

**Decision Memo – USDA Forest Service
Climax Molybdenum Company
Agricultural Irrigation and Livestock Watering System Easement for
Lost Creek Ditch
Under the Colorado Ditch Bill Act of 1986**

**Arapaho and Roosevelt National Forests & Pawnee National Grassland
Sulphur Ranger District
Grand County, Colorado
September 2007**

I. DECISION

A. Description of Decision

It is my decision to approve the conditioning of an *Agricultural Irrigation and Livestock Watering Easement* under the Colorado Ditch Bill Act of 1986, being issued to Climax Molybdenum Company (Climax) of Parshall, Colorado, for the purpose of operating and maintaining a water conveyance system known as the Lost Creek Ditch. Conditions will be incorporated into the Easement by way of an Operation and Maintenance Plan and optional provisions. The Lost Creek Ditch is located in the NW1/4, NE1/4 & SE1/4 of Section 7, T2S, R78W and the NW1/4 & SE1/4 of Section 8, T2S, R78W, of the 6th Principal Meridian (PM), Grand County, Colorado. (See attached Exhibit A)

Under the terms of the Act of 1986, this Easement will be granted without fees.

The Lost Creek Ditch is owned by Climax and the water is leased to three different landowners for agricultural and livestock irrigation on private lands in the Mule Creek and Skylark Creek Basins. The ditch crosses National Forest System (NFS) lands in two segments; the largest being 10,870 feet, and a shorter segment being 169 feet long. It lays within a 30-foot wide right-of-way, 15 feet either side of centerline, including cuts and fills. The applicant has requested a 50-foot wide right-of-way, however through discussion with a representative of Climax they have agreed that a 30-foot wide right-of-way will be adequate. Water is diverted from a point on Lost Creek on private lands, controlled by a headgate. There are two 36" culvert pipes and two 24" culvert pipes within the ditch for creek crossings and gully crossings. The ditch can be accessed through Williams Peak Ranch and NFS lands in Sections 6 & 7, T2S, R78W, and from Climax land in Section 8. There is a narrow path on the ditch bank that is traversable by All Terrain Vehicle (ATV). This route is used by a ditch rider periodically throughout the summer for monitoring and maintaining the ditch. Ditch repair work and culvert replacement has been accomplished in the recent past by driving a small (D4) dozer down the ditch bed. The existing access road on NFS lands in Section 7 is usable in its current condition. The ditch is also accessible through Bureau of Land Management administered lands in Section 31 T1S, R78W, and through Climax lands to the east of the ditch. Access across NFS lands will be authorized through the Easement Operation & Maintenance Plan. The water right associated with the Lost Creek Ditch is 8 cubic feet/second. Water rights were appropriated on September 16, 1908 and adjudicated in 1911 (no specific date shown on decree). The use of federal lands for this ditch was

originally authorized by the Department of the Interior under a right-of-way in accordance with the Act of March 3, 1891, on November 18, 1912. Bryce Romig, representing Climax, has requested that the 1891 right-of-way be replaced with the Ditch Bill Easement.

B. Purpose of Decision

While granting of such Easements is non-discretionary and, therefore, not a Federal action subject to analysis or review (FSM 2729.16f), analysis was conducted for this use to determine if there was a need for additional conditioning of the Easement for operation and maintenance activities, and for the protection of Threatened, Endangered, or Sensitive (TES) Species. The purpose of this decision is to document any environmental concerns associated with the operation and maintenance of the ditch, and its potential affect on TES Species, and to document the need for any additional conditioning of the Easement necessary to protect the environment from degradation due to continued operation of the water conveyance system.

II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an Environmental Impact Statement or Environmental Assessment when they are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 sections 31.1b or 31.2, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect. Supporting documents for this project will be retained in a project file on the Sulphur Ranger District, in Granby, Colorado.

A. Category of Exclusion

The project is within the category of exclusion in FSH 1909.15 Category 31.2-15: *Issuance of a new special use authorization for a new term to replace an existing or expired special use authorization when the only changes are administrative, there are not changes to the authorized facilities or increases in the scope or intensity of authorized activities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization.*

The Ditch Bill Easement will replace the right-of-way issued under the authority of the Act of March 3, 1891, issued to Lysander P. Williams on November 18, 1912. The operation of the Lost Creek Ditch will continue as it has been historically used, and there is no expansion of the scope or intensity of authorized activities. The historic water right will remain the same as it was in 1912, at a rate of 8 c.f.s.

