

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

Documentation of NEPA Adequacy

DOI-BLM-CO-SO50-2013-0005 DNA

April 2013

Elephant Skin Buckwheat Protection

*Location: Gunnison Gorge National Conservation Area
Elephant Skin Recreation Area*

**U.S. Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401
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Determination of NEPA Adequacy (DNA)

NUMBER: DOI-BLM-CO-S050-2013-0005 DNA

PROPOSED ACTION TITLE: Elephant Skin Buckwheat Protection

LOCATION/LEGAL DESCRIPTION: T. 49 N., R. 9 W., Section 3 NW ¼ NW ¼ NMPM

APPLICANT: Bureau of Land Management Uncompahgre Field Office

A. Description of the Proposed Action and any applicable mitigation measures

Surveys recently conducted by BLM of several populations of the endangered Clay-loving wild buckwheat have documented that a large population in the Elephant Skin area is being negatively impacted by both authorized OHV routes and unauthorized user created OHV routes. (**Figure 1**) Compliance with the existing RMP and meeting the legal requirements of the Endangered Species Act has resulted in the need to develop a reasonable method of protecting this population from further impacts. (**Photo 1**)

The proposed action consists of fencing this large population of Clay-loving wild buckwheat to exclude OHV activity on and through the population. Public use would be limited to pedestrian activity. This fencing effort would result in a 17-acre enclosure around this population. A woven wire fence would be constructed to BLM standards depicted in **Figure 2**. The enclosure is proposed to be constructed out of woven wire to prevent sheep from possibly being entrapped in the enclosure. The fence would be constructed by work crews on foot where the proposed fence line would not be adjacent to existing full sized vehicle routes.

The northern boundary of the fence would parallel on the south side of the substantial wash known as Techno Ditch. The eastern and south eastern boundary of the fence would be adjacent to the newly constructed service routes for the Tri-State Montrose to Delta 320 KV powerline. From the structure pad on the southern boundary of the enclosure the fence would run in a westerly direction and tie into the existing north south allotment boundary fence which will serve as the western fence boundary and improved to the specifications described above. This existing boundary fence is built approximately 200 feet off the true BLM private boundary. Should recreational impacts be observed on the west side of the existing fence then the protective fencing would be extended to the public-private boundary as necessary to appropriately protect this population of buckwheat, while considering cost and impacts to the resource.

The designated motorized single track route that parallels the existing fence line (west side of the proposed enclosure) would be routed around the enclosure to the east onto other existing trails to continue to provide access to the trail known as Techno Ditch which lies to the north of the proposed fencing project.

