

**United States Department of the Interior
Bureau of Land Management**

Categorical Exclusion

DOI-BLM-CO-SO54-2014-0027

June 2014

**Existing Facilities:
Access Road and Irrigation Facilities**

*Location: approximately 5 1/2 miles southwest of Hotchkiss
Delta County, Colorado*

**U.S. Department of the Interior
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401
Phone: (970) 240-5300**



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CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-CO-S054-2014-0027

CASEFILE: COC-76533

PROJECT NAME: Existing Facilities: Access Road and Irrigation Facilities

PLANNING UNIT: Gunnison Gorge NCA Resource Management Unit

LEGAL DESCRIPTION: 6th Principal Meridian, Colorado,
T. 15 S., R. 93 W., Sections 21 and 22.

APPLICANT: Sunrise Canyon Ranch Owners Association, Inc.

DESCRIPTION OF PROPOSED ACTION: The proposed action is to issue a right-of-way to the applicant to use and maintain existing facilities including an access road and irrigation system which serve the Sunrise Canyon Ranch Owners Association. The existing facilities cut corners of the Gunnison Gorge NCA boundary on five short segments located along Smith Fork Creek approximately 5 ½ miles southwest of Hotchkiss.

The Sunrise Canyon Ranch is an existing 1000-acre working ranch that has been placed in a conservation easement held by Colorado Open Lands, with the exception of 3 home sites (approximately 35-acres each) within the ranch, that comprise the Owners Association.

The right-of-way would total 4.067 acres and include the following:

- Access Road: approximately 3786 feet long, 30 feet wide, containing 2.608 acres
- 12" Diameter Irrigation Pipeline co-located with one road segment: approximately 1376 feet long, 20 feet wide, containing 0.632 acres
- 2 Irrigation Ditches: totaling approximately 1678 feet long, 20 feet wide, containing 0.77 acres. One ditch is approximately 1098 feet long and is co-located with the road and pipeline. The other ditch is approximately 580 feet long and is not located with any other facilities.
- Headgate Diversion Structure: The structure is located on the boundary of private and public land. The right-of-way is for operation and maintenance of the diversion structure and will be 50 feet X 50 feet, containing 0.057 acres on the BLM.

There are no modifications, improvements or construction proposed for the road or irrigation facilities, other than routine maintenance, at this time.

The right-of-way would be issued under FLPMA for 30 years with the right of renewal and would be subject to the stipulations in Exhibit A. The Owners Association is recognized by the State of Colorado as a nonprofit corporation in good standing; therefore it is considered rental exempt.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Gunnison Gorge NCA Resource Management Unit

Date Approved: November 2004

Decision Number/Page: Management Unit 6: Other Public Lands and within the recommended ½ mile Utility ROW Corridor 5; Page 2-93

Decision Language: Mitigation will be required in all applications to meet the objectives of this management unit and other values that could be present.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion under 516 DM 11.9, Number E(16) which allows issuance of rights-of-way for the use of existing facilities, improvements or sites for the same or similar purposes. None of the following exceptions in 516 DM 2, Appendix 2, apply.

| Exclusion | YES | NO |
|--|-------|----------------|
| 1. Have significant adverse effects on public health and safety. | _____ | _____ <u>X</u> |
| 2. Have adverse effects 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, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas. | _____ | _____ <u>X</u> |
| 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources. | _____ | _____ <u>X</u> |
| 4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. | _____ | _____ <u>X</u> |
| 5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. | _____ | _____ <u>X</u> |
| 6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects. | _____ | _____ <u>X</u> |
| 7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places. | _____ | _____ <u>X</u> |

- 8. Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species. _____ X
- 9. Have the potential to violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment. _____ X
- 10. Have the potential for a disproportionately high and adverse effect on low income or minority populations. _____ X
- 11. Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites. _____ X
- 12. Significantly, 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

INTERDISCIPLINARY REVIEW:

| Name | Title | Area of Responsibility |
|---------------|-------------------|--|
| Linda Reed | Realty Specialist | Lands and Realty |
| Glade Hadden | Archaeologist | Cultural, Native American Religious Concerns |
| Ken Holsinger | Biologist | T&E and Migratory Birds |

REMARKS:

Cultural Resources: Since the project is situated within a previously disturbed area, requirements for a cultural resource inventory are waived under the provisions of BLM manual 8110.23B2. No further work is required.