B. Relationship to Extraordinary Circumstances

There are no conditions that would constitute a significant effect on an extraordinary circumstance related to the proposed Easement. This conclusion is based on evaluation of the following items:

1. *Federally listed Threatened, Endangered, Proposed and Forest Service Sensitive Species or their Critical Habitat (Endangered Species Act: Section 7.)* – A Biological Report for Wildlife was prepared and approved on July 12, 2005, for seven Ditch Bill Easement applications on the Sulphur Ranger District. The Summary of Determinations on page 15 of the report shows:

- A determination of No Effect for Canada lynx, a threatened species.
- A determination of No Impact for the Three-toed woodpecker, Boreal owl, Northern goshawk, Olive-sided flycatcher, pygmy shrew, American marten, North American wolverine, and the Boreal toad, all sensitive species.

A Biological Report and a Biological Assessment were prepared for fish species. The Biological Assessment was submitted to the U.S. Fish and Wildlife Service (USFWS) for concurrence. The determination in the Biological Assessment was, “May Affect, Likely to Adversely Affect” for the four endangered down stream fish species. A Biological Opinion dated November 29, 2005, was received from the USFWS stating the proposed action would not jeopardize the four endangered fish species if certain terms and conditions were met. To comply with these terms and conditions, each Easement Holder will be provided a Recovery Agreement, in which they will enter into an agreement with the USFWS to support recovery operations for the four down stream fish species. The USFWS Recovery Program was intended to be the reasonable and prudent alternative for individual projects to avoid the likelihood of jeopardy to the endangered fishes from depletions from the Upper Colorado River Basin.

The Biological Report provided a “no impact” determination for the Colorado River cutthroat trout and mountain suckers.

A Biological Report for Plants was prepared and dated August 8, 2005. The findings of the report state that there were no occurrences of threatened, endangered, proposed or sensitive plant species in the project area. No consultation with the U.S. Fish and Wildlife Service was required. Suitable habitat for several Region 2 Sensitive species was located. The summary of effects determination for Region 2 Sensitive plant species is, “May adversely impact individuals, but not likely to result in a loss of viability in the planning area, nor cause a trend to federal listing.” No additional conditioning of the Easement is required for protection of any plant species, although recommendations were made concerning noxious weed management and cattle grazing.

2. *Floodplains and Wetlands* – A Hydrology Report was prepared by the District Hydrologist, dated August 24, 2005. The report states that flood plains and wetlands effects are inherent in water diversion facilities associated with streams. The ditch infrastructure occupies a relatively small percentage of floodplains and should have no effect on flood stage. Several relatively common types of wetlands are indirectly affected by dewatering, but this impact is associated with a valid State water right and is non-discretionary. The Hydrologist did not find any significant effects on floodplains or wetlands. Terms and conditions that will be included with the easement should, in fact, have a positive effect on the wetlands.

The Hydrologist did express concern about potential blowouts on the Lost Creek Ditch, which could cause sedimentation in the Mule Creek Forks. Recommendations, which would minimize the potential for such blowouts, are:

- a. Eliminate failures of the Lost Creek ditch fill slope by hardening, culverting, or rerouting the breach prone ditch segments.
- b. Improve the repair on the fill slope between West and South Forks of Mule Creek, so that it does not fail again.
- c. Breach the beaver dam over the Lost Creek Ditch culvert at the intersection with South Fork of Mule Creek. The culvert needs to be accessible for maintenance and inspection. The ponded water from South Fork Mule Creek is currently running into the ditch because of the beaver dam, instead of down the South Fork Mule Creek stream course.

3. *Municipal Watersheds* – While nearly all watersheds on the Forest provide for public water supplies, there are no designated municipal watersheds within the Forest boundary. Therefore, since this use does not occur in a designated municipal watershed, and the use will have no effect on a public water supply, there are no effects on this circumstance.

4. *Congressionally Designated Areas* - The project area is not within or near any Congressionally designated areas, therefore, there will be no effect on such areas.

5. *Research Natural Areas and Inventoried Roadless Areas* – The project area lies within the Lower Williams Fork Geographic Area which does not have any Research Natural Areas in it, therefore there will be no effects on this circumstance.

