

**United States Department of the Interior
Bureau of Land Management
Royal Gorge Field Office
3028 E. Main Street
Cañon City, CO 81212**

Environmental Assessment

Zephyr Road Right-of-way

DOI-BLM-CO-F020-2018-0043 EA

August 2018



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CHAPTER 1 - INTRODUCTION

1.1 IDENTIFYING INFORMATION

CASEFILE/PROJECT NUMBER (optional): COC-78441

PROJECT TITLE: Zephyr Road ROW

PLANNING UNIT: Grape Creek Subregion #7

LEGAL DESCRIPTION:

Sixth Principal Meridian, Fremont County, Colorado
T. 19 S., R. 71 W.,
sec. 13, lot 12.

APPLICANT: Zephyr Gold USA Ltd

1.2 INTRODUCTION AND BACKGROUND

BACKGROUND: This EA has been prepared by the BLM to analyze an application for a proposed access road across public land in Fremont County, Colorado. On December 5, 2016, Zephyr Gold USA Ltd. (Zephyr) made application for a right-of-way for access to a gold mine on patented private claims. Zephyr currently has temporary access over an existing road that originates on one parcel of private land, crosses a corner of BLM public land, and accesses a second, separately-owned parcel of private land where Zephyr will mine (Figure 2). This existing access route across public land has been included as Alternative 1 and will be analyzed in this EA. Safety concerns with the layout of the existing road in relation to the county road, and uncertainty with establishing dedicated access across the initial private property, has led Zephyr to the apply for the proposed new route across private and public land and it is included as the Proposed Action. Other potential access routes exist that do not involve BLM-managed public lands.

Currently, future mining plans of operation in this area are only for private lands and would require a separate public notification process and public comment period through Colorado Division of Reclamation, Mining, and Safety (DRMS).

1.3 PURPOSE AND NEED

The purpose of this action is for the BLM to consider an application for an access road right-of-way from Zephyr across public land in Fremont County, Colorado.

The need for the action is established by the BLM's responsibility under Title V of the Federal Land Policy and Management Act of October 21, 1976, as amended (FLPMA), 43 U.S.C. 1716, to respond to requests for rights-of-way.

1.4 DECISION TO BE MADE

The BLM will decide whether to approve the proposed Zephyr road ROW project based on the analysis contained in this Environmental Assessment (EA). This EA will analyze Zephyr's proposal for a 40 foot wide, approximately 380-foot long access road across public land in Fremont County, Colorado. The BLM may choose to: a) accept the project as proposed, b) accept the project with modifications/mitigation, c) accept an alternative to the proposed action, or d) not authorize the project at this time. The finding associated with this EA may not constitute the final approval for the proposed action.

1.5 PLAN CONFORMANCE REVIEW

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with the following plan (43 CFR 1610.5, BLM 1617.3):

Name of Plan: Royal Gorge Resource Management Plan

Date Approved: May 1996

Decision Number/Page: C-116

Decision Language: *"Authorize minor ROWs on a case-by-case basis utilizing criteria for ROW objectives in each specific ecosubregion."*

In January 1997, the Colorado State Office of the BLM approved the Standards for Public Land Health and amended all RMPs in the State. Standards describe the conditions needed to sustain public land health and apply to all uses of public lands.

Standard 1: Upland soils exhibit infiltration and permeability rates that are appropriate to soil type, climate, land form, and geologic processes.

Standard 2: Riparian systems associated with both running and standing water function properly and have the ability to recover from major disturbance such as fire, severe grazing, or 100-year floods.

Standard 3: Healthy, productive plant and animal communities of native and other desirable species are maintained at viable population levels commensurate with the species and habitat's potential.

Standard 4: Special status, threatened and endangered species (federal and state), and other plants and animals officially designated by the BLM, and their habitats are maintained or enhanced by sustaining healthy, native plant and animal communities.

Standard 5: The water quality of all water bodies, including ground water where applicable, located on or influenced by BLM lands will achieve or exceed the Water Quality Standards established by the State of Colorado.

Because standards exist for each of these five categories, a finding must be made for each of them in an environmental analysis. These findings are located in Chapter 3 of this document.

1.6 SCOPING, PUBLIC INVOLVEMENT AND ISSUES

1.5.1 Scoping: NEPA regulations (40 CFR §1500-1508) require that the BLM use a scoping process to identify potential significant issues in preparation for impact analysis. The principal goals of scoping are to allow public participation to identify issues, concerns, and potential impacts that require detailed analysis.

Persons/Public/Agencies Consulted: Scoping, by listing this project on the National ePlanning website, was the primary mechanism used by the BLM to initially identify issues. No external comments were received.

Internal scoping was conducted November 6, 2017 during an Interdisciplinary Team meeting about the project.

Issues Identified: No issues were identified during public scoping.

The administrative record documents an issue from Randy Keller, the property owner of the private parcel that the existing access road crosses. Mr. Keller is opposed to the proposed action of a new road crossing BLM public land a few hundred yards west of the road across his parcel. He has stated that Zephyr is avoiding doing business with him by proposing the new access road. Zephyr, in their SF-299 right-of-way application, states that Mr. Keller will not allow sufficient improvement to the existing road to create safe travel conditions.

Internal scoping of Interdisciplinary Team members identified an issue with authorizing a new access road across public land when there is an existing road crossing a corner of public land that would require a shorter right-of-way and would involve less surface disturbance to improve than creation of the Proposed Action.

CHAPTER 2 - PROPOSED ACTION AND ALTERNATIVES

2.1 INTRODUCTION

The purpose of this chapter is to provide information on the Proposed Action and Alternatives. Zephyr currently has temporary access over an existing road that originates on a parcel of private land off of Temple Canyon Road, crosses a corner of BLM public land, and enters a second, separately-owned parcel of private land where Zephyr would mine (refer to Figure 2). Zephyr states that the owner of the private land where the existing access originates will not allow sufficient improvement to this road to allow for safe travel by mining vehicles. Zephyr states that the existing access road is at a 120° approach angle and has limited sight distances due to a

sharp turn to the east. For these reasons, Zephyr has applied for a ROW for the Proposed Action across public lands, approximately 900 feet west of the existing access road.

The area of BLM public land where the Proposed Action is located had numerous unauthorized structures, trailers, debris and refuse that had existed on the site for decades. In the fall of 2017, through an RGFO Hazardous Materials Program clean-up project, the site was remediated by contractors using heavy equipment and machinery (refer to Figure 2).

2.2 ALTERNATIVES ANALYZED IN DETAIL

2.2.1 Proposed Action

The Proposed Action is for the BLM to authorize a right-of-way grant to Zephyr for a road across public land accessing private land in Fremont County, Colorado. Zephyr has provided proof of access across the portion of private land between Temple Canyon Road and the public land boundary.

The proposed road would be constructed at a 90° approach angle to Temple Canyon Road, with sufficient sight distances in both directions to allow for safe travel. The proposed road would be approximately 380 feet long, with a graveled driving surface 34 feet wide, and with three-foot graded shoulders on each side for a total ROW width of 40 feet. The project would involve approximately 0.349 acres of public land. A double panel steel gate, 32 feet wide, would be installed on public lands to control access from Temple Canyon Road. A barbed wire fence would be constructed on public land to the corners of the gate (refer to Figure 3 Zephyr Access Road ROW Detail and Cross-Section). One corrugated metal pipe (CMP) culvert, 18 inch minimum, would be installed on public land. Construction of the proposed access road would require a five-person crew for approximately two weeks, to commence as soon as possible after authorization of a ROW grant.