Figure 1. Project Map

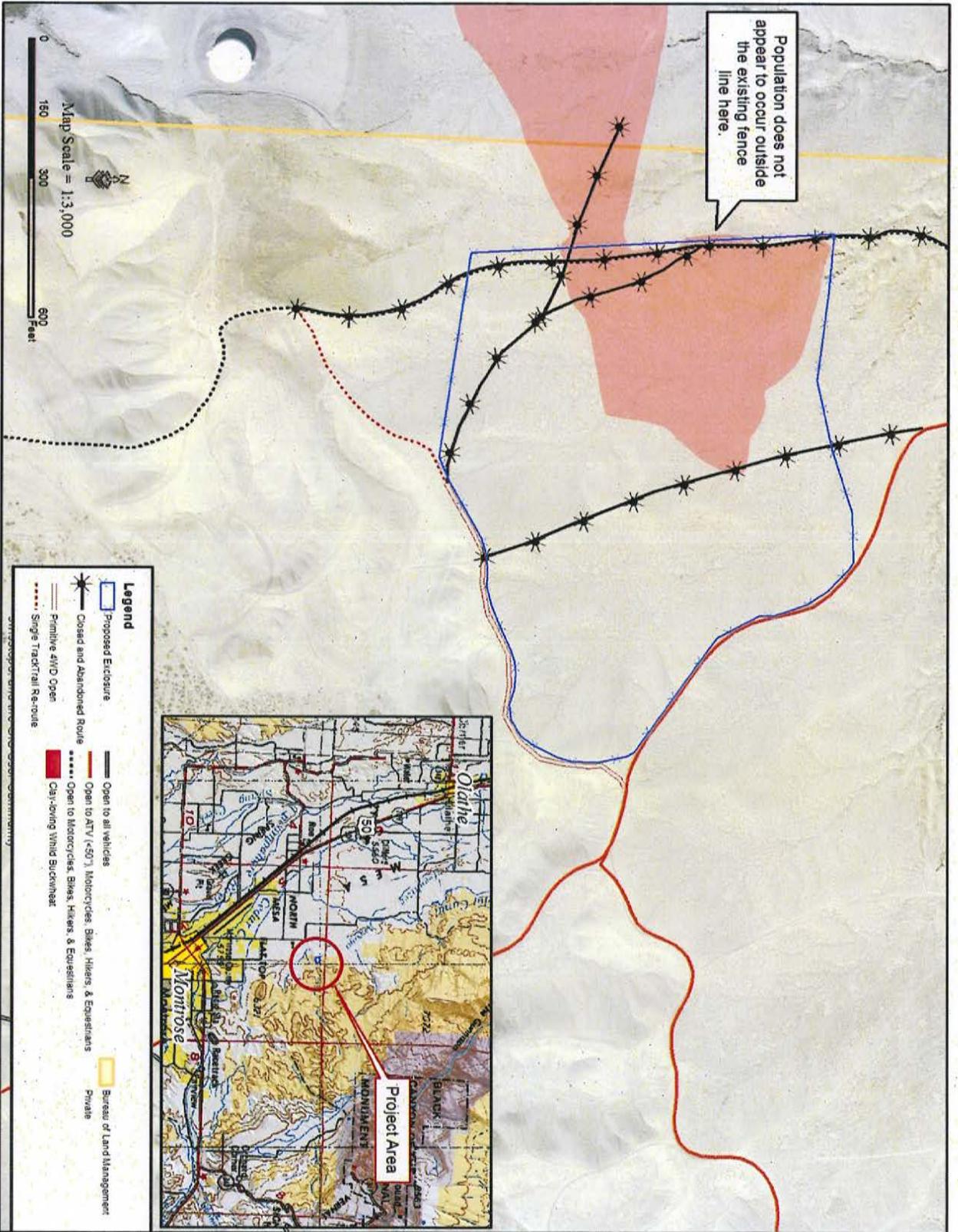




Photo 1. User created routes across buckwheat population in the Elephant Skin area.

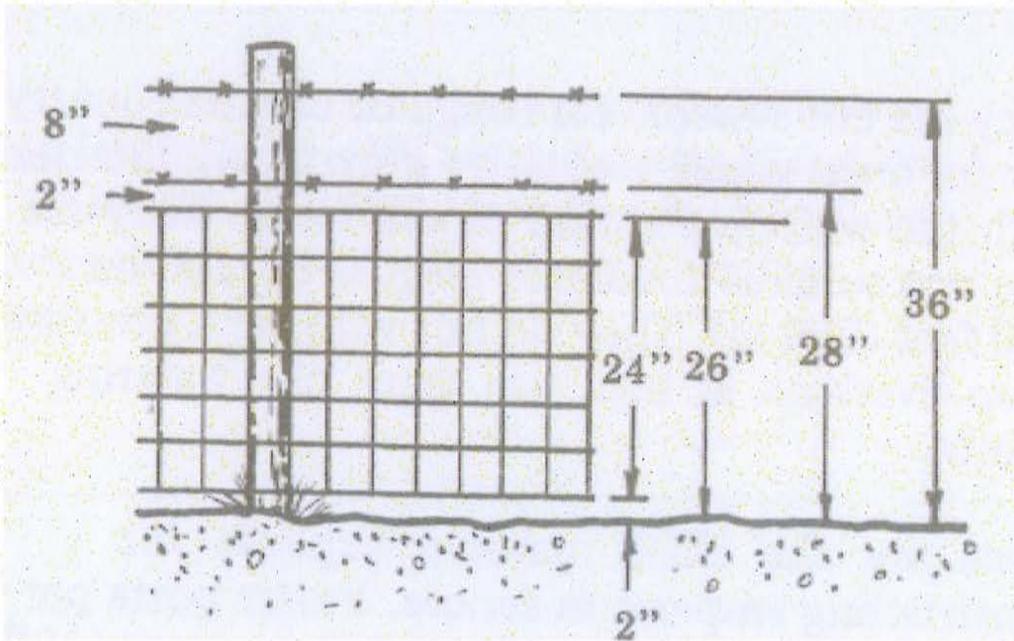


Figure 2. Sheep fence specifications

Design Features:

1. **Avoidance.** Work crews would take measures to avoid ground disturbance within 3 feet of any clay-loving wild buckwheat plant and no posts would be installed within 3 feet of any plant. Crew would access fencing locations through pre-existing roads, or take appropriate measures to minimize ground disturbance in un-occupied habitat. Off-highway vehicle use would be restricted to existing routes around or through occupied habitat (see Figure 1). These designated areas would be flagged by a qualified compliance biologist and all plants within 3 meters would be flagged and avoided by construction activities.
2. **Employee Education.** A worker education and awareness program for clay-loving wild buckwheat would be developed and presented by BLM to all personnel who work on the project. No personnel would be allowed to work on the project until they have completed this orientation. The program would include: (1) Information on the legal and biological status of clay-loving wild buckwheat, (2) what habitats are important to the species, (3) where occurrences are located on the project area, (4) awareness of mandatory conservation measures, (5) information on fines and penalties for damaging or directly impacting clay-loving wild buckwheat, and (6) reporting procedures should any violation occur. If any clay-loving wild buckwheat plants are directly impacted by project activities, construction would be halted immediately and consultation with the Service would be re-initiated.
3. **Biological Monitoring.** The BLM would be on site for certain construction activities with the greatest likelihood for impacting adjacent clay-loving wild buckwheat. These activities include the following: (1) Initial fence post location flagging, and (2) fence installation. It is the responsibility of the construction manager to maintain and communicate a construction schedule with the biologist to ensure that monitoring activities are planned for and carried out. Prior to fence construction, a qualified compliance biologist must survey and pin flag all clay-loving wild buckwheat plants along the fencing route and all fencing activities must be monitored by the compliance biologist. Crews would be required to work in dry conditions and to avoid any direct impacts to clay-loving wild buckwheat plants.

B. Land Use Plan (LUP) Conformance

LUP Name: Gunnison Gorge National Conservation Area RMP

Date Approved: November 2004

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decisions:

SSS-C-16 If large or particularly unique occurrences or populations of sensitive plants are found, the sites will be protected as needed and required through such actions as fencing or closure to OHV use, mineral entry, mineral material disposal, or other activities that are not compatible with maintenance of rare plant populations.

SSS-C-17 BLM will take special management actions to promote and protect special status species. Special status species include listed species, proposed species, candidate

species, state listed species and sensitive species. Actions could include, but will not be limited to modification of existing uses or practices to eliminate or mitigate the negative impact, or closing areas to certain types of use.

SSS-C-18 BLM will remove OHV traffic, concentrated livestock use, such as domestic sheep bed grounds, or other impacting uses from known population sites of Clay-loving wild buckwheat or other special status species.

C. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.

Bureau of Land Management. 2004. Gunnison Gorge National Conservation Area Proposed Resource Management Plan and Final Environmental Impact Statement. BLM Gunnison Gorge NCA Office. Montrose, Colorado.

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

The proposed action is specifically what was analyzed in the Gunnison Gorge NCA RMP and ROD. Land Use Planning Decision **SSS-C-16** (RMP page 2-21) states that if large or particularly unique occurrences or populations of sensitive plants are found, the sites will be protected as needed and required through such actions as fencing or closure to OHV use, mineral entry, mineral material disposal, or other activities that are not compatible with maintenance of rare plant populations.

The proposed action is essentially the same as implementation decisions contained in the Gunnison Gorge NCA RMP and ROD. Implementation decisions for Management Unit 2 (Flat Top-Peach Valley OHV Recreation Area) include: **REC-2-68** (RMP page 2-59) - "Fences, rock barricades, etc., to: protect private lands; contain use within Recreation Management Zone; protect special status species, unique soils, etc.; and allow for success of restoration measures"; **REC-2-71** (RMP page 2-60) - "Areas impacted by unauthorized use will be closed, either temporarily or permanently as needed, and rehabilitated."

