

FS Agreement No. 10-MU-11020000-038  
BLM Agreement No. BLM-MOU-CO-487

**MEMORANDUM OF UNDERSTANDING**  
**Between The**  
**BUREAU OF LAND MANAGEMENT,**  
**THE COLORADO DEPARTMENT OF TRANSPORTATION, AND THE**  
**FEDERAL HIGHWAY ADMINISTRATION**  
**And The**  
**USDA, FOREST SERVICE**  
**ROCKY MOUNTAIN REGION**

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the Bureau of Land Management, the Colorado Department of Transportation, and the Federal Highway Administration, hereinafter referred to as "BLM, CDOT, and FHWA," and the USDA, Forest Service, Rocky Mountain Region, hereinafter referred to as the "U.S. Forest Service."

Background: This MOU supersedes and replaces the MOU of December 27, 2003 (USDA FS R2# 04-MU-11020000-001 and BLM MOU Number BLM-MOU-CO-483) between the BLM, the CDOT, the FHWA, and the U.S. Forest Service. This MOU does not supersede or replace the requirements of any national agreements, easements, or permits between the affected parties. This MOU does not alter or supersede the authorities and responsibilities of any of the Agencies on any matter under their respective jurisdictions.

Title: Memorandum of Understanding Related to Activities Affecting the State Transportation System, National Forest System Lands, and Bureau of Land Management National System of Public Lands in the State of Colorado

**I. PURPOSE:** The purpose of this MOU is to establish procedures for coordinating activities affecting the state transportation system and lands administered by the U.S. Forest Service/BLM within the State of Colorado.

**II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:**

For the FHWA and CDOT, effectiveness is manifested by transportation projects that are planned, designed, constructed and maintained with appropriate engineering standards and safety considerations, in a timely and cost efficient manner.

For the U.S. Forest Service and the BLM, effectiveness is measured by transportation projects that are planned, designed, constructed and maintained with appropriate consideration of land management objectives and with emphasis on conservation and enhancement of Federal lands and resources.



This MOU seeks to enhance interagency coordination, cooperation and the mutual understanding of transportation projects on Federal lands and resources. It documents mutual agreement regarding specific "Implementing Procedures" to be followed as a means to achieve these purposes (See **Implementing Procedures** attached).

In consideration of the above premises, the parties agree to the following **Roles and Responsibilities**:

### **III. FHWA SHALL:**

- A. Administer Federal-aid highway funding and function as the lead agency for implementing the National Environmental Policy Act of 1969 (NEPA) as it relates to federal-aid transportation projects (40 CFR 1500-1508, Title 23 U.S.C.). Federal-aid highways (Chapter One, Title 23 U.S.C.) include the Interstate System, the National Highway System, and selected state highways.
- B. Facilitate the acquisition (through the Federal Land Appropriation process) of highway easement deeds for the use of U. S. Forest Service National Forest System (NFS) land and BLM National System of Public Lands (NSPL) for transportation purposes.

### **IV. CDOT SHALL:**

Be responsible for the planning, location, design, construction, operation and maintenance, and perpetuation of a safe and efficient transportation system needed for the benefit of the public in accordance with Title 23, U.S.C. CDOT is also responsible for ensuring that social, economic, and environmental effects are considered in the planning, development, and maintenance of state transportation projects and that the projects are in the best overall interest of the public.

### **V. THE U.S. FOREST SERVICE SHALL:**

Function as a Cooperating Agency for Federal-Aid highway projects. It is responsible for the protection and multiple use management of NFS lands and resources for the benefit of the people of the United States. This responsibility extends to the development of a public lands transportation system both within and providing direct access to NFS lands.

### **VI. THE BLM SHALL:**

Function as a Cooperating Agency for Federal-Aid highway projects. It is responsible for the protection and multiple use management of public lands and interests for the benefit of the people of the United States. This responsibility



extends to the development of a public lands transportation system both within and providing direct access to BLM-managed lands.

**VII. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:**

Since many public highways traverse NFS lands and NSPL, CDOT will need authorization to occupy such lands for rights-of-way (ROW), waste areas, material sources, highway construction, mitigation, and maintenance operations.

The agencies recognize that there are a number of complex issues regarding transportation, many of which are interrelated. The agencies recognize that studies and investigations should be coordinated to ensure the application of sound planning science and that duplication of work activities does not occur, taxpayer funds are used wisely and efficiently, and that the full body of information is available to the agencies and the public. In recognition of the responsibilities, interests, and limitations set forth above and the mutual benefits of established procedures to facilitate agreement on specific transportation matters on or adjacent to NFS/BLM Public Lands, CDOT, FHWA, USFS, and BLM mutually agree to abide by the procedures outlined in this MOU.