The project area lies east of the boundary of an Inventoried Roadless Area, as shown in the attached Exhibit B. It is identified as Roadless Area R21131-Copper Mountain. Because this project area is outside the boundary of an Inventoried Roadless Area, the project will have no effect on this circumstance.

6. *Native American Religious or Cultural Sites, or Areas* – The Lost Creek Ditch was reviewed by the Forest Archaeologist. There are no known American Indian religious or cultural sites, or archaeological sites in the project area. Therefore, there will be no effect on this circumstance as a result of this project.

7. *Archaeological Sites or Historic Properties or Areas* – The Forest Archaeologist has made a determination that issuance of the Easement will not have the potential to adversely affect historic properties as defined by the National Historic Preservation Act. No consultation with the State Historic Preservation Office will be necessary. The Sulphur Ranger District has no further obligations under Section 106 of the National Historic Preservation Act, provided that the project area or methods of implementation are not modified. Therefore, there will be no effect on this circumstance as a result of this project.

III. OTHER RESOURCES CONSIDERED

A. Invasive species

Extensive populations of Canada thistle were found within the Lost Creek Ditch right-of-way. The Holder will be required to begin treatment of these invasive species in 2007, and continue treatment on an annual basis until they are eliminated. The Easement will contain specific conditions concerning prevention and management of invasive weed species. These conditions govern use of certified weed-free seed, hay, and mulch, treatment of invasive species, and cleaning of any equipment brought to the site to be sure it is free of invasive plant species.

B. Soil Erosion

The Lost Creek Ditch and diversion areas were examined for erosion problems. There are a few places along the bank where there have been previous blowouts and gullyng. Further field inspection is needed with the Holder to determine stability of the repairs. As noted in Section IIB-2, of this document, several recommendations have been made by the District Hydrologist for prevention of future ditch failures and soil erosion. These will be implemented through the Operation and Maintenance Plan.

There is some trampling of banks from livestock associated with the Skylark Grazing Allotment. Proper allotment management should reduce the impacts to the ditch.

C. Access

There is a single-track road that leads from adjacent private land to the east end of the Lost Creek Ditch, through an old clearcut with very little regeneration. The road is old and was probably originally constructed for access to the ditch. There is no public access to it and it is not a National Forest System Road (NFSR). It is drivable by All Terrain Vehicle (ATV), pickup truck or small heavy equipment for access to the ditch. Although it is not an NFSR, it is needed for long-term motorized use for administrative and Holder access to the ditch facilities. Access can also be obtained by crossing Bureau of Land Management (BLM) lands in the W1/2E1/2 of Section 31, T1S, R78W, 6th PM, Grand County, Colorado, and then accessing another old road on NFS lands. The ditch can also be accessed across Climax lands from the east. Once on the ditch right-of-way, the ditch rider either walks or uses an ATV on the ditch bank. Small heavy equipment has been and could be operated in the ditch if it is dry, to make repairs to the ditch and culverts.

In the event the Holder needed motorized access to the site, an ATV, pickup truck or small heavy equipment could easily use the roads with no further improvements. Motorized access will be limited to that necessary for maintenance and operation of the ditch. No improvement to the roads will be allowed without prior approval. Use of a horse, foot travel, or ATV's would be encouraged over the use of a full sized pickup truck; trucks would not be permitted on the ditch bank. These guidelines will be included in the Operation and Maintenance Plan made part of the Easement. The need for this

type of access would be periodic throughout the summer for the ditch rider to monitor and maintain the ditch. The Holder would not be allowed motorized access on these routes for any other purpose, such as hunting, camping or firewood cutting. Access roads for the Lost Creek Ditch will be managed as classified private roads.

IV. SCOPING

Processing of Sulphur Ranger District Ditch Bill Easements Applications was listed in the 2nd and 3rd quarter of 2005 Schedule of Proposed Actions for the Arapaho and Roosevelt National Forests and Pawnee National Grassland.

A scoping letter was sent out to potentially interested parties on April 1, 2005, requesting public input on eight Ditch Bill Easement applications, including the Lost Creek Ditch. Comments were grouped into 3 categories.

1. Three responses were received in support of issuing the Easements, with no concerns expressed.
2. One response was received stating that the "right thing to do would be to phase the ditches out of existence so that the water could be justly serving the public."
3. One response was received which summarized the ditch bill eligibility requirements, and requesting that the Forest Service consider conditioning the easements to "minimize damage to scenic and esthetic values and fish and wildlife and otherwise protect the environment." This respondent also requested the Forest Service require periodic review of the terms and conditions of the Easement and compliance with the National Environmental Policy Act.

