

**U.S. Department of the Interior  
Bureau of Land Management  
Gunnison Field Office  
DOI-BLM-CO-S060-2016-0001-CX**

## **CATEGORICAL EXCLUSION**

**NUMBER:** DOI-BLM-CO-S060-2016-0001-CX

**CASEFILE/PROJECT NUMBER:** COC-77393, COC-77473

**PROJECT NAME:** NRCS and Wells Access Road Rights-of-Way

**PLANNING UNIT:** Gunnison Resource Area Resource Management Plan (RMP) Management Unit(s) 11 and 14

**LEGAL DESCRIPTION:**

NMPM, T. 48N., R. 1E., sec. 4, lots 1-2;  
T. 49N., R. 1E., sec. 14, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
sec. 15, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 16, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
sec. 20, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
sec. 21, N $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
sec. 27, W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
sec. 28, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 33, E $\frac{1}{2}$ E $\frac{1}{2}$ .

**APPLICANT:** Michael Wells and USDA NRCS

**BACKGROUND/INTRODUCTION:**

Two applications were received for access road right-of-way grants. Both applications are for the same set of roads to access the same parcel of private property. The NRCS is in the process of acquiring a conservation easement on Mr. Wells' private property for the purpose of conserving Gunnison Sage-Grouse habitat. Both applicants need to show legal right of access to the property. This project is located approximately 5 mile east of Gunnison. The applicants plan to utilize existing single-lane BLM roads across public land in order to provide legal access to the private land. The proposed access road ROW utilizes existing roads that start at US Highway 50 and head generally south to the private land.

**DESCRIPTION OF PROPOSED ACTION:**

The proposed action is to issue an access road ROW grant to each applicant. The proposed access road ROWs are existing 2-track roads that start at US Highway 50 then head generally south to the Wells property. The existing roads are Chance Gulch Road (BLM Roads 3068 and 3068c), South Chance Gulch Road South (3070), Powerline Road (3159), and Sage Hen Gulch Road (3069), which are all BLM roads open to motorized public access.

The existing roads are approximately 10-14 feet wide. The total ROW width is proposed to be 15 feet with a total length of 7.94 miles, and so would include a total of 14.4 acres. No road improvements are proposed. The sole purpose of the ROWs is to show legal right of access. The proposed use of the ROW roads is use that would otherwise be considered casual use, and would not normally require a ROW.

The proposed ROWs traverse open sagebrush areas. The elevation is approximately 8,960 feet. The existing roads have generally been adequately maintained, with proper drainage and stable road surfaces overall. The private property will be subject to a conservation easement and so will not be developed; it is currently native rangeland with no structures and a 2-track road crossing the parcel.

Stipulations that direct management of the ROW would be included in the ROW grant (see Appendix B). Since the ROWs are granted only for ingress and egress, with no road maintenance, the stipulations only address use of the road and protection of Gunnison Sage-grouse habitat.

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

Name of Plan: Gunnison Resource Area Resource Management Plan (including Adoption of Standards for Public Land Health and Guidelines for Livestock Grazing Management in Colorado)

Date Approved: February 1993 (amended February 1997, August 2000, December 2008, January 2009, August 2011, October 2014)

Management Unit(s): 11 (sage grouse high production areas)  
14 (riparian areas containing important sage-grouse brood rearing habitat)

Decision Number/Page:

Standard Management Direction, pg. 2-1 to 2-19;

Decision Language: (pg. 2-15) "Public lands within the Planning Area will be open to the location of rights-of-way, subject to stipulations in Management Unit prescriptions and standard terms, conditions, and stipulations contained in records of decision issued for each application."

Management Unit 11 Direction, pg. 2-32;

Decision Language: (pg. 2-32) "No surface disturbance will be permitted within [0.6] mile of all lek locations from [March 15 through May 15] to prevent disturbance to sage grouse while mating."

Management Unit 14 Direction, pg. 2-36 to 2-37;

Decision Language: (pg. 2-37) "Mitigating measures will be included in rights-of-way authorizations to prevent disturbance within this unit to brooding sage grouse from June 15

through July 1 and from December 1 through April 30 on crucial big game winter range to prevent disturbance to wintering deer and elk.”