Authority to enter into this MOU is provided by:

1. The Federal Land Policy and Management Act of 1976, 43 U.S.C. 1737
2. The Act of August 27, 1958, As amended 23 U.S.C. Sections 107(d), 204(f) and 317.
3. Federal Land Policy and Management Act of 1976; 43 U.S.C. § 1701, et seq.

PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

<b>FHWA Program Manager Contact</b>	<b>CDOT Program Manager Contact</b>
Name: Chris Horn Right of Way Program Manager Address: 12300 West Dakota Ave. City, State, Zip: Lakewood, CO, 80228 Telephone: 720-963-3000 FAX: 720-963-3001	Name: Brad Beckham Environmental Programs Branch Manager Address: 4201 E. Arkansas Ave. City, State, Zip: Denver, CO 80222 Telephone: 303-757-9637 FAX: (303)757-9445



**Principal U.S. Forest Service and BLM Contacts:**

<b>U.S. Forest Service Program Manager Contact</b>	<b>BLM Program Manager Contact</b>
Name: Jeff Moll Regional Transportation Engineer Address: 740 Simms St. City, State, Zip: Golden, CO, 80401 Telephone: 303-275-5199 FAX: 303-275-5170	Name: Maryanne Kurtinaitis Branch of Lands and Realty Address: 2850 Youngfield St. City, State, Zip: Lakewood, CO 80215 Telephone: 303-239-3708 FAX: 303-239-3799

- A. **NOTICES.** Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or BLM, CDOT, or FHWA is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the MOU.

To BLM, CDOT, or FHWA, at BLM, CDOT, or FHWA's address shown in the MOU or such other address designated within the MOU.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- B. **PARTICIPATION IN SIMILAR ACTIVITIES.** This MOU in no way restricts the U.S. Forest Service or BLM, CDOT, or FHWA from participating in similar activities with other public or private agencies, organizations, and individuals.
- C. **ENDORSEMENT.** Any of BLM, CDOT, or FHWA's contributions made under this MOU do not by direct reference or implication convey U.S. Forest Service endorsement of BLM, CDOT, or FHWA's products or activities.
- D. **NONBINDING AGREEMENT.** This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purposes(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer funds. Specific projects or activities that involve the transfer of funds, services, or property among the parties require execution of separate agreements and are contingent upon the availability of appropriated funds. These activities must be independently authorized by statute. This MOU does not provide that authority. Negotiation, execution, and administration of these agreements must comply with all applicable law. Each party operates under its own laws, regulations, and policies, subject to the availability of appropriated funds. Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.



- E. USE OF U.S. FOREST SERVICE INSIGNIA. In order for BLM, CDOT, or FHWA to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.
- F. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- G. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.
- H. DEBARMENT AND SUSPENSION. BLM, CDOT, or FHWA shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should BLM, CDOT, or FHWA or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- I. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.
- J. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through June 30, 2015 at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.
- K. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU. In witness whereof, the parties hereto have executed this MOU as of the last date written below.

  
\_\_\_\_\_  
RUSSELL GEORGE, Executive Director  
Colorado Department of Transportation

  
\_\_\_\_\_  
Date



*Douglas Bennett*  
\_\_\_\_\_  
Douglas Bennett, Acting Division Administrator  
Federal Highway Administration

*6-29-10*  
\_\_\_\_\_  
Date

*Helen M Hankins*  
\_\_\_\_\_  
HELEN M. HANKINS, Colorado State Director  
Bureau of Land Management

*6-25-2010*  
\_\_\_\_\_  
Date

*for Merrill Gustafson*  
\_\_\_\_\_  
RICK D. CABLES, Regional Forester  
U.S. Forest Service, Rocky Mountain Region

*6/24/10*  
\_\_\_\_\_  
Date

The authority and format of this instrument have been reviewed and approved for signature.