The necessary rerouting of the designated trail that will be closed by the proposed action is allowed by Land Use Plan decisions: **REC-2-69** (RMP page 2-59) - "New (road/trail) construction will be allowed only if needed to resolve resource concerns or user conflicts"; **TRANS-C-2** (RMP page 2-11) and **TRANS-2-3** (RMP page 2-51) - "Roads managed by BLM will be closed seasonally or otherwise under the appropriate regulations or laws for protection of resources, for prevention of vandalism or trespass, or for other reasons that warrant such

restrictions in order to better manage resources or values on public lands. These options will be implemented as a result of findings during monitoring of resources and programs as part of adaptive management”; REC-2-12 (RMP page 2-54) - “Throughout this unit, OHV use may be restricted or prohibited in certain areas as necessary to meet site-specific management objectives for improving users experiences, reducing conflicts, addressing safety concerns, conducting research and monitoring efforts, and/or providing resource protection in sensitive areas, as part of the adaptive management process. Restricting or prohibiting OHV use could include either temporary or permanent closure or relocation of certain routes if necessary. Valid rationale for these adjustments could include, but will not be limited to, that mentioned above and for such reasons as safety, omitting duplicative, adjacent routes, or for other reasons.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?

Yes, the alternatives analyzed in the Gunnison Gorge NCA EIS were appropriate. Environmental concerns, interests and resource values have not changed. The proposed action is essentially implementation of the Resource Management Plan and Record of Decision.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

Yes, the existing analysis is valid in light of all the pertinent information; the Clay-loving Wild Buckwheat is listed as an endangered species under the Endangered Species Act, and detrimental impacts are occurring to the population in the Elephant Skin area from permitted and unpermitted OHV activities. The RMP EIS specifically analyzed the fact that not all populations of the species were known, that human uses could impact these unknown populations, and that there would be a need to modify or mitigate those uses to reduce or eliminate impacts to the species.

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Yes, all direct, indirect, and cumulative effects are expected to be similar. Other conservation actions have been implemented within the planning area for the benefit of sensitive species, while still allowing for human uses and enjoyment under the direction of the RMP. Implementing the proposed action will immediately eliminate the direct detrimental impacts to the buckwheat while still allowing for OHV recreation and livestock grazing activities to occur. The proposed action is expected to incrementally contribute to the preservation of the

endangered buckwheat while still allowing for traditional land uses as set forth in the Gunnison Gorge RMP.

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Yes, the BLM implemented an extensive public scoping and collaboration program for the Gunnison Gorge RMP planning effort. The BLM consulted with the US Fish and Wildlife Service (FWS) regarding the RMP and the impacts it would have on Clay-loving Wild Buckwheat. The BLM determined that the RMP “May affect, but is not likely to adversely affect” the buckwheat. The Service concurred with this determination on March 11, 2004 based largely on the mitigation proposed to eliminate or reduce impacts to the species from human uses.

E. Persons/Agencies /BLM Staff Consulted

<u>Name</u>	<u>Title</u>	<u>Resource/Agency Represented</u>
Gina Glenne	Botanist	US Fish and Wildlife Service
Ken Holsinger	Biologist	T&E Plants/BLM
Glade Hadden	Archaeologist	Cultural Resources, BLM
Edd Franz	Outdoor Rec Planner	Recreation, Trans, VRM

REMARKS:

Cultural Resources: The proposed fenceline was examined for cultural resources by BLM archaeologist Glade Hadden on March 14, 2013 with negative results. No known or anticipated National Register or otherwise eligible historic properties will be affected by this project and no further work is required.

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

Threatened and Endangered Species: Because the project involves fencing the federally endangered Clay-loving Wild Buckwheat the FWS was consulted regarding such management actions in the Gunnison Gorge NCA Plan. BLM concluded that the plan including the fencing of plant populations impacted by recreational activities “may affect, but is not likely to adversely affect” the Clay-loving wild buckwheat. The FWS concurred with BLM’s determination on March 11, 2004. A letter apprising the FWS about this project was sent to the Service on March 22, 2013.

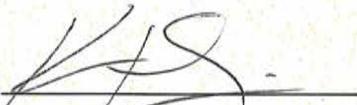
Recreation/Transportation: The enclosure would eliminate the southern 1/3 mile of “Highway 2,” a single-track motorized trail that runs along the allotment fence near the western border of the NCA. Because the remainder of the trail would be linked to other routes in the vicinity, no trail

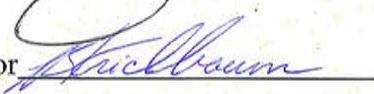
connectivity would be lost. Decisions in the RMP (cited above) specifically analyzed this type of action.