**CATEGORICAL EXCLUSION REVIEW:** The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Number: E (16), “...issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes”. This categorical exclusion is appropriate in this situation because the proposed action has been reviewed and none of the following extraordinary circumstances described in 516 DM 2, Appendix 2, apply:

<b>Does the proposed action:</b>	<b>Yes</b>	<b>No</b>
1. Have significant adverse effects on public health and safety?		X
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 (EO 11990), floodplains (EO 11988); national monuments; migratory birds (EO 13186); and other ecologically significant or critical areas?		X
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA §102(2)(E))?		X
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?		X
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?		X
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?		X
7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places as determined by either the bureau or office?		X
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?		X
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment?		X
10. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898)?		X
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 (EO 13007)?		X
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 EO 13112)?		X

**REMARKS:**

**Cultural Resources:** The nature of the proposed action is such that no impact can be expected on significant cultural resources.

**Native American Religious Concerns:** No previously identified concerns are within this project area.

**Threatened and Endangered Species:** Of the threatened, endangered, candidate, and sensitive species within the Gunnison Field Office, those that warrant discussion are Gunnison Sage-Grouse, Bald Eagle, and Gunnison milkvetch. Gunnison Sage-Grouse is a Threatened species, while Bald Eagle and Gunnison milkvetch are BLM sensitive species.

Gunnison Sage-grouse: The proposed ROW is within 4 miles of an active lek and is within big sagebrush-grass shrubland, and so is considered to be within suitable non-lek, summer, and fall habitat (Gunnison Sage Grouse Rangewide Conservation Plan [RCP], 2005). It is also within proposed mapped critical habitat, as well as mapped occupied habitat. Since the road is existing, it is mapped as tier 2 habitat

The proposed action is to grant a ROW for only ingress and egress on existing BLM roads open to public vehicle use, and no disturbance is proposed. In addition, the ROW will include stipulations for protection of Sage-grouse habitat from the 2013 Candidate Conservation Agreement for the Gunnison sage-grouse, *Centrocercus minimus*, Gunnison Basin Population, and so is in compliance with the CCA and is covered under the USFWS's Biological Opinion. Therefore, impacts to Gunnison Sage-Grouse are not expected.

Bald Eagle: The project area is not within any of the mapped Bald Eagle winter concentration corridors. The proposed ROW will have no effect on wintering Bald Eagles.

Gunnison milkvetch: The Gunnison milkvetch (*Astragalus anisus*) is a sensitive plant that is endemic to and only known to occur in the Gunnison Basin. The plant is found throughout the sagebrush communities to approximately 9,500 feet. Within its range, it is widely scattered and fairly abundant, most commonly growing on south to southwestern-facing slopes of 2 to 20 degrees. It is typically found on dry, gravelly flats and hillsides at elevations ranging from 7,500 to 9,400 ft. Associated vegetation includes black sagebrush, big sagebrush, rabbitbrush, phlox, and grasses. Recent surveys show that populations appear to be healthy and well distributed throughout the Basin.

**Migratory Birds:** The Migratory Bird Treaty Act (MBTA) of 1918 was passed to regulate the taking of native birds. In 2001, President Clinton signed Executive Order 13186 (66 FR 3853), which directs federal agencies to further implement the MBTA by considering the effects of projects and actions on migratory birds. Pursuant to this Executive Order, the US Fish and Wildlife Service, BLM and Forest Service are currently working on a Memorandum of Understanding. This memorandum requires agencies to review the U. S. Fish and Wildlife Service *Birds of Conservation Concern* for species that may inhabit a project area. Since the road already exists, the proposed action is not expected to result in the "take" of any native birds or

their nests. Birds tend to position their nests sufficiently away from roads and therefore should not be impacted by the use of these existing roads.

