

**U.S. Department of the Interior  
Bureau of Land Management  
White River Field Office  
220 E Market St  
Meeker, CO 81641**

**CATEGORICAL EXCLUSION**

**NUMBER:** DOI-BLM-CO-110-2013-0028-CX

**CASEFILE/PROJECT NUMBER:** COC75115

**PROJECT NAME:** Shale Tech Access Road ROW Renewal

**LEGAL DESCRIPTION:** Sixth Principal Meridian, Colorado

T. 1 S., R. 99 W.,

sec. 10, lots 13 and 14;

sec. 11, lots 7 and 8;

sec. 15, lot 2, S $\frac{1}{2}$ NW $\frac{1}{4}$ , and NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;

sec. 16, lots 8, 9, 10, 11, 13, and 14;

sec. 20, lot 1.

T. 1 S., R. 100 W.,

sec. 24, NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

**APPLICANT:** Shale Tech International

**DESCRIPTION OF PROPOSED ACTION:** Shale Tech International (Shale Tech) submitted an application for renewal of access road right-of-way (ROW) COC75115 (see Exhibit A). The right-of-way for an access road to transport oil shale test material from private lands was issued on October 19, 2011. Shale Tech plans to remove oil shale rock samples from private lands and transport it to their test facilities near Rifle, Colorado. The access road would be used in April, May, September, and October with approximately 350 trips per year.

The ROW is 15,250 feet long, 30 feet wide, and contains approximately 10.5 acres. No additional disturbance is authorized by this action, and all applicable terms and conditions of the original ROW grant shall be carried forward and remain in full force and effect. The grant would be issued for a term of 20 years.

**PLAN CONFORMANCE REVIEW:** The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5-3, BLM 1601.08) the following plan:

**Name of Plan:** White River Record of Decision and Approved Resource Management Plan (ROD/RMP).

Date Approved: July 1, 1997

Decision Number/Page: Page 2-49

Decision Language: "To make public lands available for the siting of public and private facilities through the issuance of applicable land use authorizations, in a manner that provides for reasonable protection of other resource values."

CATEGORICAL EXCLUSION REVIEW: The Proposed Action qualifies as a categorical exclusion under 516 DM 11.9, E9: "*Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.*"

The Proposed Action has been reviewed with the list of extraordinary circumstances (43 CFR 46.215) described in the table below.

<b>Extraordinary Circumstance</b>	<b>YES</b>	<b>NO</b>
a) Have significant adverse effects on public health and safety.		X
b) Have significant impacts 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.		X
c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.		X
d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
g) Have significant impacts on properties listed, or eligible for listing, in the National Register of Historic Places as determined by either the bureau of office.		X
h) 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.		X
i) Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		X
j) Have a disproportionately high and adverse effect on low income or minority populations		X

Extraordinary Circumstance	YES	NO
k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly affect the physical integrity of such sacred sites.		X
l) 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:**

The Proposed Action was presented to, and reviewed by, the White River Field Office interdisciplinary team on 1/29/2013. A complete list of resource specialists who participated in this review is available upon request from the White River Field Office. The table below lists resource specialists who provided additional remarks concerning cultural resources and special status species.

Name	Title	Resource	Date
Michael Selle	Archaeologist	Cultural Resources, Native American Religious Concerns	2/5/2013
Laura Dixon	Wildlife Biologist	Special Status Wildlife Species	2/1/2012
Baili Foster	Biological Technician – plants	Special Status Plant Species	5/30/2013

**REMARKS:**

*Cultural Resources:* The majority of the project area has been inventoried at the Class III (100% pedestrian) level, though a large portion has not been inventoried to current standards (i.e., since 1990) (Pool 2003 [03-54-33], O’Neil, Rippeteau, and Tate 1982 [82-14-04]). As all surface disturbances will be limited to previously-disturbed areas, no new inventory will be required. Surface disturbance will not occur within 100 meters (328 feet) of any sites potentially eligible for National Register of Historic Places (NRHP) listing on public lands. Disturbance on privately-owned lands may impact 5RB.1512, officially not eligible, and will likely occur within 100 meters of 5RB.129, officially eligible. However, the undertaking is considered to have no potential effect on 5RB.129, as the existing road bed avoids the site by at least 50 meters (164 feet) and a substantial difference in elevation exists between the site and road bed.

