

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

**Categorical Exclusion
DOI-BLM-CO-SO50-2012-0032 CX**

September 2012

Access Road Right-of-way

*Location: approximately 1 mile north of Paonia Reservoir
Gunnison 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-S050-2012-0032 CX

CASEFILE: COC-75551

PROJECT NAME: Access Road Right-of-way for Off Unit Natural Gas Operations

PLANNING UNIT: Uncompahgre Basin Resource Management Unit

LEGAL DESCRIPTION: 6th Meridian, Colorado,
T. 12 S., R. 89 W.,
Sec. 20: NE1/4NW1/4.

APPLICANTS: Gunnison Energy Corporation (GEC)

DESCRIPTION OF PROPOSED ACTION: The proposed action is to issue a right-of-way (ROW) to GEC for use of an existing access road for off unit operations (i.e. off the Deadman Gulch Unit). The existing road is located approximately 1 mile north of Paonia Reservoir in Gunnison County. The road is currently improved, graveled and maintained by GEC for their on-unit operations. It is also authorized under ROW to Hotchkiss Ranches.

This road was previously authorized to GEC under ROW COC-68920 when it was off-unit and was analyzed in EA CO-150-2005-45 which estimated approximately 10-14 vehicle trips per day during drilling. This road was also analyzed in EA CO-150-2008-35 as part of GEC's 16-well EA and estimated use was approximately 6-7 vehicle trips per day during drilling and 1 trip per day for operations. GEC estimates their average daily traffic (ADT) use of the road to be one to two vehicle trips per day for both on-unit and off-unit operations not during drilling. The proposed ADT off-unit use of this road combined with the on-unit use is within the scope of analysis of these previous NEPA documents.

The road will remain 14-foot wide with a crowned gravel running surface and drainage ditches. The ROW would be approximately 1800 feet in length and 30 feet in width; encumbering 1.240 acres on the public lands. The ROW would be issued under FLPMA for 30 years with the right of renewal. The grant will be subject to rent and the attached stipulations (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: Uncompahgre Basin Resource Management Unit

Date Approved: July 1989

Decision Number/Page: MU-16, General Land Uses, page 156

Decision Language: No single resource or resource use would have management priority. Lands cases would be analyzed and processed on a case-by-case basis.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies 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 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.	_____	_____ <u>X</u>
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.	_____	_____ <u>X</u>
10. Have the potential for a disproportionately high and adverse effect on low income or minority populations.	_____	_____ <u>X</u>
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.	_____	_____ <u>X</u>

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
Edd Franz	Recreation Planner	Lands with Wilderness Characteristics

REMARKS:

Cultural Resources: The ROW is an existing improved road and no additional impacts are anticipated. No further inventory is required under the provisions of BLM 8110.23B2.

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

Threatened, Endangered Species, and Sensitive & Migratory Birds:

The environmental assessments EA CO-150-2005-45, EA CO-150-2008-35 conducted to authorize construction and maintenance of the subject road concluded that there were no effects to federally listed species. The previous EAs found that the road construction and operation, including the wells that the road provides access to, may affect some individuals (Fringed myotis, Townsend's big-eared bat, Bald eagle, Northern goshawk, and Northern leopard frog), but would not contribute to the need to list the species. Given that no new species have been added to the ESA and that no population level changes have been detected for sensitive species as a result of the development that has occurred under EA CO-150-2005-45 and EA CO-150-2008-35, no additional impacts are anticipated from authorizing the proposed right of way.

NAME OF PREPARER: Linda Reed August 27, 2012

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum

DATE: 9/4/12

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: 9/5/12

COC-75551
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 purpose of this right-of-way is for Gunnison Energy Corporation's (GEC) use for off-unit (i.e. off the Deadman Gulch Unit) oil and gas operations. GEC estimates their average daily traffic use of the road to be a total of one to two vehicle trips per day for both on-unit and off-unit operations not during drilling.
3. The holder shall construct, operate, and maintain the facilities, improvements, and structures 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.
4. 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.
5. 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.

6. 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.
7. 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.
8. The holder and/or its contractors shall pressure wash all heavy equipment at an off-site location prior to entering the project area. This is a preventative measure for reducing noxious weed infestation on the road. If equipment is moved around directly in the area then pressure washing is not required. However, if equipment is removed from the area, used elsewhere, then brought back to the area, pressure washing is required before the equipment can be used in the area. This pertains to heavy equipment such as graders, bulldozers, backhoes, etc. Pickup trucks do not require pressure washing prior to entering the area.
9. Any fuel spills shall be immediately contained and reported to the authorized officer and copies of characterization and remediation spill data and reports shall be filed within two days. Spill reporting, containment, and cleanup shall occur immediately and be removed to the nearest approved landfill. Releases of hazardous substances or fuels during operation shall be contained and disposed in accordance with State and Federal regulations.
10. 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.
11. 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.