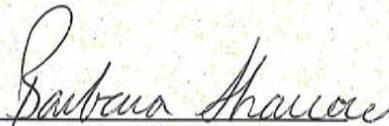
MITIGATION: Mitigation for sensitive species has been incorporated into the proposed action.

Conclusion

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of the NEPA.

Signature of Project Lead  Date 4/15/2013

Signature of NEPA Coordinator  Date 4-11-2013

Signature of the Responsible Official 
Barbara Sharrow
Field Manager, Uncompahgre Field Office

Date 4-15-13

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.

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Decision Record

(DOI-BLM-CO-S050-2013-0005 DNA)

PROPOSED ACTION TITLE: Elephant Skin Buckwheat Protection

DECISION: It is my decision to implement the Elephant Skin Buckwheat protective fencing project to prevent further detrimental impacts from occurring on the large population of the federally endangered Clay-loving wild buckwheat.

Fence this large population of Clay-loving wild buckwheat to exclude OHV activity on and through the population. Public use will be limited to pedestrian activity. This fencing will result in a 17-acre enclosure around the Clay-loving wild buckwheat population. A woven wire fence will be constructed to BLM standards depicted in Figure 2 of the DNA. The fence will be constructed by work crews on foot where the proposed fence line is not adjacent to existing full sized vehicle routes.

The northern boundary of the fence will parallel on the south side of the substantial wash known as Techno Ditch. The eastern and south eastern boundary of the fence will be adjacent to the newly constructed service routes for the Tri-State Montrose to Delta 320 KV powerline. From the structure pad on the southern boundary of the enclosure, the fence will run in a westerly direction and tie into the existing north south allotment boundary fence which will serve as the western fence boundary; the allotment boundary fence will be improved to the specifications described above. This existing boundary fence is built approximately 200 feet off the true BLM private boundary. Should recreational impacts be observed on the west side of the existing fence then the protective fencing will be extended to the public-private boundary as necessary to appropriately protect the population of buckwheat, while considering cost and impacts to the resource.

The designated motorized single track route that parallels the existing fence line (west side of the proposed enclosure) will be routed around the enclosure to the east onto other existing trails to continue to provide access to the trail known as Techno Ditch, which lies to the north of the proposed fencing project.

MITIGATION MEASURES: Mitigation for sensitive species has been incorporated into the proposed action.

MONITORING:

The BLM will be on-site for the construction activities with the greatest likelihood for impacting adjacent clay-loving wild buckwheat. These activities include: (1) Initial fence post location flagging, and (2) fence installation. It is the responsibility of the construction manager to maintain and communicate a construction schedule with the biologist to ensure that monitoring activities are planned for and carried out. Prior to fence construction, a qualified compliance biologist must survey and pin flag all clay-loving wild buckwheat plants along the fencing route and all fencing activities must be monitored by the compliance biologist. Crews would be required to work in dry conditions and to avoid any direct impacts to clay-loving wild buckwheat plants.

RATIONALE: The project serves to mitigate detrimental impacts that are occurring, as a result of motorized recreation, on the federally endangered Clay-loving wild buckwheat. This project is in compliance with the Gunnison Gorge National Conservation Area RMP. The proposed action will continue to implement land use plan and implementation level decisions in accordance with the Gunnison Gorge National Conservation Area Land Use Plan. The Proposed Action does not constitute a major federal action having significant effect on the human environment.

COMPLIANCE WITH MAJOR LAWS: The decision is in compliance with applicable laws, regulations and policy, including the Endangered Species Act, Migratory Bird Treaty Act, Clean Water Act, Clean Air Act, and the National Historic Preservation Act.

APPEALS:

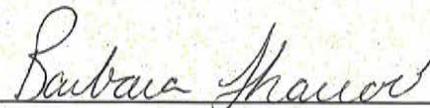
Within 30 days of receipt of this decision, you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. Appeal and stay procedures are outlined in Form CO-050-1842-1.

NAME OF PREPARER: Ken Holsinger

NAME OF ENVIRONMENTAL COORDINATOR:  Bruce Krickbaum

DATE 4-11-2013

SIGNATURE OF AUTHORIZED OFFICIAL



Barbara Sharrow
Field Manager
Uncompahgre Field Office

DATE SIGNED 4-15-13