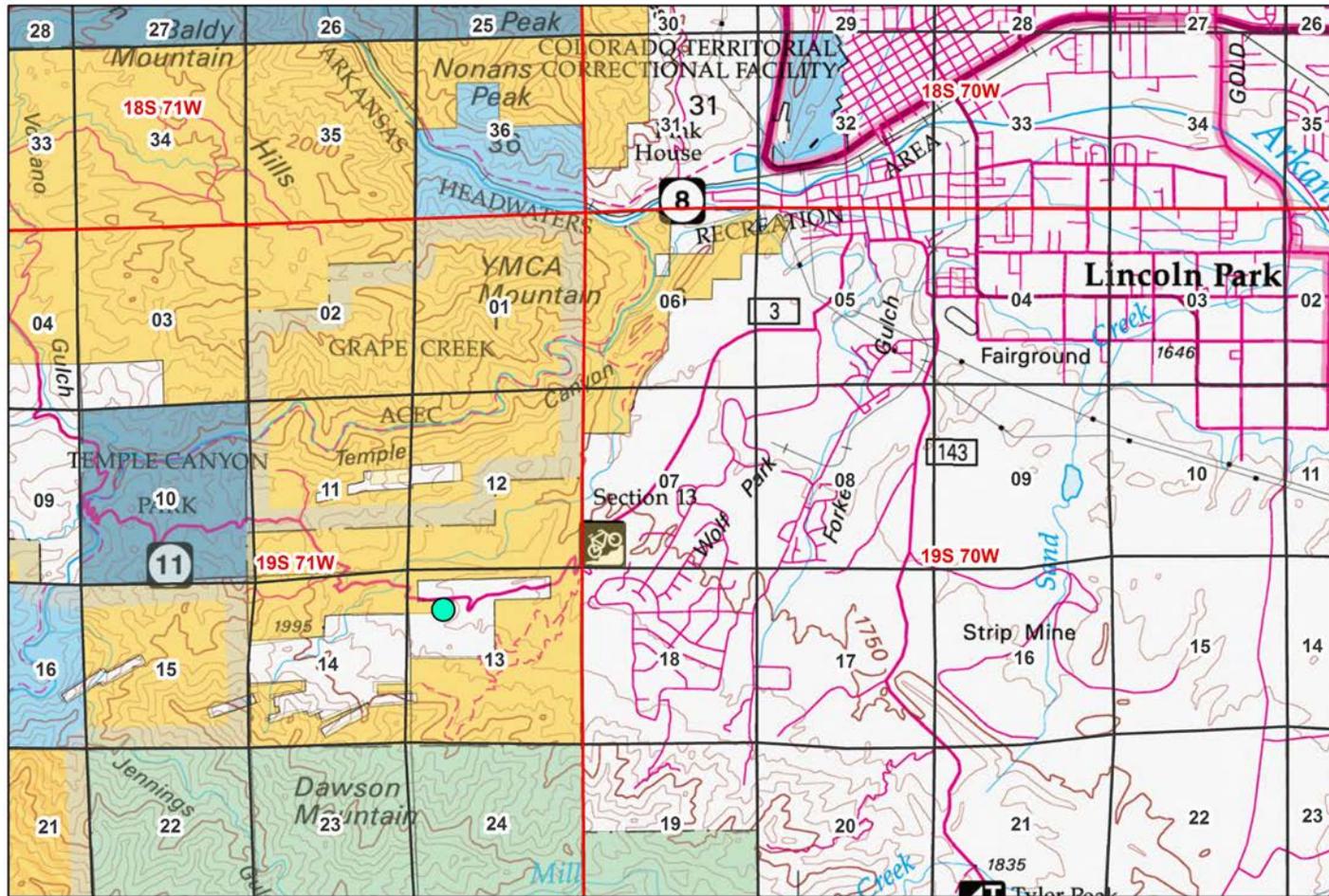
The access road would be used year round, with anticipated daily traffic of 75 employees, ancillary mine vendors, and up to 20 ore trucks per day at maximum production. Zephyr would maintain the road using mining equipment to blade as needed due to weather or traffic impacts.

Complete removal and reclamation of the proposed access road and improvements would be completed once the ore has been mined out, an anticipated life-span of 10 to 12 years. A ROW grant would be authorized for a standard 30-year term. The disturbed area would be reseeded with native grass seed and the road would be included in the surety bond held by the Colorado Division of Reclamation, Mining and Safety (DRMS) for the life of the mine.

2.2.1.1 Standard Stipulation and Discovery Statements (Terms and Conditions)

Refer to Exhibits A and B for standard Lands & Realty stipulations and special Fire stipulations.

Figure 1 Zephyr Access Road ROW Overview Map



Legend
 COC-78441



COC-78441 Zephyr Access Road ROW Overview Map

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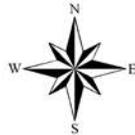


NOTE TO MAP USERS
 No warrantee is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of the data layers shown on this map. The official land records of the data providers should be checked or current status on any specific tract of land.

Figure 2 Zephyr Access Road ROW Project Map

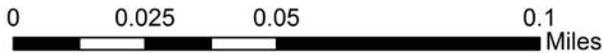


- Legend**
- Proposed Access Road
 - Prop. road width buffer
 - Alternative 1
 - Alt. 1 width buffer



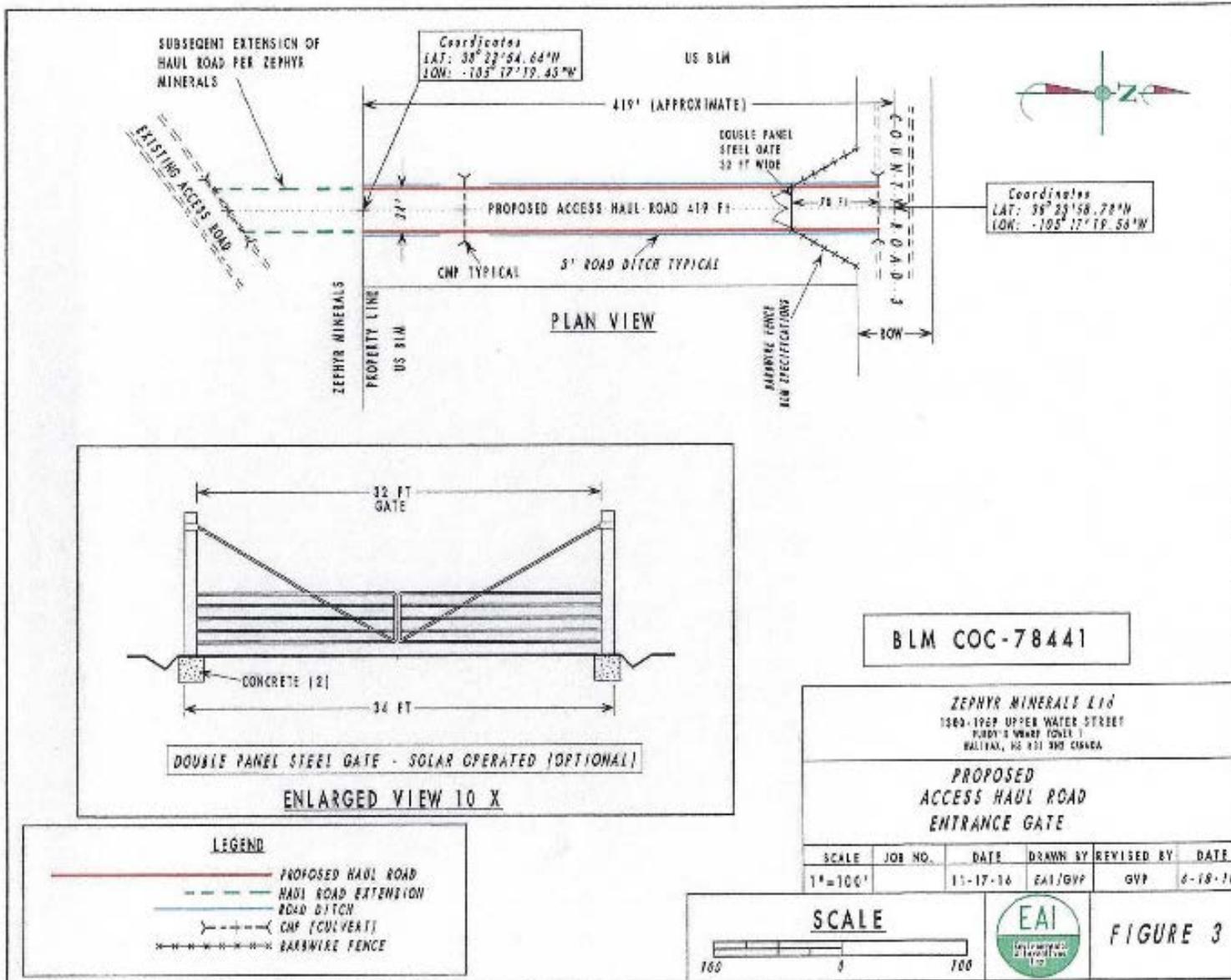
COC-78441 Zephyr Access Road ROW Project Map

