

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

**Categorical Exclusion
DOI-BLM-CO-SO50-2013-0002CX**

October 2012

FY13 Right-of-Way Renewals

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



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

CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-CO-S050-2013-0002 CX

PROJECT NAME: FY 13 Right-of-way (ROW) Renewals

PLANNING UNIT: Uncompahgre Field Office (UFO) and Gunnison Gorge National Conservation Area (GGNCA) and the UFO portion of the Dominguez-Escalante NCA (D-E NCA)

LEGAL DESCRIPTION: Throughout the UFO and GGNCA

APPLICANT: Various ROW holders

DESCRIPTION OF PROPOSED ACTION: The proposed action is to renew all ROWs that expire in fiscal year 2013. Biological and cultural clearances would be completed for each ROW grant, as needed, prior to any ground disturbance associated with maintenance or construction.

Federal regulations under 43 CFR 2807.22 (FLPMA) and 43 CFR 2887.12 (MLA) specify that BLM may add terms and conditions to the ROW grant when approving a renewal. The attached stipulations would be applied to all ROW grants when they are renewed in the UFO, GGNCA and the UFO portion of the D-E NCA. The ROW holder would be required to contact BLM prior to any surface disturbing activity in the ROW, and the BLM would make a determination at that time whether additional clearances or stipulations are necessary. Renewals would continue to be subject to the stipulations contained in the original grant, in addition to the attached stipulations. If there is a conflict, the attached stipulations would supersede the original stipulations.

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 plans:

Name of Plan: San Juan/San Miguel Resource Management Plan (RMP); Uncompahgre Basin RMP; and the GGNCA RMP

Date Approved: September 1985; July 1989; and November 2004, respectively

Decision Name/Page/Language: It's the objective of the RMPs to respond in a timely manner to requests for land use authorizations on public land while considering environmental impacts and ensuring appropriate mitigation measures are applied.

As stated in the SJ/SM RMP, page 20, the objective is to ensure compatibility of the various multiple uses with environmental protection of natural resources.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion under 516 DM 11.9, Number E(9), which allows "renewals and assignments of leases, permits, or ROWs where no additional rights are conveyed beyond those granted by the original authorizations." 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 significant impacts on properties listed, or eligible for listing, in the National Register of Historic Places.	___	<u>X</u>
8. Have significant impacts 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. 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 disproportionately high and adverse effect on low income or minority populations.	___	<u>X</u>

11. Limit 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>
Melissa Siders	Wildlife Biologist	T&E and sensitive species
Lynae Rogers	Rangeland Management Specialist	Range & Invasive Species
Glade Hadden	Archaeologist	Cultural resources and Native American Religious Concerns
Teresa Pfifer	Lands & Minerals Staff Supvr	Lands
Bruce Krickbaum	NEPA Coordinator	NEPA review

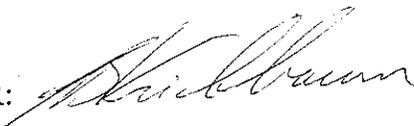
REMARKS:

Cultural Resources: The proposed action will not impact cultural resources provided the attached stipulations are adhered to. If the project is situated on lands that have previously been disturbed and no additional surface disturbance is anticipated, the project is exempt from additional inventory requirements under the provisions of 8110.23B2 and no further work is required.

Native American Religious Concerns: The proposed action will not impact Native American Religious Concerns provided the proposed stipulations are adhered to.

Threatened and Endangered Species: The proposed action will not impact T&E and sensitive species provided the proposed stipulations are adhered to.

