

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

**Categorical Exclusion
DOI-BLM-CO-S050-2012-0040CX**

December 2013

**Tsawhawbitts Meadows Ranch Trust
NRCS Piped Ditch and Ranch Access Routes**

*Location: approximately 9 miles north of Nucla and
1 ½ miles north of Tabeguache Special Management Area
Montrose 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-S050-2012-0040 CX

CASEFILE: COC-70994

PROJECT NAME: NRCS Piped Ditch and Ranch Access Routes

PLANNING UNIT: San Juan – San Miguel Resource Management Unit

LEGAL DESCRIPTION: New Mexico Principal Meridian, Colorado,
T. 48 N., R. 15 W., Sections 20 and 21.

APPLICANT: Tsawhawbitts Meadows Ranch Trust

DESCRIPTION OF PROPOSED ACTION:

The proposed action is to issue a right-of-way (ROW) to the applicant for construction, operation and maintenance of an NRCS designed project to pipe the existing West Shavano Ditch. The ranch's associated ATV access routes and a road segment would also be included in the ROW. The project is located approximately 9 miles north of Nucla and 1½ miles north of the Tabeguache Special Management Area. A narrow strip of public land approximately 660 feet wide and 2 miles long is bordered on the north by Forest Service (FS) and on the south by private.

The ROW would include the following:

- West Shavano Ditch: An NRCS designed project proposes burying a 12" diameter pipeline in the existing ditch. The pipeline and access route ROW would be 1465 feet long, 20 feet wide and contain approximately 0.673 acres. Construction of the pipeline is to be contained within the footprint of the existing ditch, maintenance and access area. It is anticipated construction on the BLM would require 7-10 days. A FLPMA ROW is required because post-FLPMA water rights will be transported in the pipeline.
- ATV access routes: Existing ATV routes are used for general ranch purposes including access between ditches and the FS land. The ATV access ROW would be 4565 feet long, 12' wide and contain approximately 1.258 acres.
- Access road: An existing, previously constructed road, accesses eastern ditches and FS land. The access road ROW would be 750 feet long, 25 feet wide and contain approximately 0.43 acres.

The right-of-way would contain 2.361 total acres on public land. See attached map for facility locations.

The ROW would be issued under the Federal Land Policy Management Act (FLPMA) for 30 years with the right of renewal. The grant would be subject to rent and the attached stipulations (see Exhibit A).

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: San Juan – San Miguel Resource Management Unit

Date Approved: September, 1985

Decision Number/Page: Emphasis Area A – Livestock Management, Page 56

Decision Language: Emphasis Area A allows other land actions when there is a clear and significant public need and they will result in minimal adverse impacts to other resources.

CATEGORICAL EXCLUSION REVIEW: The proposed actions qualify as a categorical exclusion under 516 DM 11.9, Number E(16) which allows for issuance of rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purpose. Construction of the pipeline will be contained within the footprint of existing disturbance of maintenance and operation of the ditch and the use will continue to be transporting irrigation water. 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:

<u>Name</u>	<u>Title</u>	<u>Area of Responsibility</u>
Linda Reed	Realty Specialist	Lands and Realty
Glade Hadden	Archaeologist	Cultural, Native American Religious Concerns
Ken Holsinger	Biologist	T&E and Migratory Birds
Alan Kraus	HazMat Spec.	Hazardous and Solid Wastes

REMARKS:

Cultural Resources: The project area was inventoried on November 19, 2013 by the BLM archaeologist with negative results. There are no National Register or otherwise eligible historic properties within the ROW Area of Potential Effect and no further work is required.

Native American Religious Concerns: There are none known or anticipated in the project area.

Threatened, Endangered Species, and Sensitive & Migratory Birds:

BLM Sensitive species:

Authorizing the existing ditches, roads, and trails for operation and maintenance are not expected to impact those sensitive species with potential to occur in the area (see wildlife report in the project record for species with potential to occur in the area) beyond those impacts that are current and ongoing since the development of the ditches and access routes in the late 1800's.