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Figure 3 Zephyr Access Road ROW Detail and Cross-Section



2.2.2 No Action Alternative

Under the No Action Alternative, the BLM would not authorize a road ROW for this project, an access road across public land to privately patented lands and minerals in Fremont County, CO. The existing access would likely continue to be used without authorization in its current condition under the policy of casual use, which includes '*Ingress and egress on existing roads and trails.*' No improvement of, or maintenance to the existing road across BLM would be allowed without an authorization, making the road unsuitable for the commercial purposes of the gold mine. This would require Zephyr to reroute that portion of the existing road that crosses approximately 80 feet of public land onto the adjacent private land, avoiding BLM-managed public lands entirely.

2.2.3 Alternative 1

Under Alternative 1, the BLM would authorize a ROW for the existing road where it crosses BLM-managed public land. For this alternative, it is assumed that all specifications regarding the construction and surfacing of the ROW would be the same as the Proposed Action: a 40 foot ROW consisting of a 34 foot wide, graveled driving surface, with 3 foot graded shoulders on each side. The length of the ROW for Alternative 1 would be approximately 80 feet for a total of 0.07 acres of public land. Refer to Figure 2 for the location of Alternative 1.

Improvement of this existing road for an alternative ROW would require a five-person crew approximately two weeks, to commence as soon as possible after authorization of a ROW grant.

The access road would be used year round, with anticipated daily traffic of 75 employees, ancillary mine vendors, and up to 20 ore trucks per day at maximum production. Standard Lands and Realty stipulations and Special Fire Stipulations are included in Exhibits A and B.

CHAPTER 3 - AFFECTED ENVIRONMENT AND EFFECTS

3.1 INTRODUCTION

This section provides a description of the human and natural environmental resources that could be affected by the Proposed Action and presents comparative analyses of the direct, indirect and cumulative effects on the affected environment stemming from the implementation of the actions under the Proposed Action and other alternatives analyzed.

3.1.1 Interdisciplinary Team Review

The following table is provided as a mechanism for resource staff review, to identify those resource values with issues or potential impacts from the proposed action and/or alternatives. Those resources identified in the table as impacted or potentially impacted will be brought forward for analysis.

<u>Resource</u>	<u>Initial and date</u>	<u>Comment or Reason for Dismissal from Analysis</u>
<u>Air Quality</u> <i>Ty Webb</i>	TW, 5/10/18	Not Present. Impacts to air quality from the construction phase will be extremely short term if any.
<u>Geology/Minerals</u> <i>Stephanie Carter, Melissa Smeins</i>	MJS, 5/25/2018	The federal minerals in the proposed project area are open to mineral location, therefore requiring coordination between surface uses as applicable.
<u>Soils</u> <i>Negussie Tedela</i>	NHT 5/18/2018	See the Affected Environment and Effects Section
<u>Water Quality</u> <u>Surface and Ground</u> <i>Negussie Tedela</i>	NHT 5/18/2018	See the Affected Environment and Effects Section
<u>Invasive Plants</u> <i>Aaron Richter</i>	AR, 6/14/2018	Applicant would be required to adhere to standard realty strips requiring monitoring for, and if found, treatment of noxious weeds. Due to this, and reclamation practices, it is expected that there would be little to no impact due to invasive species.
<u>T&E and Sensitive Species</u> <i>Matt Rustand</i>	MR, 5/18/2018	A special status species inventory was conducted 5/18/2018. No special status species were located within the project are. Therefore, action alternatives will not affect special status species.
<u>Vegetation</u> <i>John Lamman</i>	JL, 5/10/18	No changes from existing condition.
<u>Wetlands and Riparian</u> <i>Dave Gilbert</i>	DG, 5/15/18	The proposed action or either alternative does not affect riparian or wetland resources.
<u>Wildlife Aquatic</u> <i>Dave Gilbert</i>	DG, 5/15/18	The proposed action or either alternative does not directly affect aquatic resources.
<u>Wildlife Terrestrial</u> <i>Matt Rustand</i>	MR, 5/18/2018	See affected environment.
<u>Migratory Birds</u> <i>Matt Rustand</i>	MR, 5/18/2018	See affected environment.
<u>Cultural Resources</u> <i>Monica Weimer</i>	MMW, 6/18/18	Although historic properties were found in the area of potential effect [see report CR-RG-18-097 P], they will not be affected by the proposed undertaking. Therefore, no further work is necessary.
<u>Native American Religious Concerns</u> <i>Monica Weimer</i>	MMW, 6/18/18	No possible culturally-sensitive properties were located during the cultural resources inventory for the proposed undertaking [see report CR-RG-18-097]. There is no other known evidence that suggests the project area holds special significance for Native Americans.
<u>Economics</u>	mw, 7/24/18	This action will not result in notable impacts to the socio economics of individuals or of the region. Economic repercussions could occur to the proponent should access to their claim not be granted.