NAME OF PREPARER: Teresa Pfifer

NAME OF ENVIRONMENTAL COORDINATOR: 

DATE: 10-18-12

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(9). 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:



Barbara Sharrow,

Uncompahgre Field Office, Field Manager

DATE SIGNED:

11-6-12

Fiscal Year 2013 Renewals

Serial Number	Expiration Date	Holder Name
COC-27754	9/5/2013	San Miguel Power Association
COC-35387	5/18/2013	Christine and Tony Kovacic
COC-35403	10/4/2012	San Miguel Power Association
COC-35404	11/1/2012	Delta-Montrose Electric Association
COC-35407	2/8/2013	San Miguel Power Association
COC-35418	2/15/2013	Delta-Montrose Electric Association
COC-36666	5/2/2013	Delta-Montrose Electric Association
COC-36668	6/22/2013	Tri-County Water
COC-36670	5/18/2013	Joann Fagan
COC-36676	8/17/2013	Mesa Point Users Association
COC-36710	7/20/2013	Delta-Montrose Electric Association
COC-36712	4/27/2013	Qwest Corporation
COC-66811	12/31/2012	Gunnison Energy Corp

RIGHT-OF-WAY RENEWAL STIPULATIONS

1. All previously authorized stipulations for the right-of-way grant associated with the requested renewal shall remain in full force and effect in addition to these renewal stipulations. If the original stipulations are in conflict with these renewal stipulations, renewal stipulations will supersede the original stipulations.
2. The holder shall contact the Authorized Officer (AO) at least 60 days prior to the anticipated start of any surface disturbing activities. It is the holder's responsibility to comply with all applicable Federal, State, and local laws and regulations existing or hereafter enacted or promulgated. The BLM will determine if any surveys or inventories are required. As necessary, the holder shall demonstrate compliance in writing, i.e., with surveys and inventories completed by qualified individuals, with the following laws including, but not limited to, the Endangered Species Act (if potential habitat is determined to be present), the National Historic Preservation Act, and the Native American Graves Protection and Repatriation Act. Evaluations and inventories can be completed by BLM, or by the holder in order to meet the holder's schedule and subject to approval by the AO. Inventories may be time sensitive and may require US Fish and Wildlife Service concurrence, therefore this process could take longer than 60 days to complete. The holder shall not initiate any surface disturbing activities on the right-of-way without prior written approval, as determined necessary by the AO. Contact the BLM Realty Specialist, or BLM Environmental Protection Specialist as the alternate, at (970) 240-5300.
3. 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.
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. The holder is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts.
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 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.
9. 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.
10. 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.
11. All construction, operation and maintenance shall be within the authorized limits of the right-of-way granted herein.
12. 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.

13. No burning of trash, litter, trees, brush or other vegetative material shall be allowed under this grant.
14. 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.
15. The holder shall disturb the minimum amount of soils and vegetation necessary for the construction, operation, and maintenance of the facility. 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.
16. The holder shall contact the AO to determine the appropriate seed mix to be used on all disturbed areas in the right-of-way. BLM places the following requirements on seed mixes which are put on BLM lands:
 - 1) All seed must comply with BLM and Colorado weed seed guidelines. There should be no prohibited species seed, and no more than allowable levels of restricted species seed. In addition, there should be no more than 0.5% total weed seed, less than 2% other seed, and no trash larger than 1/4" in length. Seed shall not be stored in burlap bags.
 - 2) The BLM Uncompahgre Field Office places additional local restrictions on seed to minimize cheatgrass spread. If seed tests show any *Bromus tectorum* or *Bromus japonicus*, the BLM should be consulted with for approval. No mix placed on BLM shall contain more than 150 *Bromus tectorum* and/or *Bromus japonicus* seeds per pound.
 - 3) BLM requires additional seed tests on seeding projects that are greater than 20 acres and/or require over 200 lbs of seed. For these seeding projects, the holder should have the seed supply company store the purchased seed prior to mixing, and pull samples to be sent to a certified laboratory, preferably Wyoming State Seed Laboratory at the following address. Seed test results must comply with the criteria listed above before seed is mixed, shipped and applied to the project area:

Wyoming State Seed Laboratory
749 Road 9
Powell, WY 82435
 - 4) BLM will need copies of seed tags and test results for all seed applied regardless of project size.
 - 5) Only State Certified weed free mulch shall be used.
17. Powerlines, unless otherwise agreed to by the authorized officer in writing, shall be constructed in accordance to standards outlined in "Suggested Practices for Avian Protection

on Powerlines: The State of the Art in 2006” (Avian Power Line Interaction Committee. 2006. Available at:

[http://www.aplic.org/uploads/files/2643/SuggestedPractices2006\(LR-2\).pdf](http://www.aplic.org/uploads/files/2643/SuggestedPractices2006(LR-2).pdf)). The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are “eagle and raptor safe.” Such proof shall be provided by a raptor expert approved by the authorized officer. The BLM reserves the right to require modifications or additions to all powerline structures placed on this right-of-way, should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States. All pole replacements will be brought up to this standard. For all maintenance activities that involve, but are not limited to, nest relocation or destruction, temporary possession, depredation, salvage/disposal, harassment, and scientific collection of raptors, the right-of-way holder shall provide the BLM with a copy of their current Migratory Bird Permit for those activities.

18. For access and maintenance of facilities, the holder shall use existing roads. When existing roads are not available, the holder may use the right-of-way for access. BLM roads should not be maintained without first consulting with the authorized officer.
19. 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.
20. Per the BLM Wildlife Biologist, the holder shall conform to the following mitigation measures to ensure the project has no effect on any federally listed or sensitive species:
 - Construction activity and new surface disturbance will be prohibited during the period from December 1st to April 30th for the protection of elk and mule deer within winter and severe winter range. Any exceptions to this requirement must have prior written approval from the authorized officer.
 - To the extent possible, reptiles or amphibians observed in the project area will be avoided and will not be intentionally harmed.
 - Migratory Birds and Raptors: To minimize impacts on migratory bird populations, it is recommended that no surface disturbing activities occur from May 15th through July 15th.
 - Surface disturbing activities will not occur within 660 feet of known federally protected plant populations, or within 330 feet of known BLM sensitive plant populations. Herbicide applications will not occur within 660 feet of known federally protected or BLM sensitive plant populations. For small scale or less intensive treatments or activities (e.g., vegetation trimming, handtool work, etc., as determined by a BLM biologist), ground disturbing activities will not occur within 100 feet of known federally protected plants, or within 50 feet of known BLM sensitive plants. Appropriate sediment and erosion control, weed control, and similar practices will be applied as necessary to protect plant populations.

**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-S050-2013-0002 CX)

PROJECT NAME: CX for Right-of-way (ROW) Renewals

DECISION: It is my decision to implement the proposed action as described in DOI-BLM-CO-S050-2013-0002 CX. The proposed action is to renew all ROWs that expire in fiscal year 2013. Biological and cultural clearances will be completed for each ROW grant, as needed, prior to any ground disturbance associated with maintenance or construction.

MITIGATION MEASURES:

All stipulations shown in Exhibit A of the CX will be followed. These stipulations will be applied to all ROW grants when they are renewed in the UFO, GGNCA and the UFO portion of the D-E NCA. The ROW holder will be required to contact BLM prior to any surface disturbing activity in the ROW, and the BLM will make a determination at that time whether additional clearances or stipulations are necessary. Renewals will continue to be subject to the stipulations contained in the original grant, in addition to the attached stipulations. If there is a conflict, the attached stipulations will supersede the original stipulations.

RATIONALE:

Using this approach to renew ROWs will enable a more efficient and expeditious processing while ensuring that the natural resources, including threatened, endangered and sensitive species and cultural resources, will be protected. This CX is for FY13 (see the attached list of ROWs and their maps). This approach is consistent with CO-IM-2006-026, Cultural Resource Standards and Guidelines for Renewal of Right-of-way Grants and Temporary Use Permits under Section 106 of National Historic Preservation Act. The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E(9). This categorical exclusion is appropriate in this situation because no additional rights are conveyed beyond those granted in the original authorizations. 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, San Juan/San Miguel, and Gunnison Gorge NCA RMPs.

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: Teresa Pfifer

NAME OF ENVIRONMENTAL COORDINATOR:

DATE

10-18-12

SIGNATURE OF AUTHORIZED OFFICIAL

Barbara Sharrow

Barbara Sharrow
Field Manager
Uncompahgre Field Office

DATE SIGNED

11-6-12