Comments from group number 3 were substantive and provided suggestions for environmental analysis. The Lost Creek Ditch meets the criteria for eligibility for an Easement under the Ditch Bill Act, and has been reviewed for potential environmental concerns. The Easement may be revised or modified if necessary to comply with the requirements of the Endangered Species Act, or if terms and conditions are no longer needed to comply with the requirements of applicable State or Federal law. Scenic value and aesthetics will be protected by the Operation and Maintenance Plan. Review of this application will comply with the National Environmental Policy Act.

V. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS

My decision will comply with all applicable laws and regulations. I have summarized some pertinent ones below.

Federal Land Policy Management Act of 1976 (FLPMA) as amended by Public Law 99-545, of October 27, 1986 (Colorado Ditch Bill): The Colorado Ditch Bill directed the Secretary of Agriculture to issue permanent Easements to owners of certain qualifying water development facilities used to divert water for agricultural irrigation and/or livestock watering purposes on National Forest System (NFS) lands in 17 western

states. These facilities include ditches, reservoirs, pipelines, canals, etc. The Lost Creek Ditch meets the eligibility requirements for an Easement under this authority.

Forest Plan Consistency (National Forest Management Act) - This Act requires the development of long-range land and resource management plans (Forest Plans). This project was evaluated under the guidance of the 1997 Revision of the Land and Resource Management Plan for the Arapaho and Roosevelt National Forests and Pawnee National Grasslands, for the Williams Fork Area. The Forest Plan provides guidance for all natural resource management activities on the Forest. The Act requires that all projects and activities be consistent with the Forest Plan.

The project area lies within Management Area 5.11-General Forest and Rangeland – Forest Vegetation Emphasis. This management area is characterized by forest and grassland communities that are managed for multiple uses while maintaining high quality wildlife habitat. Management area direction offers no specific guidelines for special use authorizations; however the results of the Wildlife Biological Report shows that the proposed use will have no effect on wildlife habitat. This project is, therefore, consistent with the Forest Plan.

Environmental Justice (Executive Order 12898) – This Order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with this Act. Public involvement did not identify any adversely impacted local minority or low-income populations. This decision is not expected to adversely impact minority or low-income populations.

National Environmental Policy Act – This Act requires public involvement and consideration of potential environmental effects. The entirety of documentation for this decision supports compliance with this Act.

Effects of Alternatives on Social Groups – There will be no effects on minorities, Native Americans, women or the civil liberties of any other American citizen.

Effects of Alternatives on Prime Rangeland, Forest Land and Farm Land – The proposal presented is in compliance with Federal Regulations for prime range, forest and farm lands. The definition of prime forest land does not apply to lands within the Arapaho National Forests. The project area is within the Skylark Grazing Allotment, which is permitted to the Williams Peak Ranch. The proposal will have no effect on the grazing allotment. There are private agricultural lands adjacent to the NFS lands where the project area lies, and the Lost Creek Ditch provides agricultural irrigation to those lands. The Lost Creek Ditch is beneficial to these adjacent private agricultural lands.

Energy Requirements and Conservation Potential of Alternatives – The energy required to implement the proposal in terms of petroleum products would be insignificant when viewed in light of the production costs and effect of the national world wide petroleum reserves. Very little petroleum-based energy will be expended in the operation and management of this water conveyance system.

Air Quality – This project will have no effect on air quality. There will be minor use of motorized equipment for maintenance of the ditch, and minimal dust created from operation and maintenance of the system.

Wild and Scenic Rivers Act – There are no designated Wild or Scenic Rivers on the Sulphur Ranger District, therefore this project will not affect any such rivers.

VI. ADMINISTRATIVE REVIEW OR APPEAL

This decision is not subject to a higher level of administrative review or appeal pursuant to 36 CFR 215.4.

VII. IMPLEMENTATION DATE

This decision may be implemented immediately. An Easement will be issued under the terms of the Colorado Ditch Bill Act, with terms and conditions necessary to protect the environment from degradation.

VIII. CONTACT PERSON

Further information about this decision can be obtained from Patricia Hesch, Lands Staff at the Sulphur Ranger District, 9 Ten Mile Drive, P.O. Box 10, Granby CO 80446; Phone (970) 887-4136; FAX (970) 887-4102, or electronically at phesch@fs.fed.us.