BLM Sensitive Amphibians:

Piping and closing off the existing West Shavano Ditch will reduce habitat opportunities for Canyon Tree frogs and Northern Leopard frogs. Those losses are expected to be offset by

improving water quality and quantity in the adjacent Shavano and East Branch of Shavano Creeks which do provide better habitat quality and structure.

Migratory Birds of Conservation Concern & BLM Sensitive Birds:

There is potential for the willow flycatcher and Peregrine falcon to occur in the project area. Improving water quality and quantity in the adjacent creeks is expected to offset the loss of marginal willow flycatcher nesting habitat associated with the narrow and artificial riparian areas of the West Shavano Ditch. The area in question has been identified by Colorado Parks and Wildlife as “potential nesting habitat” for Peregrine falcon; however, the canyon walls do not offer suitable height and aspects to reasonably expect nesting falcons. Surveys conducted by CPW have not revealed nesting attempts by falcons in the area.

NAME OF PREPARER: Linda Reed November 27, 2013

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum

DATE: 12/20/13

COMPLIANCE WITH NEPA

The Proposed Actions are categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Numbers E(16) and E(17). 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: 12/23/13

COC-70994
Exhibit A

STIPULATIONS

1. The holder and/or its subcontractor shall contact the authorized officer at least five days prior to the anticipated start of construction and/or maintenance activities on the right-of-way. 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 construct, operate, and maintain the pipeline facilities within this right-of-way in conformance with the design plans developed by Natural Resources Conservation Service, titled "Tsawhawbitts Meadows Ranch Trust Phase I, West Shavano", approved July 1, 2013, Sheets 1 through 12. The holder shall operate and maintain the existing road and ATV routes within this right-of-way in conformance with terms, conditions and stipulations of this right-of-way. 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 and maintenance. 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 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. Any fueling or maintenance of vehicles or equipment will not be conducted within 100 feet of any live water or drainage. All spills, regardless of size, shall be cleaned up promptly and contaminated soil will be disposed of at an approved facility. Any spills will be promptly reported to the BLM Authorized Officer.
10. It is the holder's responsibility to comply with all applicable Federal, State, and local laws and regulations existing or hereafter enacted or promulgated.
11. 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.

12. All construction, operation and maintenance shall be within the authorized limits of the right-of-way granted herein. The holder shall clearly flag the exterior boundaries of the right-of-way, prior to any surface disturbing activities, in order to identify the location and limits for all surface disturbing activities as determined by the authorized officer.
13. All brush, grasses, and other woody material cleared from the right-of-way shall be removed from the public land and not scattered on site; unless the debris is mulched and used for reclamation as natural materials to enhance surface stability and re-vegetation efforts.
14. Existing soil materials within the right-of-way shall be used to the extent possible to backfill the pipeline and recontour the disturbed areas. Any additional fill material needed shall be acquired from private sources.
15. No burning of trash, litter, trees, brush or other vegetative material shall be allowed under this grant.
16. 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.
17. The holder shall disturb and remove only the minimum amount of soils and vegetation necessary for the construction, operation, and maintenance of the facilities authorized herein. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation. The holder shall recontour disturbed areas as necessary by grading to restore the area to approximately the original contour of the ground as directed by the authorized officer.
18. On the public land construction holes or pipeline trenches left open overnight shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through.
19. The holder shall design and construct adequate water-control structures in each drainage crossing, as appropriate, to prevent excessive erosion along the pipeline and protect the pipeline from the natural erosion process within the drainage.
20. As appropriate, the holder shall construct waterbars on all disturbed areas to the spacing and cross sections specified by the authorized officer. Waterbars are to be constructed to: (1) simulate the imaginary contour lines of the slope (ideally with a grade of one or two percent); (2) drain away from the disturbed area; and (3) begin and end in vegetation or rock whenever possible. The waterbars shall be constructed at 50-foot intervals on grades over 14%, 100 feet apart on grades 10-14%, and 200 feet apart on grades 5-10%.
21. 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