<u>Resource</u>	<u>Initial and date</u>	<u>Comment or Reason for Dismissal from Analysis</u>
<u>Paleontology</u> <i>Melissa Smeins, Stephanie Carter</i>	MJS, 5/25/2018	Not present
<u>Visual Resources</u> <i>Linda Skinner</i>	LS, 6/12/18	See Affected environment and effects
<u>Environmental Justice</u> <i>Martin Weimer</i>	mw, 7/24/18	No low income or minority populations would be affected by this action.
<u>Wastes Hazardous or Solid</u> <i>Melissa Smeins</i>	MJS, 5/25/2018	See affected environment.
<u>Recreation</u> <i>Linda Skinner</i>	LS, 6/14/18	See affected environment and effects
<u>Farmlands Prime and Unique</u> <i>John Lamman</i>	JL, 5/10/18	Not present.
<u>Lands and Realty</u> <i>Greg Valladares</i>	GDV, 07/10/2018	There is an existing authorization, COC-44142, to Fremont County for County Road 3 (Temple Canyon Road). Zephyr will work with Fremont County to obtain a driveway access permit off County Road 3.
<u>Wilderness, WSAs, ACECs, Wild & Scenic Rivers</u> <i>Linda Skinner</i>	LS, 6/12/18	Not present.
<u>Wilderness Characteristics</u> <i>Linda Skinner</i>	LS, 6/12/18	The project area was part of the 2015 inventory review and did not meet the criteria for lands with wilderness characteristics due to its size.
<u>Range Management</u> <i>John Lamman</i>	JL, 5/10/18	No changes from existing condition. No grazing in this area.
<u>Forest Management</u> <i>Jeremiah Moore</i>	JLM, 5/10/2018	See comments under Vegetation section.
<u>Cadastral Survey</u> <i>Rebecca Bruno</i>	RMB, 5/16/2018	The proposed action nor the alternatives affect PLSS evidence and the boundaries of Federal interest land are well defined.
<u>Noise</u> <i>Martin Weimer</i>	mw, 7/24/18	The project area is located in a rural setting southwest of Cañon City. The right of way would allow periodic truck traffic from the proponent's project area onto the county road. Resulting noise would not be that much greater than noise generated by the current use.
<u>Fire/Fuels</u> <i>Ty Webb</i>	TW, 5/10/18	Not Present.

The affected resources brought forward for analysis include:

- Soils

- Water Quality
- Wildlife, Terrestrial
- Migratory Birds
- Visual Resources
- Recreation

3.2 PHYSICAL RESOURCES

3.2.1 SOILS (includes a finding on standard 1)

Affected Environment:

The Zephyr ROW access road site is located within Temple Canyon-Grape Creek sub-watershed analysis area and about 65.3 percent of this sub-watershed is on BLM land. The existing condition of upland soil resources within the sub-watershed results from natural and anthropogenic impacts. Past actions include activities that have influenced and affected the current condition of the environment near and at the project area. Illegal trash dumping, grazing, roads, mining, wildfire/fuel treatment, and OHV use influence the sub-watershed. About 1.8 acres of illegal dumping area, near the project site, has reduced vegetation cover, increased soil compaction and impervious surface. Based on field visit of the project area, removal of most of the trash dumped at this site took place but some trashes and footprints of past dumping activities are still exist at the site. The degree and extent of impacts such as erosion, compaction, soil vegetation cover, and soil productivity determine the condition of soil resources. Soil features such as rills, active gullies, pedestals, surface litter and plant cover are important indicators of Standard 1.

The soil within proposed ROW road is described in the BLM GIS Soil Survey Geographic (SSURGO) database, which is derived from NRCS Web Soil Survey database (USDA 2018). More than 96 percent of the Zephyr Road ROW site is located on Sedillo cobbly sandy loam, 4 to 25 percent slopes. Based on erosion factor-K, the soil has very low susceptibility to sheet and rill erosion by water. The erosion factor-K is derived based on percentage of silt and sand, organic matter, soil structure, and saturated hydraulic conductivity. The parent material consists of calcareous, gravelly & cobbly alluvium. Depth to any restrictive layer and to water table is greater than 2 meters, the natural drainage class of the soil is well drained, and flooding or ponding are not probable. Hydrologic Soil Group is B, having a moderate infiltration rate (water transmission) when thoroughly wet. Wind Erodibility Group (WEG) consists of soils that have similar properties in relation to their susceptibility to wind erosion and the soil is classified as Group-5. The soils within group-1 are the most susceptible to wind erosion and group-8 are the least susceptible.

Environmental Effects

Proposed Action

Direct and Indirect Impacts: The proposed action will involve grading, excavation, vegetation removal, and additional exposure of soil material that would temporarily increase the potential for erosion until the stabilization of disturbed areas. Total disturbance area due to proposed ROW road is about 0.34 acres on BLM land. The primary effects during project activities would result from soil compaction, disturbance, soil profile mixing, and erosion. Loss of soil structure due to compaction from equipment and vehicle traffic could reduce water infiltration rate and change drainage patterns. Soil contamination would also occur if equipment and vehicles used for road construction activities that may deposit small amounts of petro-hydrocarbons onto soils through equipment failure or normal operations. Exposed and loose soil material during construction would be susceptible to erosion until stabilized. Temporary erosion-control measures would reduce the potential for short-term erosion and soil loss during construction. The proposed action would result in local, minor, adverse effects on soil health due to disturbances caused by vehicles and other equipment during road construction activities. These effects would continue for the long term at lesser extent following completion of the ROW road project due to access road use until end of the ROW term.

Protective/Mitigation Measures: Permanent or temporary soil erosion control measures for all disturbed land area and stockpiles would be implemented as soon as practicable after final earth disturbance has been completed. Keep erosion control measures (usually silt fence) in place, maintain during construction, and remove them after stabilization of the site. Construction will not occur when the soil is too wet to support construction equipment, if such equipment creates ruts in excess of four inches deep. Complete ground-disturbing activities during the appropriate season to protect soil health. Properly rehabilitate and decommission the access road to protect soil health and stabilize and restore the site to a more natural state, after the end of ROW term or the access road no longer needed. These rehabilitation measures include revegetate the road surface, restore surface drainage, remove crossing structures and fills, mitigate road surface compaction, reestablish drainage-ways, remove of unstable road embankments, and re-contour the surface to restore natural slopes. In addition, properly use standard stipulation as indicated in Appendix-A (equipment used to implement the proposed action shall be washed prior to entering the project area to remove any plant materials, soil, or grease).

No Action Alternative

Direct and Indirect Impacts: Under the No Action Alternative, there will be no impacts from access road construction activities. There will be continued erosion occurring on the sub-watershed along the existing road system.

Protective/Mitigation Measures: No protective/Mitigation measures are required.

Alternative-1

Direct and Indirect Impacts: The same direct and indirect effects apply to the Proposed Action and the Alternative-1. However, the soil health impacts that would occur by the proposed

action will be higher due to total disturbance area is about 0.34 acres on BLM land, while the disturbance area under alternative-1 is only about 0.074 acres.

Protective/Mitigation Measures: The same protective/mitigation measures apply to the Proposed Action and the Alternative-1.

Cumulative Impacts: Past actions, such as illegal dumping, grazing, existing road system, OHV use, wildfire/fuel treatment, and mining have affected soils resources within the sub-watershed because of soil grading, compaction, erosion, and runoff. Future activities such as road maintenance work, grazing, mining, and other past activities would continue to impact soil resources in the sub-watershed. The proposed new activities, under the Proposed Action and Alternative-1, would contribute a negligible increment to the total past, present and reasonably foreseeable future actions affecting soil resources. The combined adverse effects of past, present, and reasonably foreseeable actions on soils resources would be minimal and local. With the No Action Alternative, project related disturbances would no longer be included in the cumulative effects and the effects should lessen, compared to the Proposed Action and Alternative-1.

Finding on the Public Land Health Standard for Upland Soils: Upland soils exhibit infiltration and permeability rates that are appropriate to soil type, climate, landform, and geologic processes. In general, except areas where damping activities occurred in the past, upland soils achieved standard-1 and there would be a negligible anticipated impact due to the proposed action and other alternatives.

Reference:

USDA. 2018. Web Soil Survey (WSS). <<http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>> accessed on May 2018.