*Native American Religious Concerns:* No Native American religious concerns are known in the area, and none have been noted by Northern Ute Tribal authorities. Should recommended inventories or future consultations with Tribal authorities reveal the existence of such sensitive properties, appropriate mitigation and/or protection measures may be undertaken.

*Paleontological Resources:* As proposed surface disturbances are of minimal depth and occur in area of prior surface disturbance, there is no significant potential for impacting sensitive fossil remains.

*Special Status Wildlife Species:* There are no special status wildlife species that are known to exist or derive important use from the project area. Portions of the ROW fall along the Duck Creek bird survey route. Trucking activities should not occur from May 25 through June 10. If trucking activities are necessary during these dates, the holder will coordinate with the wildlife biologist to arrange a time to conduct the breeding bird survey. Since there is no additional disturbance associated with the Proposed Action, there are no other wildlife concerns.

*Special Status Plant Species:* Potential habitat for the federally threatened plant species Dudley Bluffs twinpod (*Physaria obcordata*) and Dudley Bluffs bladderpod (*Physaria congesta*) was identified within the project area. The area was surveyed May 2013 by Rusty Roberts who concluded that no special status species of plants were observed within the areas surveyed on public land. However, potential habitats for these plants were encountered. Two units of the Green River formation occur within the surveyed area and have some similarities to habitats occupied by the Dudley Bluffs twinpod and to a lesser extent the Dudley Bluffs bladderpod. Suitable habitat has been mapped.

#### REFERENCES CITED:

O'Neil, Brian, Bruce E. Rippeteau, and Marcia J. Tate  
1982 *Northern Natural Gas Company Pipeline From 29-1-99 to 24-1-100, Rio Blanco County, Colorado.* Powers Elevation, Aurora, Colorado. (82-14-04: SHPO # RB.LM.R912)

Pool, Kelly J.

2003 *Encana Oil and Gas (USA) Inc.'s Canary 6601 Wellpad, Access Road, and Flowline: A Class III Cultural Resource Inventory in Rio Blanco County, Colorado.* Metcalf Archaeological Consultants, Eagle, Colorado. ([03-54-33: SHPO # RB.LM.R538)

Roberts, Rusty

2013 Botanical Survey Report, Access Road ROW Renewal COC 75115  
Big Duck Creek Road. Piceance Basin, Rio Blanco County, CO. Meeker, CO. May 2013

#### MITIGATION:

*Stipulations carried forward from original right-of-way grant COC75115:*

1. All activity shall cease when soils or road surfaces become saturated to a depth of three inches unless there are safety concerns or if activities are otherwise approved by the Authorized Officer (AO).
2. For the purpose of determining joint maintenance responsibilities, the holder shall make road use plans known to all other authorized users of the road. If requested, the Authorized Officer shall be provided with copies of any maintenance agreement entered into.

3. All activities shall comply with all applicable local, state, and federal laws, statutes, regulations, standards, and implementation plans. This would include acquiring all required State and Rio Blanco County permits, implementing all applicable mitigation measures required by each permit, and effectively coordinating with existing ROW holders.

4. Any proposal involving surface disturbance, such as replacement, maintenance, or expansion, requires an application to the BLM for analysis and authorization. New stipulations for construction would be applied to projects subject to the regulations and policies existing at the time of authorization.

5. The holder shall take such soil and resource conservation and protection measures, including weed control, on the land covered by the right-of-way as the United States representative in charge of such lands may request.

6. All authorized users of public lands are expected to know and comply with regulations governing the storage, handling, application (including licensing of applicators), and disposal of hazardous substances. Application of herbicides must be under field supervision of an EPA-certified pesticide applicator. Herbicides must be registered by the EPA and application proposals must be approved by the BLM.

7. The holder is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts. If archaeological materials are discovered as a result of operations under this authorization, the holder must immediately contact the appropriate BLM representative.

8. Pursuant to 43 CFR 10.4(g) the holder of this authorization must notify the AO, 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.