IX. SIGNATURE AND DATE

I have concluded that this decision may be categorically excluded from documentation in an Environmental Impact Statement or Environmental Assessment as it is within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 sections 31.1b or 31.2, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect. My conclusion is based on information presented in this document and the entirety of the Planning Record.


For ~~RICHARD C. STEM~~ *NORA PASURE* Date *February 26, 2008*

Acting Deputy Regional Forester
Rocky Mountain Region, R-2
Forest Service, Department of Agriculture

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LOST CREEK DITCH
DESCRIPTION

An easement, 30 feet in width, for a ditch located across a portion of the Northwest 1/4 of Section 7, Township 2 South, Range 78 West of the Sixth Principal Meridian, County of Grand, State of Colorado. Said easement lying 15 feet on each side of a centerline of said ditch being more particularly described as follows:

NOTE: For the purpose of this description the bearings are based on the Henderson Mine and Mill coordinate system and are referenced to two monuments that bear North 89°59'40" East, 2707.27 feet and have the following descriptions:

1/4 COR. SEC 1/12 T2S R79W – A.P. 30 ES 375 – A.P. 14 TRACT 37
2.5" diameter iron post with 3" diameter B.L.M. brass cap marked T2S R79W S1 S12 1968
A.P. 29 ES 375 – A.P. 13 TRACT 37
2.5" diameter steel post with 3" diameter B.L.M. brass cap marked T2S R79W A.P. 29 ES 375
A.P. 13 TR 37 1968

COMMENCING at the Southwest of Sections 31, Township 1 South, Range 78 West;
Thence South 40°39'44" East, 2261.81 feet, to the POINT OF BEGINNING;
Thence South 26°19'07" West, 63.83 feet;
Thence South 71°41'08" West, 29.15 feet;
Thence North 26°23'18" West, 72.96 feet;
Thence North 32°44'48" West, 3.13 to the South line of Tract 37 and the POINT OF TERMINUS
from which A.P. 29 Exchange Survey No. 375/A.P. 13 Tract 37 bears North 88°58'16" West,
1505.36 feet.

The sidelines of said easement are lengthened or shortened to begin and terminate at the South line of Tract 37. Contains 0.12 acres, more or less.

Together with:

An easement, 30 feet in width, for a ditch located across a portion of the Northeast 1/4 and the Southeast 1/4 of Section 7 and the Northwest 1/4 and the Southwest 1/4 of Section 8, Township 2 South, Range 78 West of the Sixth Principal Meridian, County of Grand, State of Colorado. Said easement lying 15 feet on each side of a centerline of said ditch being more particularly described as follows:

COMMENCING at Corner A.P. 12 of Exchange Survey No. 375 in Section 8, Township 2 South, Range 78 West;
Thence North 38°34'07" East, 950.18 feet, to a point on the Easterly line of a tract of land as described at Reception No. 94005909 and the POINT OF BEGINNING;