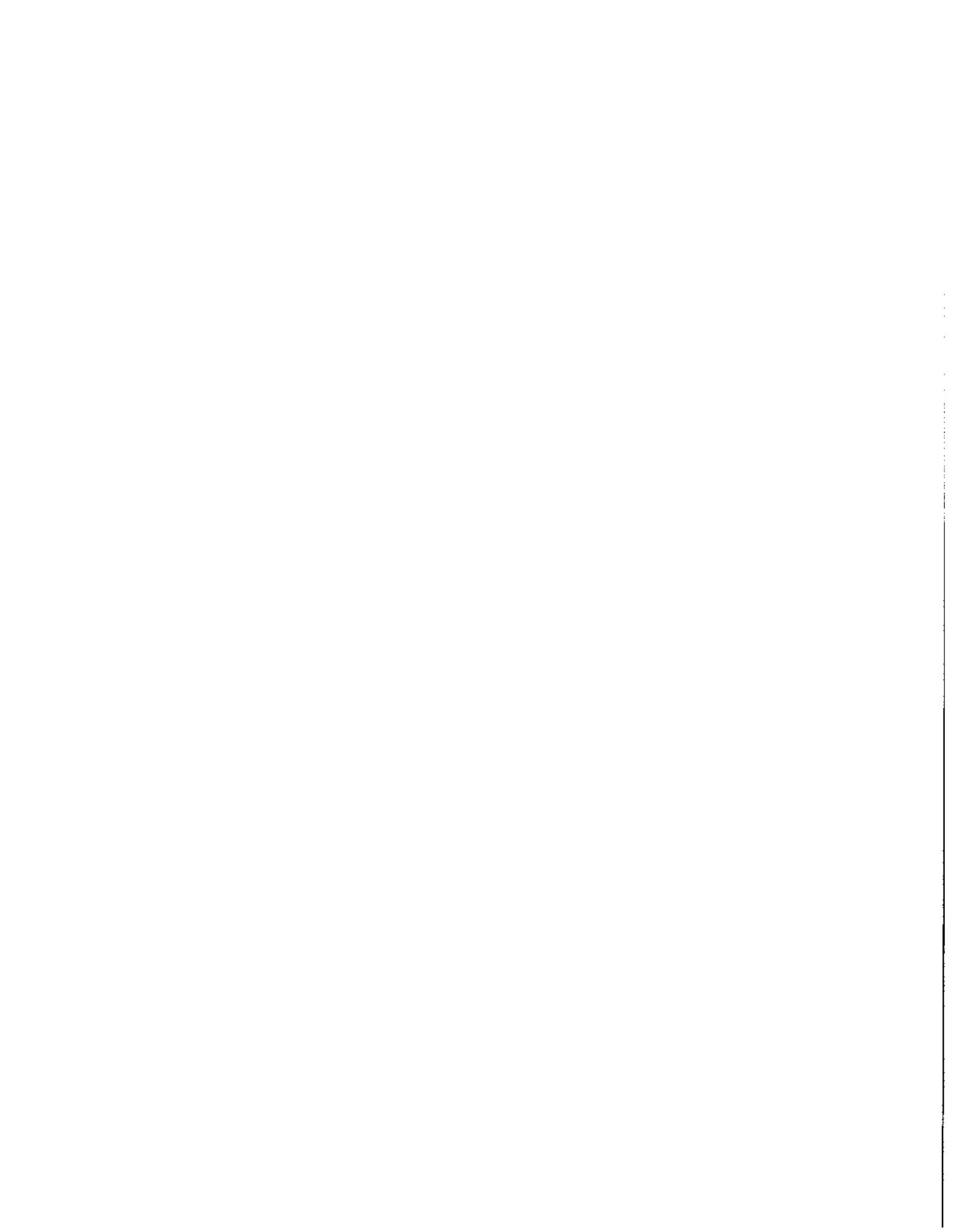
**INTERDISCIPLINARY REVIEW:**

<u>Name</u>	<u>Title</u>	<u>Area(s) of Responsibility</u>
Russell Japuntich	Wildlife Biologist	Migratory Birds Threatened, Endangered and Sensitive Species
Liz Francisco	Archaeologist	Cultural Resources Native American Religious Concerns
Marnie Medina	Realty Specialist/NEPA Coordinator	Lands Authorizations NEPA

**COMPLIANCE/MONITORING:** The right-of-way will be inspected periodically to ensure that operation and maintenance is in compliance with the terms, conditions and stipulations of the grant.