*Luann Waida*  
\_\_\_\_\_  
LUANN WAIDA  
U.S. Forest Service Grants & Agreements Specialist

*6/23/10*  
\_\_\_\_\_  
Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

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**ACRONYMS AND DEFINITIONS USED IN THIS DOCUMENT**

CDOT – Colorado Department of Transportation  
CEQ - Council on Environmental Quality  
CE - Categorical Exclusion  
CFR - Code of Federal Regulations  
CLOC - Corridor Letter of Consent  
DEIS - Draft Environmental Impact Statement  
EA - Environmental Assessment  
EIS - Environmental Impact Statement  
FEIS - Final Environmental Impact Statement  
FHWA - Federal Highway Administration  
FLRMP – Forest Land & Resource Management Plan  
FONSI - Finding of No Significant Impact  
4(f) - Section 4(f) of the 1966 Department of Transportation Act  
GIS - Geographic Information System  
ID Team – Interdisciplinary Team  
ITS – Intelligent Transportation System  
LOC - Letter of Consent  
LOGO - Referring to signs with company logos/emblems on them  
MERCHANTABLE TIMBER – Trees with a diameter of 7” or greater at breast height  
MOU - Memorandum of Understanding  
MUTCD - Manual on Uniform Traffic Control Devices  
NEPA - National Environmental Policy Act  
NFS - National Forest System (U.S. Forest Service)  
NSPL – National System of Public Lands (BLM)  
NOI - Notice of Intent  
PDEIS - Pre-Draft Environmental Impact Statement  
PLH - Public Lands Highway  
ROD - Record of Decision  
STIP - State Transportation Improvement Program  
TODS - Tourist Oriented Directional Signs  
U.S.C. - United States Code  
USFS – USDA - Forest Service

## I. Long Range Planning

For all project level activities, the terms USFS, BLM, and CDOT will refer to the appropriate USFS Forest Supervisor, BLM Field Manager, and CDOT Region Director unless otherwise noted in this MOU or designated by the respective agency. Addresses and phone numbers for administrative units of each agency are included in the attachments.

### A. INFORMATION TO BE SHARED BETWEEN AGENCIES

The CDOT will provide the USFS and BLM with copies of the Statewide Transportation Plan, the Statewide Transportation Improvement Program, and with inventories and functional classification of the State transportation system. One copy of each will be sent to each USFS Forest Supervisor and BLM Field Manager, and two copies of each will be sent to the USFS Regional Forester and BLM State Director. These plans will also be available on the web at:

[www.dot.state.co.us/DevelopProjects/PlanStudies](http://www.dot.state.co.us/DevelopProjects/PlanStudies)

The USFS and BLM will provide CDOT's Division Director of Transportation Development with Forest Land and Resource Management Plans (Forest Plans) and plan corrections, land management plans (including amendments or revisions, if applicable), transportation plans that indicate existing and planned land uses, and the relationship between these uses and related travel. The USFS and BLM plans may be available on the web through the following websites:

<http://www.fs.fed.us/r2/projects/> (Under the Forest Planning tab)

[http://www.blm.gov/co/st/en/BLM\\_Programs/land\\_use\\_planning/rmp.html](http://www.blm.gov/co/st/en/BLM_Programs/land_use_planning/rmp.html)

Geographic information system data will be shared between signatories of the MOU at no cost when such data are available.

The USFS and BLM will include Regional CDOT offices on their mailing list for notification of possible actions regarding NEPA documents, forest plans and plan amendments, and transportation plan related documents.

### B. NATIONAL FOREST SYSTEM AND FOREST HIGHWAY PROGRAM

The CDOT Headquarters Office, USFS Regional Office, and FHWA Central Federal Lands Highway Division ("Tri-Agency") will annually develop and review multi-year Forest Highway programs in accordance with the Tri-Agency MOU established for that purpose. CDOT will follow the requirements of the Tri-Agency MOU for incorporating Forest Highway projects into the State Transportation Improvement Program.

### C. PROGRAMMATIC AGREEMENTS

Early and continuous coordination between agencies will occur. Signatories will notify designated agency contacts when a programmatic agreement is initiated which may affect any other agency's activities. Each agency will assign a specific person to be the point of contact for each agreement. Each agency will agree to review and comment on the draft agreements according to an agreed upon schedule.

## II. PROJECT COORDINATION

### A. DESIGNATION OF PROJECT COORDINATORS

Each agency shall designate a Project Coordinator to act as a key point of contact for all matters regarding the specific project. Agencies shall assure that a Project Coordinator is named and available throughout the life of a project. Designation of a project coordinator will be done in writing; this document will also prescribe the roles and responsibilities of Project Coordinators.

The CDOT, USFS, and BLM Project Coordinators will ensure the efficient flow of project related information between the agencies and within their respective agencies throughout the planning and implementation of the project.