Native American Religious Concerns: There are none known or anticipated for this ROW.

Threatened, Endangered Species, Sensitive Species and Migratory Birds: There are no threatened, endangered, or candidate species to the Endangered Species Act that currently occupy or derive import use of the proposed right-of-way or the surrounding vicinity.

The project site may provide suitable nesting and/or foraging habitat for the following migratory species of conservation concern: Willow flycatcher, Chestnut-collared longspur, Grasshopper sparrow, Veery. Activities that remove vegetation or cause surface disturbance between May 15th and July 15th annually are likely to have the greatest detrimental impact to such species.

The ROW and surrounding areas are identified as Bald Eagle winter concentration areas.

To the extent possible, reptiles or amphibians observed in the project area will be avoided and will not be intentionally harmed.

The impacts to species identified are current and ongoing as the infrastructure has been in place for a long time and maintained accordingly. Any species that continue to utilize the area have likely acclimated to the infrastructure and associated maintenance activities.

NAME OF PREPARER: Linda Reed June 6, 2014

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum
Bruce Krickbaum

DATE: 6/18/14

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, Number E(16). 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.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Barbara Sharrow
Barbara Sharrow,
Uncompahgre Field Office, Field Manager

DATE SIGNED: 6/25/14

STIPULATIONS

1. The holder shall contact the authorized officer at least five days prior to the anticipated start of construction and/or any surface disturbing activities. For emergencies, the holder will contact the BLM as soon as possible after maintenance activities. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant. The BLM authorized representative is Barney Buria, Environmental Protection Specialist, who can be reached at the Uncompahgre Field Office, 2465 South Townsend, Montrose, Colorado 81401 or phone at (970) 240-5333. An alternate contact is Linda Reed, Realty Specialist, Uncompahgre Field Office, (970) 240-5322.
2. The holder shall operate and maintain the road and irrigation facilities within this right-of-way in conformance with the terms, conditions and stipulations contained herein. Any relocation, additional construction, or use that is not in accord with the approved conditions shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all plans and stipulations shall be made available at the right-of-way site during construction. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health or the environment.
3. 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.
4. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), 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.
5. Use of pesticides/herbicides shall comply with the applicable Federal and state laws. Pesticides/herbicides 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/herbicides, the holder shall obtain from the authorized officer written approval of the applicant's 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. The plan should be submitted no later than March 1 of any calendar year to cover the proposed activities for the next growing season. Emergency use of pesticides/herbicides shall be approved in writing by the authorized officer prior to such use.

6. The holder shall be responsible for noxious weed control within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations) including pesticides/herbicides approved for use on BLM land.
7. 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.
8. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated regarding toxic substances or hazardous materials. 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 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 of 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 of State government.
9. The authorized officer may suspend or terminate in whole, or in part, any construction or maintenance activities, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
10. All construction, operation and maintenance shall be within the authorized limits of the right-of-way granted herein.
11. No burning of trash, litter, trees, brush or other vegetative material shall be allowed under this grant.
12. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support such equipment. If the equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support the construction equipment. Emergency repairs to restore access are exempt; however, any