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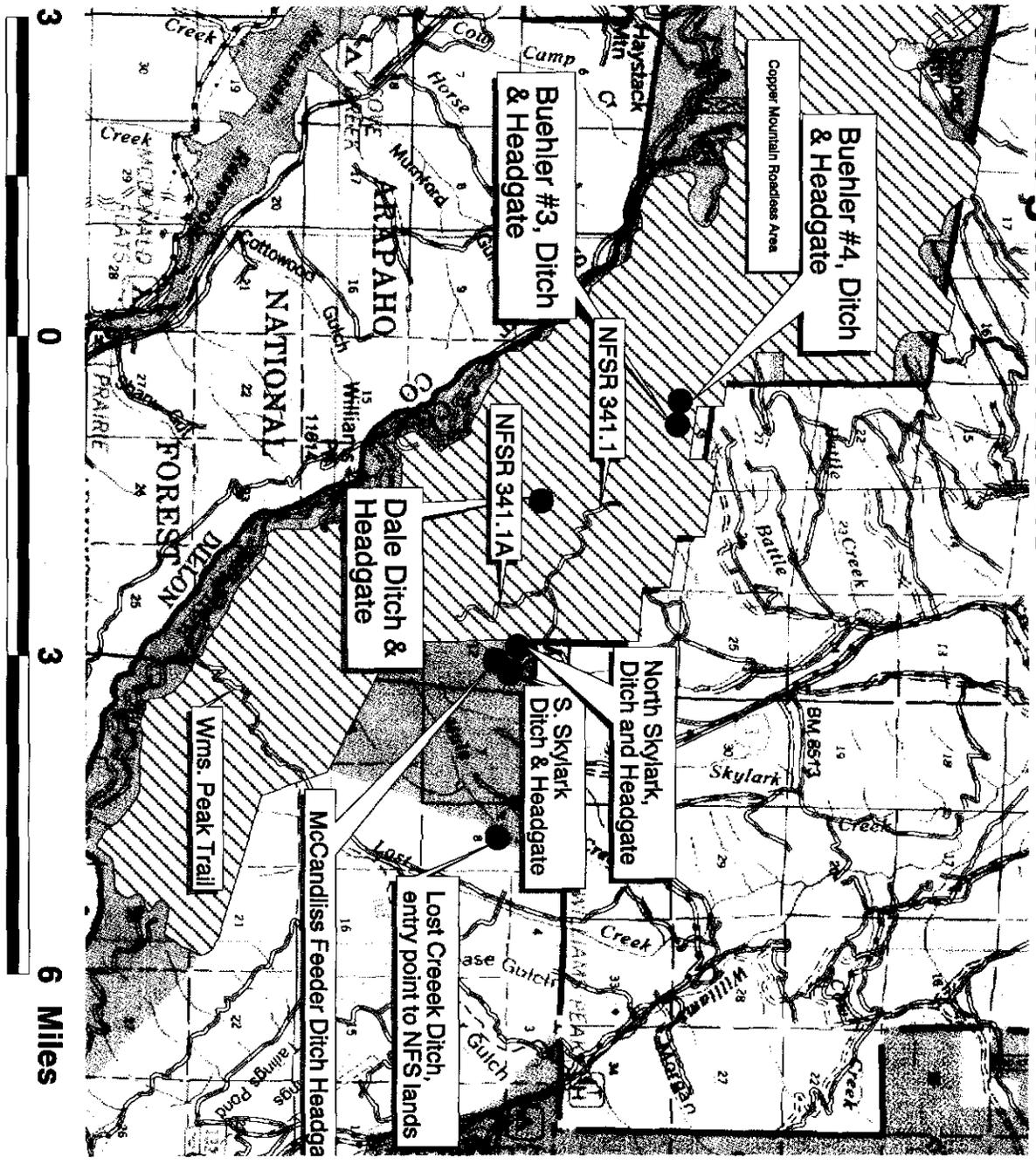
Thence South 49°31'01" West, 61.64 feet;
Thence South 53°36'31" West, 277.01 feet;
Thence South 63°50'19" West, 153.04 feet;
Thence South 48°53'15" West, 105.71 feet;
Thence South 64°01'57" West, 170.45 feet;
Thence South 69°00'58" West, 185.64 feet;
Thence South 51°38'21" West, 348.77 feet;
Thence South 35°08'32" West, 386.63 feet;
Thence South 32°28'10" West, 44.91 feet;
Thence South 23°24'14" West, 230.67 feet;
Thence South 04°54'53" West, 251.99 feet;
Thence South 20°05'31" West, 228.71 feet;
Thence South 07°09'22" West, 311.99 feet;
Thence South 54°31'05" West, 62.58 feet;
Thence South 45°33'07" West, 69.44 feet;
Thence South 35°35'02" West, 199.40 feet;
Thence South 50°32'09" West, 156.77 feet;
Thence South 32°33'49" West, 91.60 feet;
Thence South 37°23'27" West, 116.64 feet;
Thence South 60°36'13" West, 206.56 feet;
Thence South 33°56'27" West, 147.90 feet;
Thence South 68°20'19" West, 116.99 feet;
Thence North 62°16'23" West, 51.53 feet;
Thence North 52°11'52" West, 60.96 feet;
Thence North 50°50'23" West, 40.53 feet;
Thence North 02°27'38" East, 65.71 feet;
Thence North 13°04'09" West, 39.87 feet;
Thence North 26°12'36" West, 99.49 feet;
Thence North 41°20'41" West, 157.76 feet;
Thence North 26°30'44" West, 162.08 feet;
Thence North 34°16'17" West, 81.71 feet;
Thence North 60°34'02" West, 19.48 feet;
Thence North 70°56'15" West, 29.20 feet;
Thence South 64°42'07" West, 205.00 feet;
Thence South 43°06'42" West, 186.50 feet;
Thence South 31°07'36" West, 38.79 feet;
Thence North 84°49'03" West, 22.62 feet;
Thence North 62°34'56" West, 158.57 feet;
Thence South 87°09'49" West, 206.06 feet;
Thence South 84°44'38" West, 259.18 feet;
Thence South 68°46'05" West, 46.36 feet;
Thence North 77°09'13" West, 87.69 feet;
Thence North 22°07'08" West, 22.29 feet;
Thence North 02°20'22" East, 19.02 feet;