**SIGNATURE OF PREPARER:** *Marnie Medina*

**DATE:** 11/13/15



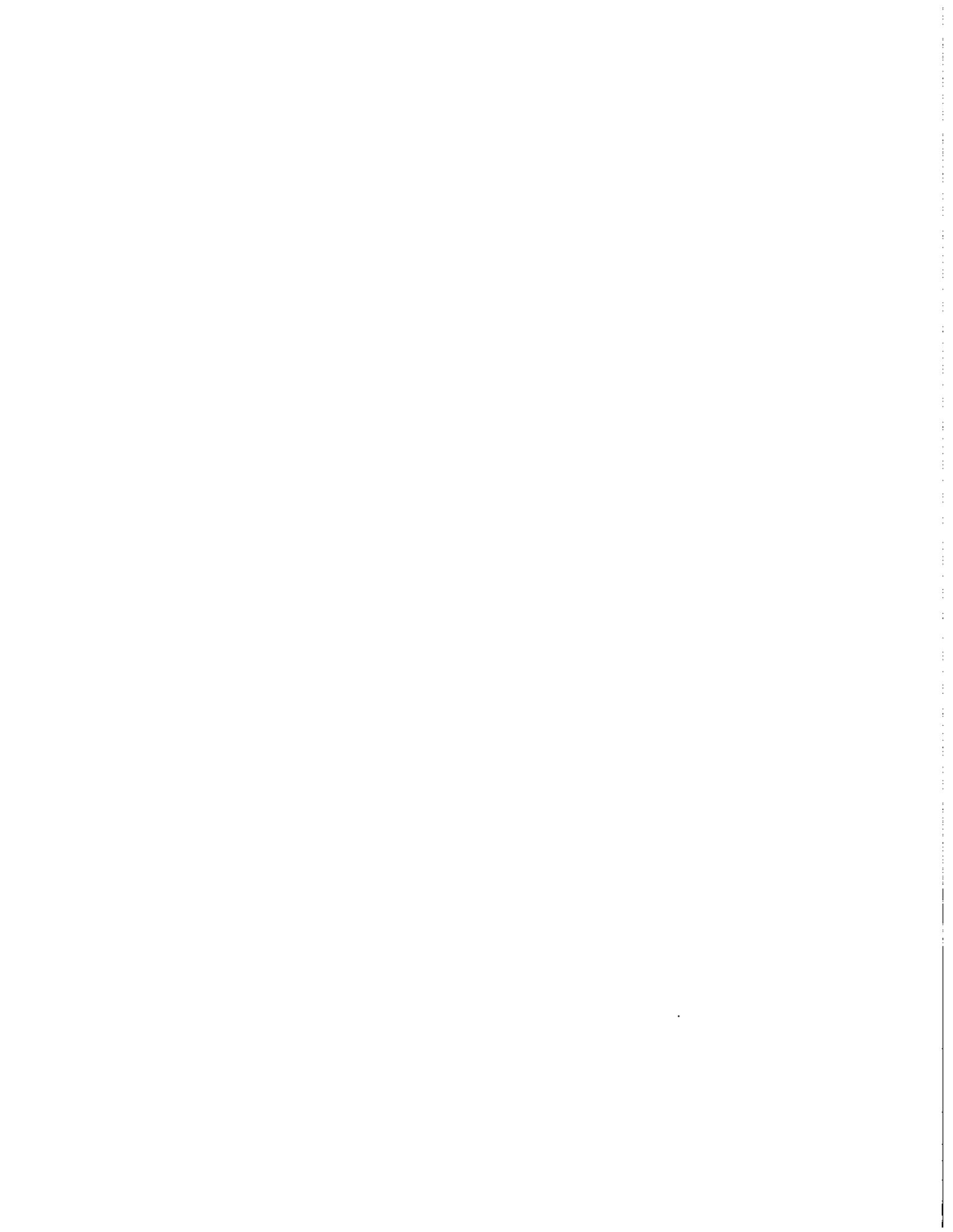
## ROW Grant Stipulations

COC-77393 and COC-77473

1. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.
2. The operator or its contractor is responsible for informing all persons who are associated with the project operations that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are uncovered during any project or construction activity, the operator must stop work in the area of the discovery that might further disturb such materials, and immediately contact the authorized officer. Within five working days the authorized officer will inform the operator as to the mitigation measures the operator will likely have to undertake before the site can be used (assuming in place preservation is not necessary).
3. No burning of trash, litter, trees, brush or other vegetative material generated by clearing the site shall be allowed under this permit.
4. 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.
5. The holder of this permit 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.
6. The authorized officer may suspend or terminate in whole or in part any operation or maintenance activities when, in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
7. The holder is responsible to notify the authorized officer of any change in 1) property ownership, 2) contact representative, and 3) holder's address or phone number.

## **Additional Gunnison Sage-Grouse Habitat Stipulations**

8. Timing Restrictions and Seasonal Closures
  - This right-of-way is within an area that is closed to motorized travel from approximately March 15 to May 15.
9. If research indicates additional restrictions are necessary to sustain the sage-grouse population, seasonal restrictions in identified seasonal grouse habitat may be applied to minimize disturbance during the following critical biological periods: nesting, brood-rearing, or winter periods of use by grouse. If and when additional seasonal restrictions are implemented, restrictions will be uniformly applied to construction, maintenance, and access, with the standard exceptions.