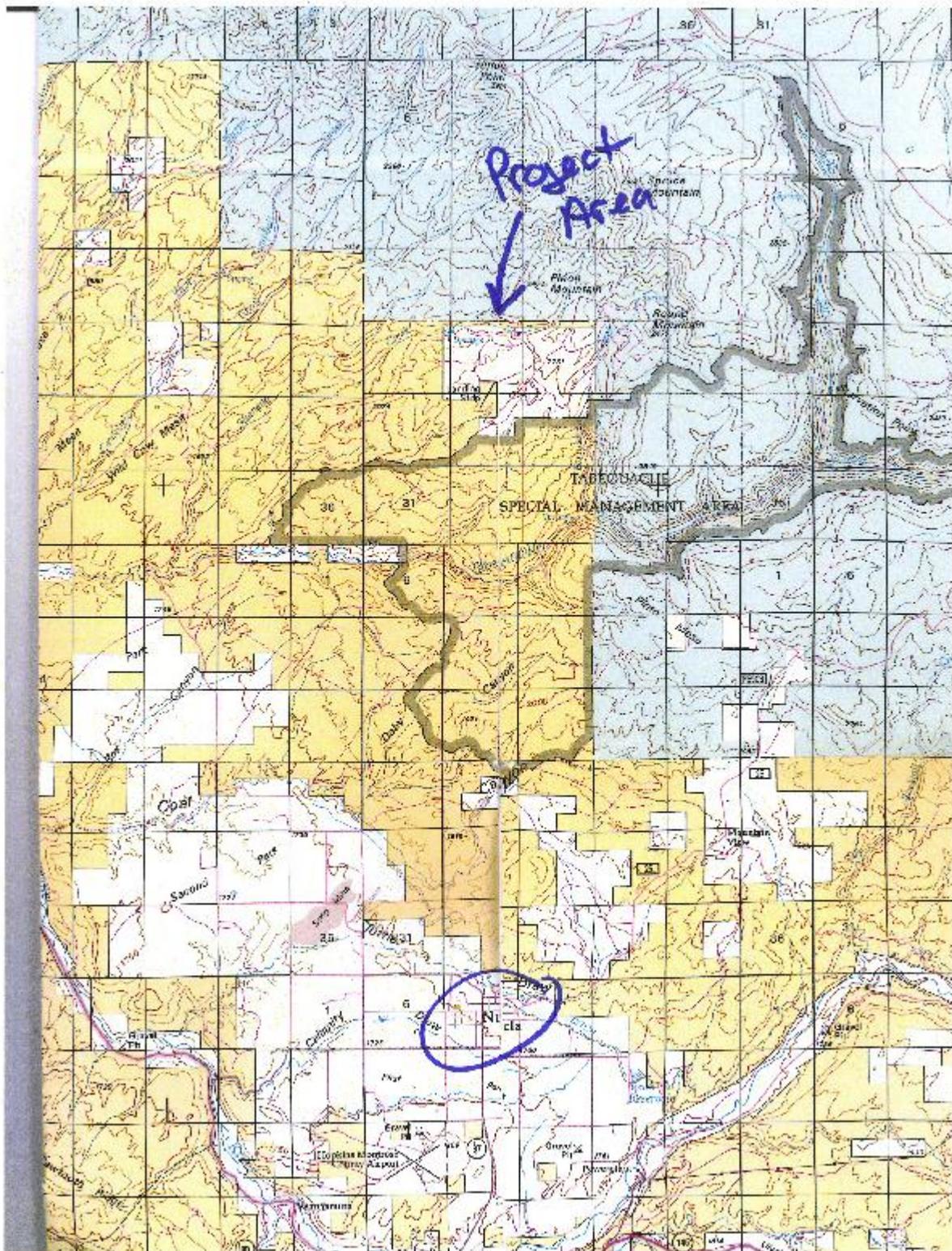
no more than 0.5% total weed seed, less than 2% other seed, and no trash larger than ¼ inch in length. Seed shall not be stored in burlap bags. Seed going on projects less than 20 acres or less than 200 lbs. shall be tested, and the viability testing of seed shall be done in accordance with State law(s). 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 (Arriba)	2
Indian Ricegrass (Rimrock)	3
Bottlebrush squirreltail (VNS)	<u>3</u>
Total	8 lbs/acre PLS