3.2.2 WATER (SURFACE AND GROUNDWATER, FLOODPLAINS) (includes a finding on standard 5)

Affected Environment:

The Zephyr road ROW site is situated within Temple Canyon-Grape Creek (Hydrologic Unit Code or HUC: 110200011307) sixth level sub-watershed. Elevation within the sub-watershed ranges from approximately 5,400 feet in the north along the outlet of Grape Creek to over 9,300 feet in southern part of the sub-watershed. Precipitation varies widely with elevation. Lower areas of the watersheds receive about 15 inches and higher mountain areas receive about 23 inches of precipitation, with most of the rainfall events occurring in July and August. The Zephyr Road ROW site receives 17 inches of annual precipitation. Within the sub-watershed, there are perennial/intermittent and several ephemeral streams and one intermittent lakes/pond. The proposed ROW road crosses one ephemeral drainage and installation of culvert across this natural drainage is required to drain runoff to protect the new access road and reduce soil erosion. Two nearby intermittent drainage are located about 360 feet away to the north and 320 feet away to south of the proposed access road. About 10.3 miles of a perennial stream and 194.2 miles of several intermittent/ephemeral drainage are located within the sub-watershed.

The only perennial stream located within the sub-watershed is Grape Creek that flows north of the project site. All intermittent and ephemeral streams originating from the sub-watershed drain into the Grape Creek. None of the perennial streams or intermittent drainage crosses the proposed new ROW road.

Except shallow aquifers, no principal bedrock and alluvial aquifers are located within the sub-watershed. Modification of the hydrology of the analysis area occurred due to construction of roads, surface- and ground-water use. There are about 15 water wells and 8 water diversions structures with water rights located in the sub-watershed to pump and divert surface water and groundwater for domestic and agricultural activities. The Clean Water Act (CWA) requires protection of chemical, physical, and biological integrity of waters of US. No perennial/intermittent streams or other water bodies, located within the sub-watershed, are under 303(d) listing. A review of the Colorado 2018 Integrated Water Quality Monitoring and Assessment Report indicates all perennial/intermittent streams and water bodies are fully supporting all designating uses (CDPHE 2018). Because of few number of flow-path within the project area, limited amounts of runoff generated from the site due to road construction activities, and location of the project site from streams and other water bodies, construction activities would have minimal effect on the water quality.

Environmental Effects

Proposed Action:

Direct and Indirect Impacts: The proposed new access road would involve grading, ground clearing, and additional exposure of soil material that would temporarily increase the potential for erosion and sediment transport until the road construction activities are finalized. In addition, construction of new access road would create a direct impact by increasing the amount of impermeable surfaces that would increase runoff in project area. Local short-term minor adverse effects on water quality and hydrologic process are possible during construction of new road. Lessening of these effects would occur upon completion of road construction. In addition, implementation of soil erosion-control measures would contain sediment and minimize these effects. Any sediment contribution to the drainage during project construction would be minor in relation to the supply of sediment and erosion that naturally occurs in this sub-watershed.

Protective/Mitigation Measures: Avoid or minimize adverse effects to water quality from erosion, sediment, and other pollutant delivery during road construction activities. Do not place excess and unsuitable materials on slopes and natural drainage with a risk of excessive erosion and sediment delivery to nearby waterbodies. Maintain construction equipment according to the manufacturer's specifications and fuels and other potentially hazardous materials would be contained and stored appropriately. Construction personnel would follow appropriate procedures to protect against potential petroleum or hazardous material spills. Conduct good maintenance of equipment and containment of fuels and other potentially hazardous materials to minimize the potential for a release of these fluids into groundwater and surface water resources. Installation of culvert need to be properly sized and protected from erosion and scour. The natural drainage, which is located on the access road, need to have a culvert large enough to pass the expected flow plus extra capacity to pass debris without plugging, minimize channel modifications, and

maintain the natural grade and alignment. Apply quality, well-compacted bedding; and use inlet and outlet protection measures while installing the culvert. In addition, use mitigation measures indicated in the soils section to protect water resources.

No Action Alternative:

Direct and Indirect Impacts: Under the No Action alternative, the present environmental conditions and trends will continue and no new impact will occur due to new road construction activities.

Protective/Mitigation Measures: No protective/Mitigation measures are required.

Alternative-1:

Direct and Indirect Impacts: The same direct and indirect effects apply to the Proposed Action and the Alternative-1. However, the hydrologic functioning and water quality impacts will be lesser because of total disturbance area is much lower under Alternative-1 compared to the Proposed Action.

Cumulative Impacts: Cumulative effects on water resources and hydrologic functioning are primarily discussed at the sixth field-level (HUC-12) sub-watershed. The cumulative effects are the sum of existing impacts, project related impacts and foreseeable future impacts. Alteration occurred on the sub-watershed due to past and present uses. Past and existing measurable impacts to water quality, floodplain and hydrologic functioning are associated with recreation activities, illegal trash dumping, roads and road maintenance, OHV use, livestock grazing, mining, and water supply infrastructure (wells, diversions, etc.), which would still exist on the sub-watershed. Roads and trails are probably the largest contributor of sediment to ephemeral/intermittent streams on BLM administered lands. The Proposed action and Alternative-1 will not expected to have a measurable cumulative effect when added to the other stressors in the sub-watershed. With the no action alternative, new road construction that involves grading and ground clearing activities would no longer be included in the cumulative effects and the effects should lessen, compared to the Proposed Action and Alternative-1. Use of mitigation measures would further reduce cumulative impacts on the sub-watershed.

Finding on the Public Land Health Standard for Water Quality: a change to surface or ground water quality is negligible due to the proposed action or other alternatives and Standard-5 is being achieved.

Reference:

CDPHE. 2018. Colorado Department of Public Health and Environment, Colorado Water Quality Control Division, Integrated water quality monitoring and assessment report, Prepared Pursuant to Section 303(d) and Section 305(b) of the Clean Water Act, The 2018 Update to the 2016 305(b) Report.

3.3 BIOLOGICAL RESOURCES

3.3.1 VEGETATION (includes a finding on standard 3)

Affected Environment: Pinyon pine, one-seeded juniper/rocky mountain juniper woodlands.

Environmental Effects

Proposed Action:

Direct and Indirect Impacts: Vegetation removal for road construction. Impacts include short term risk of erosion.

Protective/Mitigation Measures: Avoid full tree removal wherever possible. If tree removal or pruning is necessary, all activity slash with a diameter less than four inches will be lopped and scattered at a depth less than 18 inches. All wood material greater than four inches in diameter will be cut to four foot lengths and stacked neatly in an accessible location along Temple Canyon Road. All stumps will either be cut to a height less than six inches or completely removed.

Cumulative Impacts: Loss of roots and live vegetation could result in long term erosion issues.

No Action Alternative:

Direct and Indirect Impacts: None

Protective/Mitigation Measures: None

Other Alternative:

Direct and Indirect Impacts: If maintenance and/or improvement of existing road requires removal or manipulation of existing vegetation, there is a risk of short term erosion issues.

Protective/Mitigation Measures: If maintenance and/or improvement of existing road requires removal or manipulation of existing vegetation, mitigation measures required under proposed action will apply.

Cumulative Impacts: None

Finding on the Public Land Health Standard for Plant and Animal Communities:

3.3.2 WILDLIFE TERRESTRIAL (includes a finding on standard 3)

Affected Environment: A habitat type that consists primarily of pinyon pine and juniper occupies this project area. The proposed right of way is adjacent to an existing county road. The location

of the project was at one time a hazardous site containing a trespass dwelling and associated trash. The site has since been reclaimed yet still lacks value to wildlife species.