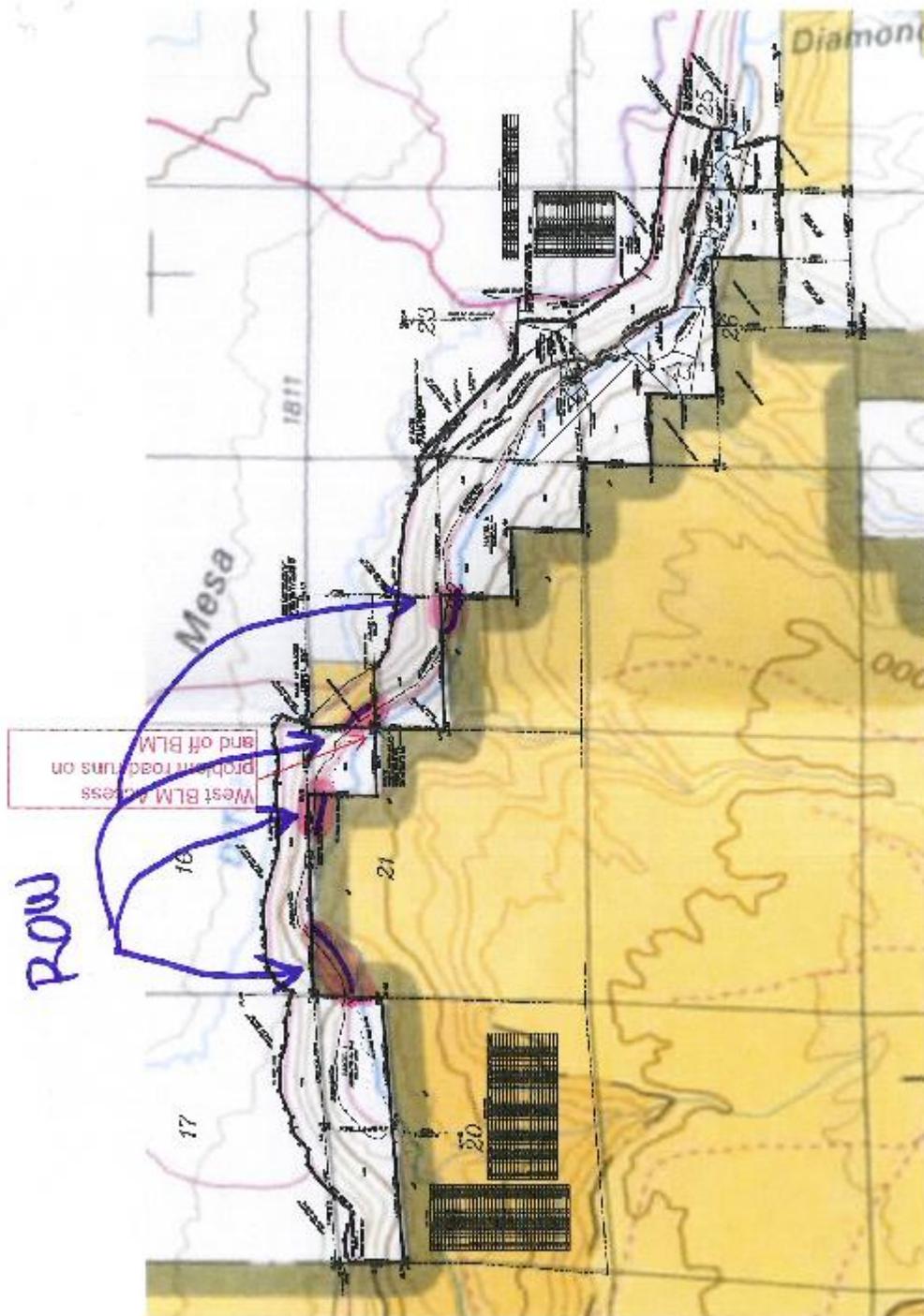
damages to resources caused by emergency repairs during wet conditions will be repaired as directed by the authorized officer as soon as possible after the occurrence.