Or instead of using the above BLM recommended seed mix, the holder may seed the pipeline project using the NRCS seed mix as approved by the BLM authorized officer. The seed mix tags shall be provided to BLM for approval prior to seeding. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the second growing season.

22. Eastern existing access road to Forest Service land: The holder shall maintain the road under this right-of-way in order to provide for reasonable access. 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 installation and maintenance of waterbars and culverts, as applicable.
23. West Shavano Pipeline: Upon completion of construction and reclamation, the right-of-way shall be used as the operation and maintenance access route for pipeline purposes only.
24. 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.



**U.S. Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401**

Decision Record

(DOI-BLM-CO-S050-2012-40 CX)

PROJECT NAME: NRCS Piped Ditch, Associated ATV Access Routes and Existing Road

DECISION: It is my decision to issue a right-of-way to Tsawhawbitts Meadows Ranch Trust for construction, operation and maintenance of an NRCS designed project to pipe the existing West Shavano Ditch. The ranch's existing ATV access routes and a road segment are also included in the ROW. The project area is located approximately 1½ miles north of the Tabeguache Special Management Area. A narrow strip of public land approximately 660 feet wide and 2 miles long is bordered on the north by Forest Service (FS) and on the south by private.

The right-of-way contains 2.361 total acres on public land and includes the following:

- West Shavano Ditch: A 12" diameter pipeline will be buried in the existing ditch according to the NRCS design plans. Construction of the pipeline is to be contained within the footprint of the existing ditch, maintenance and access area. The pipeline and access route ROW is 1465 feet long, 20 feet wide and contains approximately 0.673 acres. A FLPMA ROW is required because post-FLPMA water rights will be transported in the pipeline.
- ATV access routes: The existing ATV access routes included in the ROW are 4565 feet long, 12' wide and contain approximately 1.258 acres.
- Access road: An existing, previously constructed road, included in the ROW is 750 feet long, 25 feet wide and contains approximately 0.43 acres.

The ROW will be issued under the Federal Land Policy Management Act (FLPMA) for 30 years with the right of renewal. The grant will be subject to rent and the attached stipulations (see Exhibit A).

MITIGATION MEASURES:

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

RATIONALE:

The Proposed Actions are categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, 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.

COMPLIANCE WITH MAJOR LAWS and CONFORMANCE WITH LAND USE PLAN:

The decision is in compliance with applicable laws, regulations and policy, including FLPMA, the Endangered Species Act, Migratory Bird Treaty Act and National Historic Preservation Act. It is also in conformance with the San Juan/San Miguel RMP.

PUBLIC COMMENT:

The BLM informed the public about this project by listing it on the online Uncompahgre NEPA Register and a copy of the completed CX will be posted on the NEPA website.

ADMINISTRATIVE REMEDIES:

If you are adversely affected by this decision, within 30 days of receipt of this decision you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR §4.400. This decision goes into effect immediately and will remain in effect pending appeal unless a stay is granted (43 CFR §2801.10).

NAME OF PREPARER: Linda Reed

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum

DATE 12/20/13

SIGNATURE OF AUTHORIZED OFFICIAL /s/ Barbara Sharrow

Barbara Sharrow
Field Manager, Uncompahgre Field Office

DATE SIGNED 12/23/13