9. The holder is responsible for informing all persons who are associated with the operations that they will be subject to prosecution for disturbing or collecting vertebrate fossils, collecting large amounts of petrified wood (over 25 lbs./day, up to 250 lbs./year), or collecting fossils for commercial purposes on public lands. If any paleontological resources are discovered as a result of operations under this authorization, the holder must immediately contact the appropriate BLM representative.

10. A release of any chemical, oil, petroleum product, produced water, or sewage, etc, (regardless of quantity) must be reported to the Bureau of Land Management – WRFO Hazardous Materials Coordinator at (970) 878-3800. The Colorado Department of Public Health and Environment (CDPHE) should be notified, if applicable, through the 24-hour spill reporting line at 1 (877) 518-5608.

*Additional mitigation:*

1. At least 90 days 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. The inspection will result in the development of an acceptable termination and rehabilitation plan submitted by the holder. This plan shall include, but is not limited to, removal of facilities, drainage structures, and 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.
2. The holder shall conduct all activities associated with the operation and termination of the right-of-way within the authorized limits of the right-of-way.
3. The holder shall monitor all disturbed and reclaimed areas through final abandonment for the presence of invasive, non-native, and/or noxious plant species. The applicant will be responsible for eradication of noxious weeds that occur on site using materials and methods approved in advance by the Authorized Officer.
4. The holder shall notify the AO at least 180 days prior to non-emergency activities that would cause surface disturbance in the ROW. The BLM will determine if a cultural resource inventory, treatment, or mitigation is required.
5. A "Notice to Proceed" shall be required for any non-emergency activities that would cause surface disturbance on the ROW. Any request for a "Notice to Proceed" should be made to the AO, who shall review the Proposed Action for consistency with resource management concerns such as wildlife, big game winter range, paleontology, threatened and endangered species, and cultural resource protection. Additional measures may be required to protect these resources.
6. Dust suppression and monitoring will occur throughout the construction ROW during construction, including all construction, parking, equipment areas, as well as for truck traffic. Dust suppression will be accomplished only with fresh water free of any chemicals, oils or solvents.
7. Trucking activities are not authorized from May 25 through June 10. If trucking activities are necessary during these dates, the holder will coordinate with the wildlife biologist to arrange a time to conduct the breeding bird survey.

**COMPLIANCE PLAN:** On-going compliance inspections and monitoring will be conducted by the BLM White River Field Office staff during and after construction. Specific mitigation developed in this document will be followed. The holder will be notified of compliance related issues, and depending on the nature of the issue(s), will be provided 30 days to resolve such issues.

**NAME OF PREPARER:** Stacey Burke

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, E9. 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 43 CFR 46.215 apply.

SIGNATURE OF AUTHORIZED OFFICIAL:



Field Manager

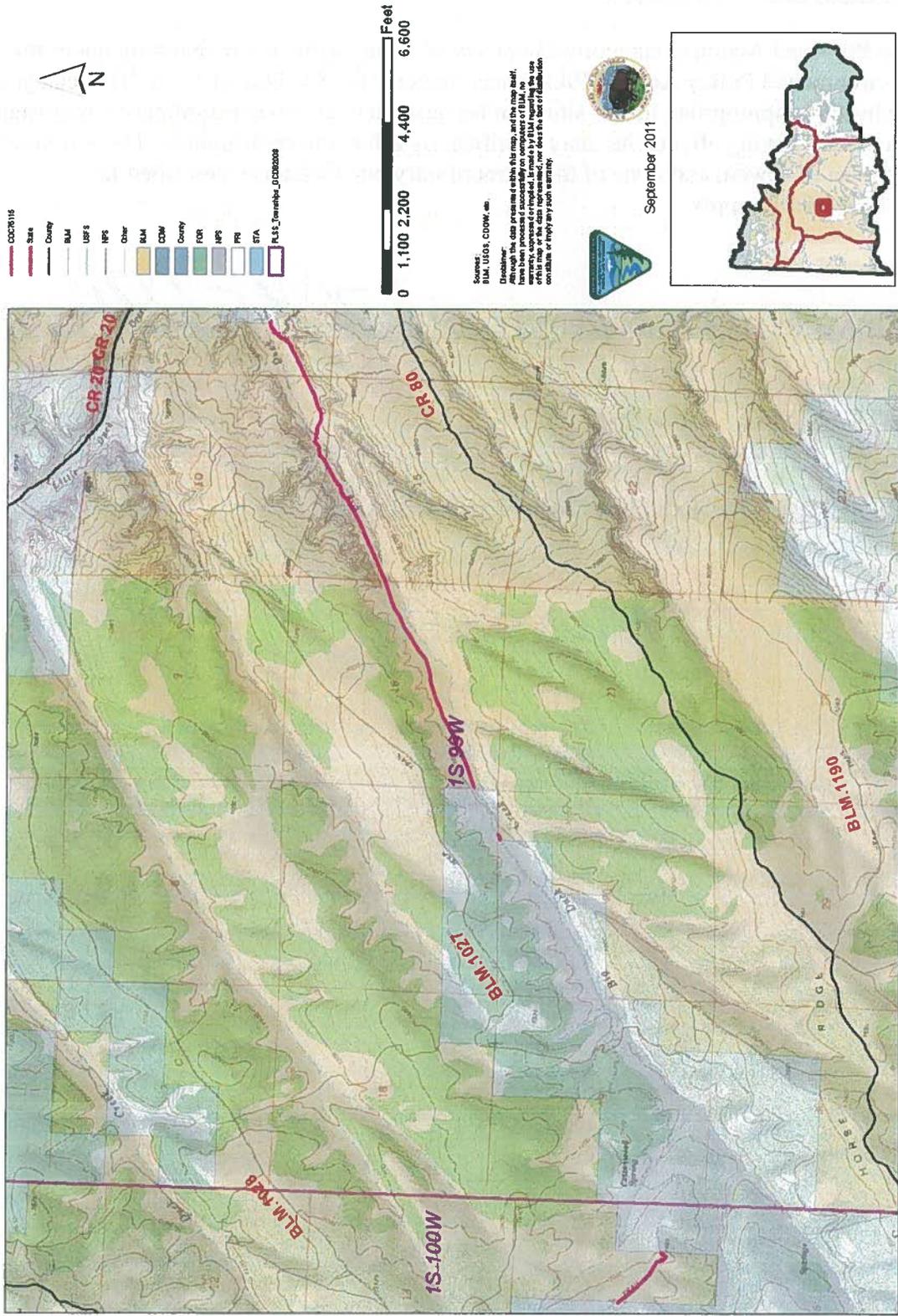
DATE SIGNED:

06/04/13

ATTACHMENTS: Exhibit A: Map of Proposed Action

# Existing Access Road ROW COC75115

## EXHIBIT A



**U.S. Department of the Interior  
Bureau of Land Management  
White River Field Office  
220 E Market St  
Meeker, CO 81641**

**DECISION RECORD**

**PROJECT NAME:** Shale Tech Access Road ROW Renewal

**CATEGORICAL EXCLUSION NUMBER:** DOI-BLM-CO-2013-0028-CX

**DECISION**

It is my decision to implement the Proposed Action, as mitigated in DOI-BLM-CO-2013-0028-CX, authorizing the renewal of right-of-way COC75115 for continued operation and maintenance of an access road to private property.

**Mitigation Measures**

1. All activity shall cease when soils or road surfaces become saturated to a depth of three inches unless there are safety concerns or if activities are otherwise approved by the Authorized Officer (AO).
2. For the purpose of determining joint maintenance responsibilities, the holder shall make road use plans known to all other authorized users of the road. If requested, the Authorized Officer shall be provided with copies of any maintenance agreement entered into.
3. All activities shall comply with all applicable local, state, and federal laws, statutes, regulations, standards, and implementation plans. This would include acquiring all required State and Rio Blanco County permits, implementing all applicable mitigation measures required by each permit, and effectively coordinating with existing ROW holders.
4. Any proposal involving surface disturbance, such as replacement, maintenance, or expansion, requires an application to the BLM for analysis and authorization. New stipulations for construction would be applied to projects subject to the regulations and policies existing at the time of authorization.
5. The holder shall take such soil and resource conservation and protection measures, including weed control, on the land covered by the right-of-way as the United States representative in charge of such lands may request.
6. All authorized users of public lands are expected to know and comply with regulations governing the storage, handling, application (including licensing of applicators), and disposal of hazardous substances. Application of herbicides must be under field supervision of an EPA-

certified pesticide applicator. Herbicides must be registered by the EPA and application proposals must be approved by the BLM.