Environmental Effects

Proposed Action:

Direct and Indirect Impacts: The proposed action will create a duplicate road to one existing on private lands, albeit a less hazardous road. The proposed action will result in 0.349 acres of lost habitat; however, the indirect effects will be minimal due to the existence of the county road and the existing private road. Overall impacts to terrestrial wildlife habitat due to the proposed action will be minimal.

Protective/Mitigation Measures: None.

Cumulative Impacts: This project would result in a long-term, moderate intensity disturbance in a small area. The proposed road construction is in addition to current existing roads and trails in the area and is introducing additional human presence to the project area. Because the project area is currently adjacent to a public county road and a private road, the proposed action is not anticipated to result in an additive negative cumulative impact to wildlife.

No Action Alternative:

Direct and Indirect Impacts: No impact to terrestrial wildlife habitat as vehicle traffic would be limited to the existing road network.

Protective/Mitigation Measures: None.

Other Alternative:

Direct and Indirect Impacts: No impact to terrestrial wildlife habitat as vehicle traffic would be limited to the existing road network.

Protective/Mitigation Measures: None.

Finding on the Public Land Health Standard for Plant and Animal Communities: Authorizing this project will not affect the health standard for plant and animal communities.

3.3.3 MIGRATORY BIRDS

Affected Environment: A habitat type that consists primarily of pinyon pine and juniper occupies this project area. The proposed right of way is adjacent to an existing county road. The location of the project was at one time a hazardous site containing a trespass dwelling and associated trash. The site has since been reclaimed yet still lacks value to wildlife species.

Environmental Effects

Proposed Action

Direct and Indirect Impacts: The proposed action will create a duplicate road to one existing on private lands, albeit a less hazardous road. The proposed action will result in 0.349 acres of lost habitat; however, the indirect effects will be minimal due to the existence of the county road and the existing private road. Overall impacts to terrestrial wildlife habitat due to the proposed action will be minimal.

Protective/Mitigation Measures: To comply with the Migratory Bird Treaty Act (MBTA) and the Memorandum of Understanding between BLM and USFWS required by Executive Order 13186, BLM must avoid actions, where possible, that result in a “take” of migratory birds. Pursuant to BLM Instruction Memorandum 2008-050, to reduce impacts to Birds of Conservation Concern (BCC), no habitat disturbance (removal of vegetation such as timber, brush, or grass) is allowed during the periods of May 15 - July 15, the breeding and brood rearing season for most Colorado migratory birds. The provision will not apply to completion activities in disturbed areas that were initiated prior to May 15 and continue into the 60-day period.

An exception to this timing limitation will be granted if nesting surveys conducted no more than one week prior to vegetation-disturbing activities indicate no nesting within 30 meters (100 feet) of the area to be disturbed. Surveys shall be conducted by a qualified breeding bird surveyor between sunrise and 10:00 a.m. under favorable conditions.

Cumulative Impacts: This project would result in a long-term, moderate intensity disturbance in a small area. The proposed road construction is in addition to current existing roads and trails in the area and is introducing additional human presence to the project area. Because the project area is currently adjacent to a public county road and a private road, the proposed action is not anticipated to result in an additive negative cumulative impact to wildlife.

No Action Alternative:

Direct and Indirect Impacts: No impact to migratory bird habitat as vehicle traffic would be limited to the existing road network.

Protective/Mitigation Measures: None.

Other Alternative:

Direct and Indirect Impacts: No impact to migratory bird habitat as vehicle traffic would be limited to the existing road network.

Protective/Mitigation Measures: None.

3.4 HERITAGE RESOURCES AND HUMAN ENVIRONMENT

3.4.1 VISUAL RESOURCES

Affected Environment:

Visual Resource Management (VRM) classes along with the corresponding VRM Objectives were established in the Royal Gorge Field Office in 1996 with the approval of the Royal Gorge Resource Area Resource Management Plan (RMP). Visual Resource Management objectives corresponding to the various management classes provide standards for analyzing and evaluating proposed projects. Projects are evaluated using the Contrast Rating System to determine if it meets VRM objectives established by the RMP.

This region has a high value for visual quality. While not as iconic as other mountain ranges, landscape integrity is important for residents both as a backdrop and a recreation/ tourism destination. There are some ranches and rural residences in the project area with steep mountains in the background. Some disturbance is visible with past mining road cuts in the mountain slopes. The VRM classes established for the project area is Class II. The objective for a Class II area is to retain the existing character of the landscape.

Environmental Effects

Proposed Action:

Direct and Indirect Impacts: The proposed action adds contrast by adding a road cut adjacent to the road. The gravel road surface will contrast with the natural rolling woodlands of pinyon and juniper in its color and linear shape. The gate adds a linear feature to the landscape.

Although the county road is a well-travelled route for vehicles, the mining trucks in higher numbers introduces an indirect impact to the resource with the change in traffic patterns and dump trucks entering and leaving the site.

Protective/Mitigation Measures: Consideration of the color of the right-of-way surface material and of the gate would lessen any contrast. Recommend using a color similar to the reddish county road surface material and a dark color for the gate that blends with the surrounding landscape. Utilize the BLM Standard Environmental Colors chart if necessary.

Cumulative Impacts: There are other road entries off the county road and with the addition of the construction of the road, there would be a change to the visual resource. Once the mine goes into production, the additional traffic introduces a change from the rural county road to a more developed appearance.

No Action Alternative:

Direct and Indirect Impacts: No change

Protective/Mitigation Measures: None

Alternative 1:

Direct and Indirect Impacts: The proposed action of using the existing entry road has less visual contrast by eliminating the new road cut. The contrast change in this alternative adds gravel to the road surface. The gravel road surface will contrast slightly with the natural rolling woodlands of pinyon and juniper in its color.

Although the county road is a well-travelled route for vehicles, the mining trucks in higher numbers introduces an indirect impact to the visual resource with the change in traffic patterns and dump trucks entering and leaving the site. This would also change noise levels affecting residents in the area.

Protective/Mitigation Measures: Same as Proposed Action

Cumulative Impacts: The use of the existing road would not change the visual resource from its current state. However, once the mine goes into production, the additional traffic introduces a change from the rural county road to a more developed appearance.

3.4.2 WASTES, HAZARDOUS OR SOLID

Affected Environment: Several tons of trash and debris have recently been removed from this site. It is assumed that conditions associated with the proposed project site are currently clean and that no contamination is evident. No hazardous material, as defined by 42 U.S.C. 9601 (which includes materials regulated under CERCLA, RCRA and the Atomic Energy Act, but does not include petroleum or natural gas), will be used, produced, transported or stored during project implementation.

Nothing in the analysis or approval of this action by BLM authorizes or in any way permits a release or threat of a release of hazardous materials (as defined under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations) into the environment that will require a response action or result in the incurrence of response costs.

Environmental Effects

Proposed Action:

Direct and Indirect Impacts: None

Protective/Mitigation Measures: Since this project involves some type of oil or fuel use, transfer and/or storage, an adequate spill kit is required to be onsite. The project proponent will be responsible for adhering to all applicable local, State and Federal regulations in the event of a spill, which includes following the proper notification procedures in BLM's Spill Contingency Plan.

Cumulative Impacts: None

No Action Alternative:

Direct and Indirect Impacts: none

Protective/Mitigation Measures: none

Other Alternative (authorize existing):

Direct and Indirect Impacts: same as proposed

Protective/Mitigation Measures: same as proposed

Cumulative Impacts: none

3.5 LAND RESOURCES

3.5.1 RECREATION

Affected Environment: The proposed action is on Temple Canyon Road, a county road that accesses Temple Canyon City Park, Grape Creek and the south side of the Royal Gorge Bridge. The road connects several trailheads in the BLM South Canon Trail System. The road is ridden by bicyclists, a permitted jeep tour company, and hosts the Temple Canyon Hill Climb event annually. There are also dispersed campsites along the road.