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**DECISION RECORD**

**DECISION:** I have reviewed this Categorical Exclusion and have decided to implement the proposed action. The right-of-way shall be subject to the attached standard stipulations that direct management of the ROW.

Authority: Title V, Federal Land Policy and Management Act

Recommended Term: perpetual or until the subject conservation easement is no longer in effect years (does not expire unless the conservation easement is no longer in effect)

Renewable: \_\_\_ yes \_\_\_ no  x  Not Applicable

ROW: Length: 7.94 miles Width: 15 feet Acres: 14.4

**RATIONALE:** It is an objective of the BLM to grant rights-of-way to qualified individuals to regulate, control, and direct the use of rights-of-way on public land so as to :

- a) Protect the natural resources associated with public lands and adjacent lands;
- b) Prevent unnecessary or undue environmental damage to the lands and resources;
- c) Promote the use of rights-of-way in common considering engineering and technological compatibility, national security, and land use plans; and,
- d) Coordinate, to the fullest extent possible, with state and local governments and interested parties.

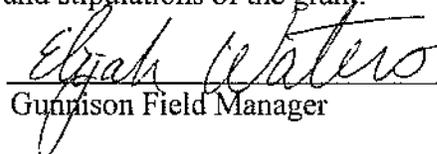
The proposed action is to use existing BLM roads for casual use access, and in conjunction with the accompanying stipulations, would not result in any undue or unnecessary degradation of the public and adjacent lands and resources.

**COMPLIANCE WITH NEPA:**

This action is listed in the Department Manual (516 DM 2, Appendix 1 and/or 516 DM 11, as amended) as an action that may be categorically excluded. I have evaluated the action relative to the 12 criteria listed above and have determined that it does not represent an exception and is, therefore, categorically excluded from further environmental analysis.

**COMPLIANCE/MONITORING:** The right-of-way will be inspected periodically to ensure that use is in compliance with the terms, conditions and stipulations of the grant.