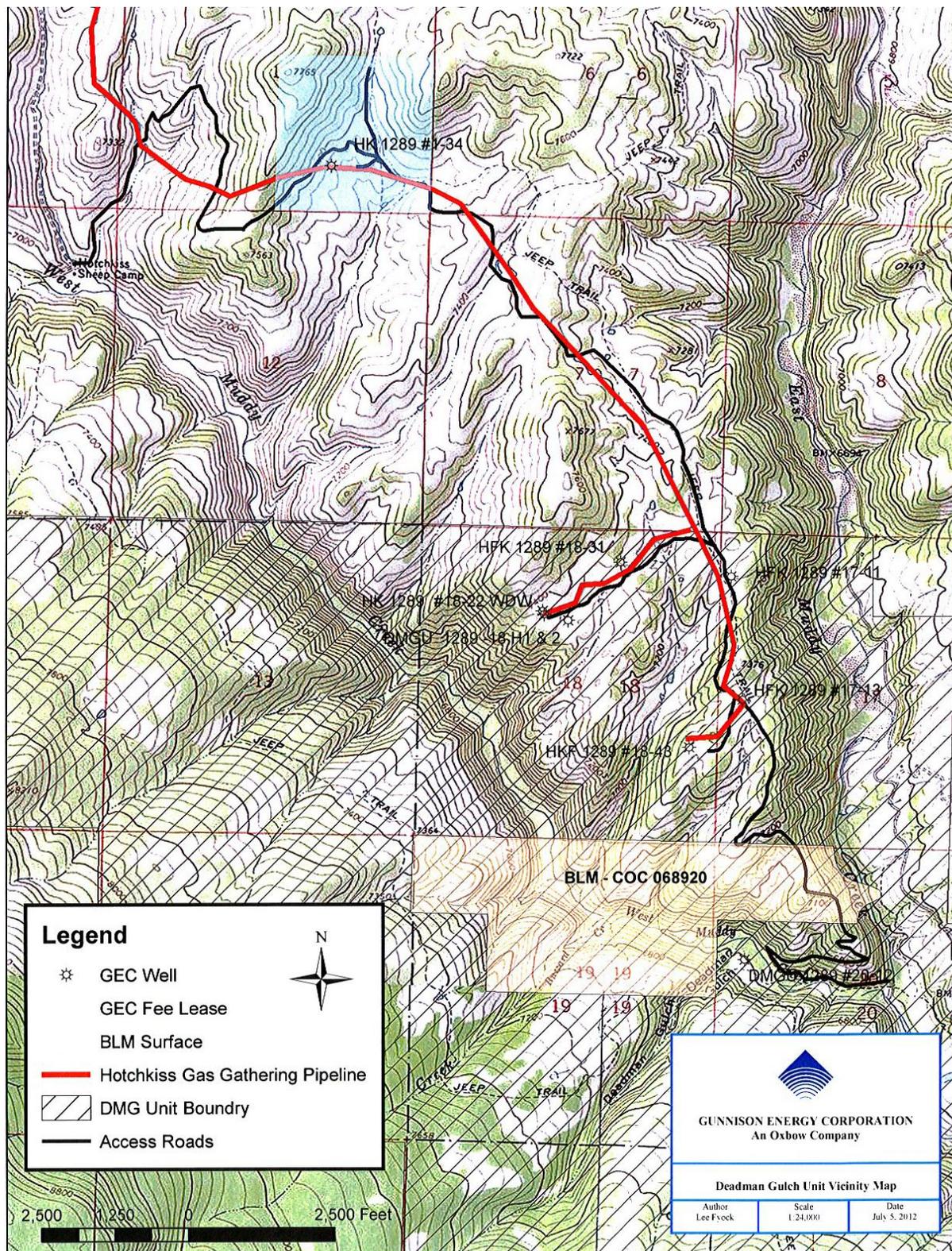
12. The holder shall maintain the road to be reasonably smooth and free of ruts, soft spots, chuckholes, rocks, slides and washboards. A regular maintenance program shall include blading, ditching, signing, graveling and culvert maintenance as necessary.
13. The authorized officer may suspend or terminate 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.
14. All construction, operation and maintenance shall be within the authorized limits of the right-of-way granted herein.
15. 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.
16. No burning of trash, litter, trees, brush or other vegetative material shall be allowed under this grant.
17. 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.
18. The holder shall disturb and remove only the minimum amount of soils and vegetation necessary for the construction, operation, and maintenance of the access road. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation. The holder shall recontour disturbed areas outside the roadway as necessary by grading to restore the area to approximately the original contour of the ground as directed by the authorized officer.
19. If dust becomes a problem during any phase of the operations, the holder will be required to provide dust abatement measures to the road. These would include water or magnesium chloride, emulsified asphalt or other dust palliatives, as approved by the BLM, to decrease the application frequency.
20. 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
Slender Wheatgrass or Bottlebrush squirreltail	<u>4</u>
Total	8 lbs/acre PLS

21. It is the holder's responsibility to comply with all applicable Federal, State, and local laws and regulations existing or hereafter enacted or promulgated.
22. The holder shall form a road users association with other authorized users of the road for the purpose of determining joint maintenance responsibilities and to make road use plans known to others. If that is not successful, the holder shall demonstrate in writing their good faith effort to do so. The holder shall provide the authorized officer, within 30 days from the date of the grant, with the names and addresses of all parties notified, dates of notification, and method of notification. Failure of the holder to share proportionate maintenance costs on the common use of the road in terms of dollars, equipment, materials, or manpower with other authorized users may be adequate grounds to terminate the right-of-way grant. The determination as to whether this has occurred and the decision to terminate shall rest with the authorized officer. The holder shall provide the authorized officer with copies of any maintenance agreement entered into.
23. 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-S050-2012-0032 CX)

PROJECT NAME: Access Road Right-of-way for Off Unit Natural Gas Operations

DECISION: It is my decision to issue a right-of-way to Gunnison Energy Corporation (GEC) for use of an existing access road for off-unit (i.e. off the Deadman Gulch Unit) natural gas operations. The existing road is located approximately 1 mile north of Paonia Reservoir in Gunnison County. The road is currently improved, graveled and maintained by GEC for their on-unit use.

The right-of-way would be approximately 1800 feet in length and 30 feet in width; encumbering 1.240 acres on the public lands. The right-of-way would be authorized under FLPMA for 30 years with the right of renewal and would 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 Action is 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 the Endangered Species Act, Migratory Bird Treaty Act and National Historic Preservation Act. It is also in conformance with the Uncompahgre Basin 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 9/4/12

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

DATE SIGNED 9/5/12