7. The holder is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts. If archaeological materials are discovered as a result of operations under this authorization, the holder must immediately contact the appropriate BLM representative.

8. Pursuant to 43 CFR 10.4(g) the holder of this authorization must notify the AO, 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.

9. The holder is responsible for informing all persons who are associated with the operations that they will be subject to prosecution for disturbing or collecting vertebrate fossils, collecting large amounts of petrified wood (over 25 lbs./day, up to 250 lbs./year), or collecting fossils for commercial purposes on public lands. If any paleontological resources are discovered as a result of operations under this authorization, the holder must immediately contact the appropriate BLM representative.

10. A release of any chemical, oil, petroleum product, produced water, or sewage, etc, (regardless of quantity) must be reported to the Bureau of Land Management – WRFO Hazardous Materials Coordinator at (970) 878-3800. The Colorado Department of Public Health and Environment (CDPHE) should be notified, if applicable, through the 24-hour spill reporting line at 1 (877) 518-5608.

11. At least 90 days 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. The inspection will result in the development of an acceptable termination and rehabilitation plan submitted by the holder. This plan shall include, but is not limited to, removal of facilities, drainage structures, and 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.

12. The holder shall conduct all activities associated with the operation and termination of the right-of-way within the authorized limits of the right-of-way.

13. The holder shall monitor all disturbed and reclaimed areas through final abandonment for the presence of invasive, non-native, and/or noxious plant species. The applicant will be responsible for eradication of noxious weeds that occur on site using materials and methods approved in advance by the Authorized Officer.

14. The holder shall notify the AO at least 180 days prior to non-emergency activities that would cause surface disturbance in the ROW. The BLM will determine if a cultural resource inventory, treatment, or mitigation is required.

15. A "Notice to Proceed" shall be required for any non-emergency activities that would cause surface disturbance on the ROW. Any request for a "Notice to Proceed" should be made to the AO, who shall review the Proposed Action for consistency with resource management concerns such as wildlife, big game winter range, paleontology, threatened and endangered species, and cultural resource protection. Additional measures may be required to protect these resources.

16. Dust suppression and monitoring will occur throughout the construction ROW during construction, including all construction, parking, equipment areas, as well as for truck traffic. Dust suppression will be accomplished only with fresh water free of any chemicals, oils or solvents.

17. Trucking activities are not authorized from May 25 through June 10. If trucking activities are necessary during these dates, the holder will coordinate with the wildlife biologist to arrange a time to conduct the breeding bird survey.

#### **COMPLIANCE WITH LAWS & CONFORMANCE WITH THE LAND USE PLAN**

This decision is in compliance with the Endangered Species Act and the National Historic Preservation Act. It is also in conformance with the 1997 White River Record of Decision/Approved Resource Management Plan.

#### **PUBLIC INVOLVEMENT**

The BLM informed the public about this project by listing it on the online WRFO NEPA Register on February 6, 2013 and a copy of the completed Categorical Exclusion will be posted on the WRFO website.

#### **RATIONALE**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E9. 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 43 CFR 46.215 apply.

#### **ADMINISTRATIVE REMEDIES**

This decision shall take effect immediately upon the date it is signed by the Authorized Officer and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay (43 CFR 2801.10(b)). Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a Notice of Appeal must be filed in the office of the Authorized Officer at White River Field Office, 220 East Market St., Meeker, CO 81641 with copies sent to the Regional Solicitor, Rocky Mountain Region, 755 Parfet St., Suite 151, Lakewood, CO 80215, and to the Department of the Interior, Board of Land Appeals, 801 North Quincy St., MS300-QC, Arlington, VA, 22203. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals at the above address within 30 days after the Notice of Appeal is filed with the Authorized Officer.

**SIGNATURE OF AUTHORIZED OFFICIAL:**



Field Manager

**DATE SIGNED:**

06/04/13