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Thence North 01°30'42" East, 21.77 feet;
Thence North 48°14'09" East, 140.61 feet;
Thence North 63°43'07" East, 95.93 feet;
Thence North 46°22'29" East, 89.31 feet;
Thence North 40°58'46" East, 57.14 feet;
Thence North 26°08'05" East, 52.64 feet;
Thence North 03°37'21" West, 127.10 feet;
Thence North 08°39'51" East, 206.00 feet;
Thence North 09°00'15" West, 38.00 feet;
Thence North 14°12'53" West, 195.35 feet;
Thence North 06°03'24" West, 136.15 feet;
Thence North 20°51'50" East, 45.95 feet;
Thence North 20°55'48" East, 102.24 feet;
Thence North 29°38'30" East, 216.44 feet;
Thence North 30°37'37" East, 199.05 feet;
Thence North 33°02'58" East, 90.47 feet;
Thence North 22°48'35" East, 61.52 feet;
Thence North 16°21'33" East, 106.96 feet;
Thence North 20°19'47" East, 103.80 feet;
Thence North 08°31'21" East, 44.55 feet;
Thence North 08°51'08" West, 50.35 feet;
Thence North 18°21'06" West, 96.76 feet;
Thence North 30°32'49" West, 71.67 feet;
Thence North 39°58'09" West, 61.71 feet;
Thence North 53°32'40" West, 72.65 feet;
Thence North 41°25'53" West, 66.91 feet;
Thence North 63°43'31" West, 91.60 feet;
Thence North 75°22'15" West, 121.70 feet;
Thence North 00°36'39" East, 59.41 feet;
Thence North 15°36'48" West, 62.73 feet;
Thence North 00°29'32" West, 96.66 feet;
Thence North 36°08'37" West, 107.68 feet;
Thence North 43°26'35" West, 110.36 feet;
Thence North 53°33'15" West, 53.26 feet;
Thence North 68°00'39" West, 167.94 feet;
Thence North 80°36'03" West, 143.78 feet;
Thence North 76°08'18" West, 137.25 feet;
Thence South 87°02'22" West, 111.31 feet;
Thence South 77°11'00" West, 128.51 feet;
Thence North 68°02'48" West, 17.49 feet;
Thence North 08°07'30" East, 26.38 feet;
Thence North 27°44'10" East, 101.88 feet;
Thence North 26°52'27" East, 24.74 feet;
Thence North 27°00'07" East, 59.14 feet;
Thence North 39°03'11" East, 89.48 feet;



Exhibit B Roadless Area Boundary & Headgate Locations



 All trans
Roadless 3_2001



P. Hesch
8/24/2005

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Thence North 24°42'46" East, 156.44 feet;
Thence North 35°15'34" East, 91.30 feet;
Thence North 05°00'05" East, 58.50 feet;
Thence North 24°50'20" West, 65.24 feet;
Thence North 02°47'18" East, 42.69 feet;
Thence North 17°44'06" East, 203.16 feet;
Thence North 10°54'25" East, 4.92 feet to a point on the South line of Tract 37 and the POINT OF TERMINUS from which 4M+16.26 Exchange Survey No. 375/1M+4.89 Tract 37 bears North 89°17'51" West, 280.60 feet.

The sidelines of said easement are lengthened or shortened to begin at the Easterly line of a parcel of land described at Reception No. 94005909 and terminate at the South line of Tract 37. Contains 7.49 acres, more or less.

I hereby certify that the attached legal description was prepared under my direct supervision.



WSSI Job No: 9734-005
Date: 08/24/05 Rev.2
For and on Behalf of
WESTERN STATES SURVEYING, INC.
12753 South Parker Road, Suite 205
Parker, CO 80134
Albert V. Valletta, Jr., PLS 23524

NOTICE: According to Colorado Law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

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