Environmental Effects

Proposed Action:

Direct and Indirect Impacts: The proposed action to construct the access road on Temple Canyon Road will not directly affect recreationists using the area. The indirect affects would come from the increased use of the road after the mine goes into operation. If the mine operates on weekends, the Hill Climb event would be disrupted with the extra traffic. The remote experience offered to tourists on the jeep tours and bicyclists would be changed with the extra traffic and type of vehicles encountered along the road. This could introduce a safety hazard as well as the changing the experience for the recreationists. While the use of the ROW has an effect on the recreation setting, the decision to open the mine on private land is not a BLM decision.

Protective/Mitigation Measures: Temple Canyon Road is heavily used for recreation purposes. Mine-related traffic should be aware and use caution when traveling through the area.

Cumulative Impacts: Increased traffic indirectly affects recreationists using Temple Canyon Road. If the mining operation were to abate, the cumulative impacts would also abate.

No Action Alternative:

Direct and Indirect Impacts: No change

Protective/Mitigation Measures: None

Alternative 1:

Direct and Indirect Impacts: By using the private access road, there would be no change to the direct impacts on recreation. The indirect affects would be the same as proposed action.

Protective/Mitigation Measures: Same as proposed action

Cumulative Impacts: Same as proposed action

3.6 CUMULATIVE IMPACTS SUMMARY

40 CFR 1508.7 defines *cumulative impacts* as the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

The Proposed Action and Alternative 1 could contribute to the cumulative impacts to soils, water quality, terrestrial wildlife, migratory birds, visual resources, and recreation.

Soils: Past actions including illegal dumping, grazing, existing road system, OHV use, wildfire/fuel treatment, and mining have affected soil grading, compaction, erosion, and runoff. Future activities, such as road maintenance work, grazing, mining, and other past activities would continue to impact soil resources. The proposed new activities under the Proposed Action and Alternative-1 would contribute a negligible increment to the total past, present and reasonably foreseeable future actions affecting soil resources. The combined adverse effects of past, present, and reasonably foreseeable actions on soils resources would be minimal and local. For the No Action Alternative, project related disturbances would no longer be included in the cumulative effects and the effects should lessen as compared to the Proposed Action and Alternative 1.

Water (surface, groundwater, floodplains): Cumulative effects on water resources and hydrologic functioning occurred on the sub-watershed due to past and present uses. Past and existing measurable impacts to water quality, floodplain and hydrologic functioning are associated with recreation activities, illegal trash dumping, roads and road maintenance, OHV use, livestock grazing, mining, and water supply infrastructure (wells, diversions, etc.), which would still exist on the sub-watershed. Roads and trails are probably the largest contributor of sediment to ephemeral/intermittent streams on BLM administered lands. The Proposed Action and Alternative 1 are not expected to have a measurable cumulative effect when added to the other stressors in the sub-watershed. For the No Action alternative, new road construction, grading and ground clearing activities would no longer be included and the effects should lessen as compared to the Proposed Action and Alternative 1. Use of mitigation measures would further reduce cumulative impacts on the sub-watershed.

Vegetation: The Proposed Action and Alternative 1 would result in loss of roots and live vegetation that could result in long term erosion issues.

Wildlife Terrestrial & Migratory Birds: This project would result in a long-term, moderate intensity disturbance in a small area. The proposed road construction is in addition to current existing roads and trails in the area and is introducing additional human presence to the project area. Because the project area is currently adjacent to a public county road and a private road, the proposed action is not anticipated to result in an additive negative cumulative impact to wildlife.

Visual Resources: There are other road entries off the county road and with the addition of the construction of the Proposed Action, there would be a change to the visual resource. Once the mine goes into production, the additional traffic introduces a change from the rural county road to a more developed appearance. For Alternative 1, the use of the existing road would not change the visual resource from its current state. However, once the mine goes into production, the additional traffic introduces a change from the rural county road to a more developed appearance.

Recreation: For the Proposed Action and Alternative 1, increased traffic indirectly affects recreationists using Temple Canyon Road. If the mining operation were to abate, the cumulative impacts would also abate.

CHAPTER 4 - CONSULTATION AND COORDINATION

4.1 LIST OF PREPARERS AND PARTICIPANTS

Please see Interdisciplinary Team Review list for BLM Participants

CHAPTER 5 - REFERENCES

Bureau of Land Management (BLM). 1993. Draft Resource Management Plan and Environmental Impact Statement. Royal Gorge Field Office. Cañon City, Colorado.

Bureau of Land Management. 1996. Royal Gorge Resource Area Resource Management Plan and Record of Decision. Cañon City District. Cañon City, Colorado.

Bureau of Land Management. 2008. H-1790-1 National Environmental Policy Handbook. Washington, D.C.

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EXHIBIT A
STANDARD STIPULATIONS
COC-78441

The BLM Authorized Officer for the administration of this right-of-way is the Field Manager, Royal Gorge Field Office, 3028 East Main Street, Cañon City, CO, Phone (719) 269-8500.

- a. The Holder shall comply with all stipulations contained in this right-of-way (ROW) grant unless otherwise approved in writing by the Authorized Officer (AO). Non-compliance with the stipulations by the holder or any of its agents may, at the option of the AO, result in cancellation or suspension of the ROW grant or adverse action against the Holder.
- b. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
- c. The Authorized Officer shall have the right to inspect the site jointly with the Holder or his/her representative at any reasonable time to insure compliance with the terms, conditions and stipulations of the ROW grant.
- d. The BLM retains the right to occupy and use the ROW and to issue or grant rights-of-way or other land uses over, upon, under and through the lands, provided that the occupancy and use will not unreasonably interfere with the rights granted herein.
- e. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the ROW, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the ROW, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW holder.
- f. Protection of Survey Corner and Boundary Line Markers: Evidence of the Public Land Survey System (PLSS) and related Federal property boundaries will be identified and protected prior to commencement of any ground-disturbing activity. This will be

accomplished by contacting Bureau Land Management (BLM) Cadastral Survey to coordinate data research, evidence examination, and evaluation, and locating, referencing or protecting monuments of the PLSS and related land boundary markers from destruction. In the event of obliteration or disturbance of the Federal boundary evidence, the responsible party shall immediately report the incident, in writing, to the Authorizing Official. BLM Cadastral Survey will determine how the marker is to be restored. In rehabilitating or replacing the evidence the responsible party will be instructed to use the services of a Certified Federal Surveyor (CFedS), procurement shall be per qualification based selection 4, or reimburse the BLM for costs. All surveying activities will conform to the Manual of Surveying Instructions (Manual) and appropriate State laws and regulations. Local surveys will be reviewed by Cadastral Survey before being finalized or filed in the appropriate State or county office. The responsible party shall pay for all survey, investigation, penalties, and administrative costs.

