

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

**Categorical Exclusion Not Established By Statute
DOI-BLM-UT-C010-2015-0017-CX
January 2015**

**City of Milford
Temporary Right-of-way**

***Location:* Beaver County, Utah**

***Applicant/Address:* City of Milford
26 South 100 West
P.O. Box 69
Milford, Utah 84751**

BUREAU OF LAND MANAGEMENT
Cedar City Field Office
176 East DL Sargent Drive
Cedar City, UT 84721
Telephone (435) 865-3000



CATEGORICAL EXCLUSION DOCUMENTATION

A. Background

BLM Office:	Cedar City Field Office (LLUTC01000)
Lease/Serial/Case File No.:	UTU-91037
Proposed Action Title/Type:	Temporary Right-of-Way (ROW)
Location of Proposed Action:	See Exhibit A

Background:

The City of Milford, has requested a temporary ROW at "Tube Hill" (see Exhibit C). The city was under the impression that they had the site leased under a Recreation and Public Purposes (R&PP). The BLM informed the city that they did not have an R&PP lease at this site. This site was originally purposed to be combined with the Big Rock R&PP that was segregated in 1986. However, "Tube Hill" was removed from the proposal because it had an active mining claim, which has since been relinquished. The BLM met with Lion's Club and Milford City employees on January 8, 2015 to discuss the proposed work.

Proposed Action:

On January 9, 2015 the City of Milford submitted a right-of-way application. The application is for a temporary 3 year term, while the city pursues an R&PP lease of "Tube Hill". Tube Hill is located east of Milford, Utah and has no current mining claims or other authorized uses. The "Tube Hill" location is a popular site for Milford residence to enjoy their winter activities (e.g. tubing, sledding). The City of Milford, in conjunction with the Lion's Club would like to have EC Sources perform dirt work to improve the use of "Tube Hill". EC Sources plans to build a berm that is high enough, approximately 4-5 feet in height, to protect the users that are tubing down the hill from running onto a public road and into parked vehicles. They also plan on improving the parking lot. The City of Milford, EC Sources and the Lion Club would maintain the site and make improvements in the current disturbed areas.

B. Land Use Plan Conformance

The proposed action is in conformance with the Cedar Beaver Garfield Antimony Resource Management Plan approved, June 10, 1986. It is specifically provided for in decision 3.1 (p.9) which provides that applications for use authorizations such as rights-of-way, leases, and permits be processed on a case-by-case basis.

C. Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with:

- 516 DM Chapter 11.9.E (19) which reads: "Issuance of a short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and

construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.”

- 516 DM Chapter 11.9.J (8) which reads: “Installation of minor devices to protect human life (e.g., grates across mines).”

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 Part 46.215 apply.

I considered the attached terms and conditions when making my decision, and they should be made a part of the grant.

D. Signature

Authorizing Official: Elizabeth R. Burghard Date: 1/13/15
Elizabeth R. Burghard
Field Manager

Contact:

For additional information concerning this CX please contact:

Michelle Campeau
Realty Specialist
Cedar City Field Office
176 East DL Sargent Drive
Cedar City, UT 84721
(435) 865-3047

Categorical Exclusion Review Record

Resource	Yes/No*	Assigned Specialist Signature	Date
Air Quality	No	Adam Stephens	01/12/2015
Areas of Critical Environmental Concern	No	Dave Jacobson	1-12-2015
Cultural Resources	No	Jamie Palmer	01/13/2015
Environmental Justice	No	Michelle Campeau	01/12/2015
Farm Lands (prime or unique)	No	Adam Stephens	01/12/2015
Floodplains	No	Adam Stephens	01/12/2015
Invasive Species/Noxious Weeds	No	Adam Stephens	01/12/2015
Migratory Birds	No	Sheri Whitfield	01/13/2015
Native American Religious Concerns	No	Jamie Palmer	01/13/2015
Threatened, Endangered, or Candidate Species	No	Sheri Whitfield	01/13/2015
Wastes (hazardous or solid)	No	Randy Peterson	1/13/2015
Water Quality (drinking or ground)	No	Adam Stephens	01/12/2015
Wetlands / Riparian Zones	No	Adam Stephens	01/12/2015
Wild and Scenic Rivers	No	Dave Jacobson	1-12-2015
Wilderness	No	Dave Jacobson	1-12-2015
Other:			

* A "yes" means that extraordinary circumstances *do* apply and this action would not be eligible for a CX. If you write "yes" here we will do an environmental assessment.