13. The holder shall disturb and remove only the minimum amount of soils and vegetation necessary for the operation and maintenance of the access road and irrigation facilities under this right-of-way. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation. The holder shall re-contour disturbed areas as necessary by grading to restore the area to approximately the original contour of the ground as directed by the authorized officer.
14. The holder shall maintain the road under this right-of-way in order to provide for reasonable access to the landowners' property. Road maintenance shall be performed to minimize erosion along the roadway and adjacent land. Road maintenance shall include, but is not limited to road blading, surfacing as necessary, constructing side ditches, and maintenance of culverts, if applicable. If the holder's scope of use exceeds the road standards defined herein, then the holder shall apply for an amendment to the right-of-way in order to provide for such an upgrade in road standard, as determined by the authorized officer.
15. The holder shall seed all disturbed areas with the following seed mix. There shall be no primary or secondary noxious weed seed in the seed mixture. In addition, there should be no more than 0.5% total weed seed, less than 2% other seed, and no trash larger than ¼ inch in length. Seed shall not be stored in burlap bags. Seed going on projects less than 20 acres or less than 200 lbs. shall be tested, and the viability testing of seed shall be done in accordance with State law(s). Seed tests shall be less than one year old and can be from the company's seed test. Seed test documents can be from: a) certified "blue" tag(s); b) an independent seed lab test; or c) a seed lab analysis either by seed lot or by seed mix. Copies of the seed test documents shall be forwarded to the BLM, Uncompahgre Field Office. Commercial seed shall be either certified or registered pure live seed (PLS). The seed container shall be tagged in accordance with State law(s) and available for inspection by the authorized officer. Only State Certified weed free mulch shall be used.

The seed shall be evenly and uniformly planted over any disturbed areas. Seed shall be broadcast and the area shall be raked or chained to cover the seed. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of the second growing season after seeding. The authorized officer is to be notified a minimum of two days prior to seeding of the project. Seeding shall be completed at a time of optimum soil moisture content, i.e., early spring or the fall.

| <u>Seed Mix</u> | <u>Pounds/acre PLS</u> |
|---|------------------------|
| Western Wheatgrass | 4 |
| Indian Ricegrass or Bottlebrush squirreltail | <u>4</u> |
| Total | 8 lbs/acre PLS |

16. 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 as necessary. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
17. To minimize impacts on migratory bird populations, it is recommended that no surface disturbing activities occur from May 15 through July 15 of each year. This timeframe encompasses the core breeding season for the majority of migratory birds in the project area. Project activities shall retain and avoid modifying identified cavity trees, snags, and perches in the project area.
18. To protect wintering bald eagles and crucial habitats, no surface disturbing activities shall occur from December 1 through April 30. Any exceptions to this requirement must have prior written approval from the authorized officer.
19. To the extent possible, reptiles or amphibians observed in the project area will be avoided and will not be intentionally harmed.



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Montrose, CO 81401**

Decision Record

(DOI-BLM-CO-S054-2014-0027 CX)

PROJECT NAME: Right-of-way for an existing access road and irrigation facilities

DECISION: It is my decision to issue a right-of-way to the Sunrise Canyon Ranch Owners Association to use and maintain existing facilities including an access road and irrigation system which serve the ranch. The existing facilities cut corners of the Gunnison Gorge NCA boundary on five short segments located along Smith Fork Creek approximately 5 ½ miles southwest of Hotchkiss.

The right-of-way will total 4.067 acres and include the following:

- Access Road: approximately 3786 feet long, 30 feet wide, containing 2.608 acres
- 12" Diameter Irrigation Pipeline co-located with one road segment: approximately 1376 feet long, 20 feet wide, containing 0.632 acres
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No modifications, improvements or construction are proposed for the road or irrigation facilities, other than routine maintenance, at this time.

The right-of-way will be issued under FLPMA for 30 years with the right of renewal and will be subject to the stipulations in Exhibit A.

MITIGATION MEASURES:

All stipulations shown in Exhibit A of the Categorical Exclusion (CX) will be followed.

RATIONALE:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Number E(16). This categorical exclusion is appropriate in this situation because there are no extraordinary

