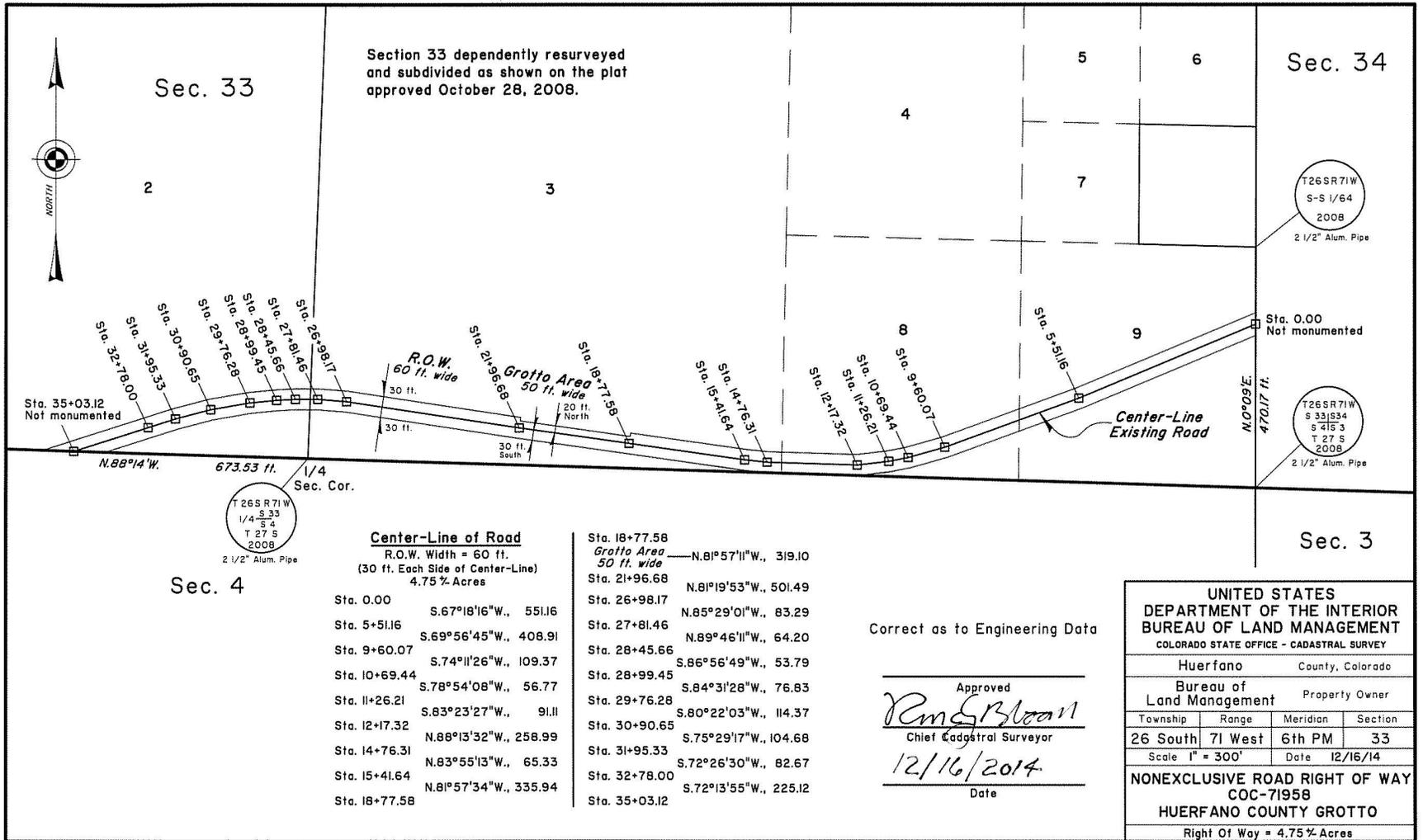
/s/ Keith E. Berger

Keith E. Berger, Field Manager

DATE SIGNED: 8/18/15

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Appendix A. Cadastral Survey of Grotto



Appendix B. Standard Stipulations

1. 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 authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer 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 authorized officer after consulting with the holder.

If in connection with operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. The holder shall continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.

2. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the ROW, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the ROW, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW holder.
3. 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 authorized officer written approval of a 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 authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.
4. No burning of trash, litter, trees, brush or other vegetative material generated by clearing the right-of-way shall be allowed under this grant.
5. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) 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 by, or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially,

provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 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 substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

6. The holder shall comply with applicable State standards for public health and safety, environmental protection and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.
7. The holder shall be fully liable to the United States for any damage or injury incurred by the United States in connection with the use and occupancy of the right-of-way area by the holder, its employees, contractors, or employees of the contractors.
8. The holder shall be fully liable for injuries or damages to third parties resulting from holder's activities or facilities on lands under Federal jurisdiction in which the damage or injury occurred. The holder shall fully indemnify the United States for liability, damage or claims arising in connection with the holder's use and occupancy of the right-of-way area.
9. In the construction, operation, maintenance and termination of the facilities authorized by this grant, the holder shall not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. All subcontracts shall include an identical provision.
10. 180 days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include but is not limited to, removal of facilities, recontouring, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
11. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.