- g. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on their behalf, on public or Federal land shall immediately be 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.
- h. If, in connection with operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. The holder shall continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.
- i. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides 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, the holder shall obtain from the authorized officer written approval of a 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. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

- j. Equipment used to implement the proposed action shall be washed prior to entering the project area to remove any plant materials, soil, or grease. Areas disturbed by project implementation will be monitored for the presence of weeds on the Colorado State Noxious Weed list. Monitoring is required for the life of the project and for three years following project completion. Identified noxious weeds shall be treated.
- k. The holder shall be responsible for weed control on disturbed areas 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).
- l. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of Interior issued pursuant thereto.
- m. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) 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 or 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 or State government.
- n. The holder shall indemnify the United States for any and all injury, loss or damage to life or property, including fire suppression costs, the United States may suffer as a result of losses, claims, demands or judgments caused by Holder's use or occupancy of public lands under this grant or permit.
- o. The holder shall be fully liable for injuries or damages to third parties resulting from holder's activities or facilities on lands under Federal jurisdiction in which the damage or injury occurred. The holder shall fully indemnify the United States for liability, damage or claims arising in connection with the holder's use and occupancy of the right-of-way area.
- p. 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.

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- q. If the project involves oil or fuel usage, transfer, or storage, an adequate spill kit and shovels are required to be on site during project implementation. The project proponent will be responsible for adhering to all applicable local, State, and federal regulations in the event of a spill, which includes following the proper notification procedures in BLM's Spill Contingency Plan.
 - r. If, during any phase of the construction, operation, maintenance, or termination of the ROW, any oil or other pollutant should be discharged, impacting Federal lands, the control and total removal, disposal, and cleaning up of such oil or other pollutant, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of the holder to control, dispose of, or clean up such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting there from the Authorized Officer may take such measures as deemed necessary to control and cleanup the discharge and restore the area, including, where appropriate, the aquatic environment and fish and wildlife habitats, at the full expense of the holder. Such action by the Authorized Officer shall not relieve the holder of any liability or responsibility.
 - s. If concrete is proposed as part of the project, all concrete washout water needs to be contained and properly disposed of at a permitted offsite disposal facility.
 - t. No burning of trash, litter, trees, brush, or other vegetative material generated by clearing the right-of-way shall be allowed under this grant.
 - u. The Holder shall promptly clear any and all waste, litter, trash and debris from the area for the term of the right-of-way and dispose of the material promptly at an appropriate waste disposal site.
 - v. 120 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. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, 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.

- w. Construction activity and surface disturbance will be prohibited during the period from May 15 to July 15 for the protection of migratory birds. Any exceptions to this requirement must have prior written approval from the authorized officer.
- a. To be in compliance with the Migratory Bird Treaty Act (MBTA) and the Memorandum of Understanding between BLM and USFWS required by Executive Order 13186, BLM must avoid actions, where possible, that result in a “take” of migratory birds. Pursuant to BLM Instruction Memorandum 2008-050, to reduce impacts to Birds of Conservation Concern (BCC), no habitat disturbance (removal of vegetation such as timber, brush, or grass) is allowed during the periods of May 15 - July 15, the breeding and brood rearing season for most Colorado migratory birds. The provision will not apply to completion activities in disturbed areas that were initiated prior to May 15 and continue into the 60-day period.
 - b. An exception to this timing limitation will be granted if nesting surveys conducted no more than one week prior to vegetation-disturbing activities indicate no nesting within 30 meters (100 feet) of the area to be disturbed. Surveys shall be conducted by a qualified breeding bird surveyor between sunrise and 10:00 a.m. under favorable conditions.
- x. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.

EXHIBIT B
SPECIAL STIPULATIONS
COC-78441

The BLM Authorized Officer for the administration of this grant is the Field Manager, Royal Gorge Field Office, 3028 East Main Street, Cañon City, CO, Phone (719) 269-8500. The holder/grantee/permittee shall hereafter be identified as the holder in these stipulations.

Fire Prevention and Control Stipulations

1. The Holder shall indemnify the United States for any and all injury, loss or damage to life or property, including fire suppression costs, the United States may suffer as a result of losses, claims, demands or judgments caused by Holder's use or occupancy of public lands under this grant or permit.
2. The Authorized Officer may suspend or terminate in whole, or in part, any notice to proceed which has been issued when, in his or her judgment, conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
3. Holder shall maintain the ROW in a safe, usable condition.
4. As provided in 43 CFR 2807.12(b)(1)-(5), the Holder shall be strictly liable for any activity or facility associated with your ROW area which the BLM determines presents a foreseeable hazard or risk of damage or injury to the United States. BLM has determined that the permitted/authorized activity or facility of an access road for mining activities presents a foreseeable hazard or risk of damage and has also determined that the financial limitation of strict liability in this grant is \$2,585,000.00 for any one incident.
5. When performing construction and maintenance (including emergency repairs) activities during the "closed" fire season (May 10 – October 20), as set by Colorado State Law, or during any other closed fire season prescribed by the BLM Colorado State Director, the Holder, including any persons such as contractors, etc. working on their behalf, shall equip at least one on-site vehicle with firefighting equipment, including, but not limited to, fire suppression hand tools (i.e. shovels, rakes, Pulaski's, etc.), a 16-20 pound fire extinguisher, and a sufficient supply of water for initial attack, with a mechanism to effectively spray the water (i.e. backpack pumps, water sprayer, etc.).
6. During conditions of extreme fire danger or when the State of Colorado and/or the BLM Colorado State Director issues a fire restriction order, operations shall be limited or suspended in specific areas, or additional mitigation measures may be required by the BLM Authorized Officer.
7. In accordance with 43 CFR 2805.12(d) (or subsequent revisions), the Holder shall do everything reasonable to prevent fires on or in the immediate vicinity of the ROW. The Holder will immediately report fires to the BLM Authorized Officer or local fire dispatch

(enter phone number(s)) and take all necessary fire suppression actions, when safe to do so, with their personnel and equipment on any fires they cause to ignite.

8. Holder shall maintain the condition of the origin area of the fire from further damage to enable the Fire Investigator to properly assess the origin area and cause of the fire. The Holder shall report to the Fire Investigator or BLM Incident Commander and shall not enter into the origin area on fires unless given permission to do so.
9. The Holder will cooperate with the BLM in its efforts to investigate, suppress and respond to all future fires. The duty to “cooperate” includes, but is not limited to, the following duties regardless of whether BLM is on the scene:
 - i. The duty to provide the BLM with reasonable and timely notice concerning all fires involving the Holder’s facilities, or discovered during routine operations. Call 911 and the BLM Duty Officer at 719-269-8730.
 - ii. The duty to share factual information with the BLM concerning fires, including but not limited to the names of Holder’s employees and/or contractors with knowledge of the incident; and to allow employees and/or contractors to be interviewed by BLM’s investigators regarding factual information relating to a fire.
 - iii. It is the duty of the Holder to preserve the point of ignition, fire scene and reasonably account to the BLM for Holders actions taken at the scene of a fire.
 - iv. The duty to minimize disturbance of potential evidence located at the scene; to not engage in any evidence collection or destructive testing without BLM and or its counsel’s express written consent; to properly handle and preserve any evidence collected and to make all documents and evidence, including expert reports, available to the BLM in a rapid and timely manner upon request of BLM and/or its counsel.
 - v. The duty to not hamper the BLM investigation of origin and cause of the fire; and to reasonably assist BLM’s investigation at the scene.
 - vi. The duty to provide information upon request of BLM and/or its counsel concerning the construction, monitoring, inspection, maintenance and/or repairs of any of Holder’s facilities located at or adjacent to a fire.
 - vii. The duty to provide information upon request of BLM and/or its counsel concerning the monitoring, inspection, and or alteration by Holder of any condition on public land, including but not limited to, public land adjacent to any of the Holder’s facilities.
 - viii. The duty, during BLM fire suppression efforts: to defer to and follow the instructions of the BLM’s Incident Commander regarding activities within the boundaries of the fire and checking in and out of the fire; and to recognize BLM’s primary authority over the scene.