Program Lead Michelle Campeau

Date: 1/13/15

Environmental Coordinator Maria Menzies

Date: 1/13/15

Extraordinary Circumstance to Categorical Exclusions

Exceptions to Categorical Exclusion Documentation

The action has been reviewed to determine if any of the extraordinary circumstances (43 CFR 46.215) apply. The project would:

Extraordinary Circumstances		
1. Have significant impacts on public health or safety.		
Yes	No <input checked="" type="checkbox"/>	Rationale: Issuance of this temporary ROW increase public health and safety by improving the berm and parking lot. The ROW holder will be subject to all local, state, and federal laws and regulations for health and safety.
2. 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 (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		
Yes	No <input checked="" type="checkbox"/>	Rationale: The proposed action would not affect any of the above cited resources as none of them exist in the project area.
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		
Yes	No <input checked="" type="checkbox"/>	Rationale: The proposed action would create no additional impacts to the environment beyond those already present. It is not highly controversial nor does it involve any unresolved conflicts.
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	No <input checked="" type="checkbox"/>	Rationale: The proposed action has no known environmental risks that would have uncertain and potentially significant environmental effects because the proposed action is to improve the "Tube Hill" site and all changes would be in existing disturbed areas.
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	No <input checked="" type="checkbox"/>	Rationale: The proposed action would not set a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects. All future actions will be considered independently.
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		

Extraordinary Circumstances

Yes	No X	Rationale: The proposed action would not have any cumulatively significant environmental effects. There would be no significant direct effects from the project so there would be no cumulative effects.
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.		
Yes	No X	Rationale: The proposed action is within existing disturbances where the possibilities of locating intact, undisturbed historic properties are negligible. The terms and conditions also provide protection if unknown sites are discovered.
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		
Yes	No X	Rationale: This site is within crucial winter mule deer habitat. "Tube Hill" is used as a winter activity by Milford residence for the last 30-years. There have been no known impacts to the crucial winter mule deer habitat by this activity. This area is also within the Bald Hills greater-sage grouse Priority Area of Conservation (PAC).
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	No X	Rationale: The proposed authorization would be in conformance with all known environmental laws or requirements under the proposed terms and conditions.
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	No X	Rationale: Title VI of the Civil Rights Act and Executive Order 12898 ("Environmental Justice") require federal agencies to identify and address "disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations." In accordance with CEQ Environmental Justice Guidelines, minority populations should be identified and effects to them analyzed, if either of the following two conditions apply: (1) of those likely to be affected by the Proposed Action, 50 percent or more would be part of the minority population, and (2) within the project area, the minority population percentage is greater than the minority population percentage outside the project area or in the general population. Neither of these conditions applies to the project area for this effort. Therefore, implementation and potential environmental consequences of the action considered would not disproportionately affect any specific group of people (including any racial, ethnic, or socioeconomic group).
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes	No X	Rationale: The proposed action would not limit access to any known sites nor affect the physical integrity of such.

Extraordinary Circumstances

12. 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 (Federal Noxious Weed Control Act and Executive Order 13112).

Yes	No X	Rationale: The proposed action would not contribute to the introduction, continued existence, or spread of noxious weeds and non-native invasive plants. The authorization would include current terms and conditions for the control of noxious weeds.
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EXHIBIT – A

CITY OF MILFORD
TEMPORARY RIGHT-OF-WAY
UTU- 91037

LEGAL DESCRIPTION

Meridian	Township	Range	Section	Subdivision
SLM	T. 28 S.	R. 09 W.	09	NWSE;

Acres: 1.2

EXHIBIT – B

CITY OF MILFORD
TEMPORARY RIGHT-OF-WAY
UTU- 91037

STIPULATIONS / TERMS AND CONDITIONS

General

1. In case of change of address, the holder shall immediately notify the Bureau of Land Management (BLM) Authorized Officer.
2. This grant is subject to all valid rights existing on the effective date of this grant.
3. This right-of-way applies only to public lands. It is the grantee's responsibility to obtain appropriate authorization from the land owners of other affected lands.
4. Holder may not construct or make access roads or travel cross-county by vehicle to reach the grant area unless prior written approval is given by the Authorized Officer.
5. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority, if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the Authorized Officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
6. 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.
7. The holder shall comply with the provision of Title VI of the Civil Rights Act of 1964, and will not engage in any discriminatory actions prohibited by 43 CFR Part 17, to the end that no person in the United States shall, on the grounds of race, color, national origin, or gender, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under the program for which the holder has received a Federal authorization.
8. The holder or their contractors will notify the BLM of any fires and comply with all rules and regulations administered by the BLM concerning the use, prevention and suppression of fires on federal lands, including any fire prevention orders that may be in effect at the time of the permitted activity. The holder or their contractors may be held liable for the cost of fire suppression, stabilization and rehabilitation. In the event of a fire, personal safety will be the first priority of the holder or their contractors. The holder or their contractors will:

- a) Operate all internal and external combustion engines on federally managed lands per 36 CFR 261.52, which requires all such engines to be equipped with a qualified spark arrester that is maintained and not modified.
 - b) Initiate fire suppression actions in the work area to prevent fire spread to or on federally administered lands.
 - c) Carry shovels, water, and fire extinguishers that are rated at a minimum as ABC – 5 pound on all equipment and vehicles. If a fire spreads beyond the suppression capability of workers with these tools, all will cease fire suppression action and leave the area immediately via pre-identified escape routes.
- Notify the Cedar City Interagency Fire Center at (435) 865-4600, or 911 immediately of the location and status of any escaped fire. Construction personnel will be trained in basic fire control procedures.

Public Health & Safety Environmental Protection

9. The Authorized Officer may suspend or terminate in whole, or in part, any notice to proceed which has been issued when, in his/her judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
10. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976 as amended, 15 U.S.C. 2601 et. seq. (1982) with regards 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, 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.
11. If during any phase of the construction, operation, or termination any oil or other pollutant should be discharged from containers or vehicles and impact Federal lands, the control and total removal, disposal, and cleanup of such oil or other pollutant, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of holder to control, cleanup, or dispose of 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 he deems 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.

Cultural

12. Any cultural or paleontological resource (historic or prehistoric site or object) or Native American human remains, funerary item, sacred object, or objects of cultural patrimony discovered by the permit holder, or any person working on their behalf, during the course of activities on Federal land, shall be immediately reported to the BLM Authorized Officer by telephone, with written confirmation. The permit holder shall suspend all operations 100 meters within the discovery and appropriately protect the discovery until an evaluation has been made by the BLM Authorized Officer.

- a. If Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered during an undertaking involving BLM managed lands, the parties will comply with the Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing regulations at 43 CFR Part 10, Subpart B.
- b. For cultural resources other than Native American human remains, funerary item, sacred object, or objects of cultural patrimony, this evaluation will determine the significance of the discovery and what mitigation measures are necessary to allow activities to proceed. The holder is responsible for the cost of evaluation and mitigation. Any decision on treatment and/or mitigation will be made by the BLM Authorized Officer after consulting with the permit holder. Operations may resume only upon written authorization to proceed from the BLM Authorized Officer.

Vegetation/Weeds

13. The holder will be responsible for controlling noxious weeds within the limits of the right-of-way. Noxious weeds are defined as those which are listed by the Utah Commissioner of Agriculture under the Noxious Weed Act, and those declared noxious by the County in which the ROW resides. The holder will employ weed control methods approved in writing by the BLM Authorized Officer. An approved Pesticide Use Proposal (PUP) must be obtained prior to application of herbicides. Upon coordination with the Authorized Officer, the holder may elect to operate under an approved PUP which the BLM holds, or may apply for its own PUP, either through the Authorized Officer or the BLM Utah State Office. A daily Pesticide Application Report (PAR) must be submitted to the Authorized Officer for each day weeds are sprayed on the ROW.

Transfer of Federal Ownership/Relinquishment/Assignment

14. In accordance with federal regulations in 43 CFR 2807.21 any proposed transfer of any right or interest in the right-of-way grant shall be filed with the BLM Authorized Officer. An application for assignment shall be accompanied by a showing of qualifications of the Assignee. The assignment shall be supported by a stipulation that the Assignee agrees to comply with and to bound by the terms and conditions of the grant to be assigned. No assignment shall be recognized unless and until it is approved in writing by the Authorized Officer.
15. In the event that the public land underlying the right-of-way 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 right-of-way, 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 right-of-way, 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.

16. Prior to termination of the right-of-way, the holder shall contact the Authorized Officer to arrange a pre-termination conference. This conference will be held to review the termination provisions of the grant.
17. The right-of-way shall be relinquished to the United States if the authorized uses are no longer needed.

Special Stipulations

18. All improvements proposed at "Tube Hill" during the 3-year temporary ROW shall be within the disturbed areas.

I, _____, in behalf of Milford City, reviewed the above stipulations for the temporary right-of-way in the proximity of Milford, Utah and agree to follow them.

Authorized Signature

Date

EXHIBIT – C

IRON COUNTY
ROAD RIGHT-OF-WAY
UTU-91012
MAPS AND PHOTOS