**SIGNATURE OF AUTHORIZED OFFICIAL:**

  
Gunnison Field Manager

**DATE SIGNED:** 11/13/15

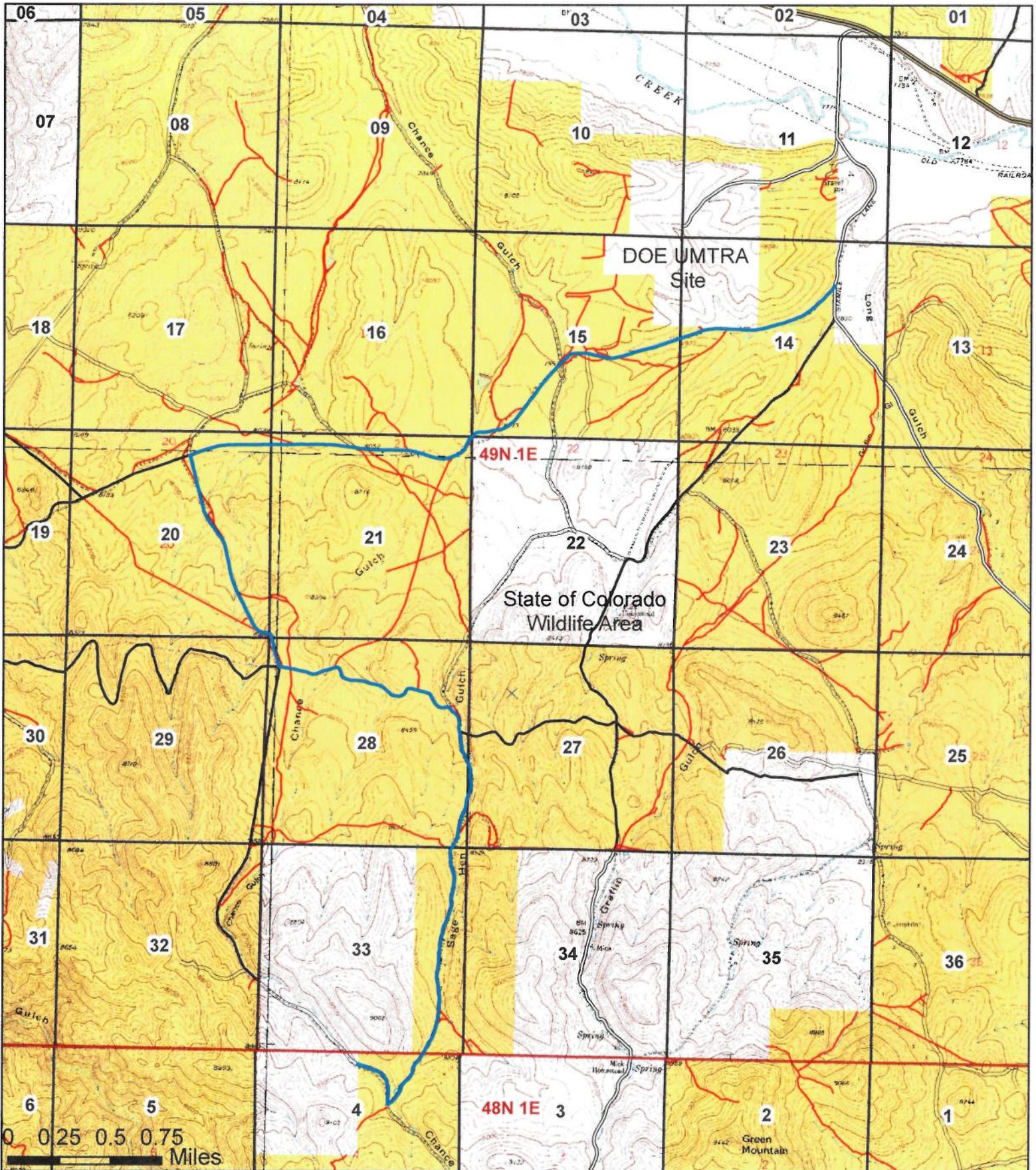
**ATTACHMENTS:**

ROW Stipulations

Map



**Exhibit B: COC-77393/COC-77473**



— Access Road ROW

■ Bureau of Land Management

Private



**Roads**

— Closed Route

— Primitive Road (high clearance)

— Unmaintained Passenger Car Road

No Warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data.



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