The CDOT, USFS, and BLM Project Coordinators shall prepare a coordination schedule to aid in scheduling and tracking project milestones that will include response times. An example coordination schedule is attached to this MOU as Attachment 1.

### B. PROCEDURAL STEPS

#### A. Initial Project Coordination.

##### 1. CDOT Project Coordinator will:

Write a letter notifying the USFS/BLM of the highway development project. Notification will include:

- a. Description of why the project is proposed,
- b. Draft Project Purpose and Need statement,
- c. Extent of the proposed activity, and
- d. Estimated time schedule.

The letter will request that the USFS/BLM designate a Project Coordinator.

##### 2. USFS/BLM will:

Designate a Project Coordinator within 30 days, and notify the CDOT Project Coordinator and provide contact information for the Project Coordinator.

##### 2. USFS/BLM Project Coordinator and other appropriate personnel will:

- a. Participate in the reconnaissance inspection and provide comments to CDOT Project Manager on the report and determine if any other necessary agency staff should attend the reconnaissance inspection.
- b. Identify the recommendation that would need to be incorporated into CDOT highway development project's planning and design criteria.

- c. Provide CDOT Project Manager with existing information relative to the project.
- d. USFS/BLM Project Coordinator should advise CDOT Project Manager on USFS/BLM issues and concerns as dictated by the project scope and extent. These may include:
  - 1) Potential inconsistencies with Forest Plans/ Resource Management Plans,
  - 2) Anticipated social, economic, and environmental impacts,
  - 3) Travel demand estimates for the highway, NFSR, or Public Lands roads,
  - 4) Areas intentionally managed for recreation, including those without physical recreation features or where recreation is managed through authorized activities,
  - 5) Endangered, threatened, proposed, and sensitive species inventories, biological evaluations, and biological assessment requirements,
  - 6) Existing and potentially needed wildlife crossings or aquatic organism passage,
  - 7) Potential cultural properties, and other recreational resources that will be protected under Section 4(f) (recreation facilities covered under 23 U.S.C. 138, 49 U.S.C. 303),
  - 8) Public lands survey monuments, location, and monument protection requirements,
  - 9) Potential staging, stockpile or storage areas,
  - 10) Timber clearing, means of removal and appraisal,
  - 11) Material sources, disposal sites and borrow pits,
  - 12) Public involvement needs for each agency,
  - 13) Identify facilities, such as cattle guards, stock passes, fences, approaches, signs, etc. necessary to the management of NFS lands that need to be incorporated into CDOT project design.
  - 14) Other issues of special concern.

The USFS/BLM will promptly notify CDOT of proposed projects that may affect the physical or operational characteristics of transportation facilities and associated environmental mitigation within CDOT right-of-way including but not limited to those falling under the State Highway Access Code (C.R.S. 43-2-147(4)), oil and gas or mining development, ski area expansions, or developments that require federal action.

Notification of projects will include a description of why the project is proposed, the extent of the proposed activity, and an estimated time schedule. Where CDOT determines that such activities will have an impact on the

state highway system the same coordination activities outlined for CDOT projects should be followed to the extent feasible.

### C. AGENCY REQUESTS FOR COORDINATION

The requesting agency will attempt to resolve the issue at the lowest organizational level consistent with the established project timeline if an agency fails to respond to requests for:

- Designation of a coordinator,
- Attendance at scoping/coordination meetings,
- Other participation in project planning/design,
- Review/comments, or
- Permits.

If no resolution is achieved at the lowest organizational level, the requesting agency may initiate the dispute resolution process discussed within **Section XIII** of this MOU.

### D. COLLECTION AGREEMENTS

Agencies may explore options for ensuring agency participation, such as: collection agreements, to cover agency costs; Forest Service Enterprise Teams; reduction of the burden of participation by identification of key process points; or by other means of addressing the issues restraining participation.

Collection agreements between the agencies will be negotiated on a case-by-case basis. Approval by authorized executive management of the applicable agencies is required.

## III. ENVIRONMENTAL COORDINATION AND NEPA DOCUMENT PREPARATION

### A. NEPA DOCUMENTATION AND AGENCY DECISIONS FOR FEDERAL AID PROJECTS

The FHWA, USFS, and BLM must comply with the National Environmental Policy Act (NEPA) in reaching decisions related to agency actions. Although the agencies comply with the same law, each agency has its own set of regulations, directives, and policies defining how the agency shall implement NEPA. On a single highway construction project, there may be multiple agency decisions each requiring a different level of documentation per each agency's own implementing direction. Although every project must be evaluated on its own merits, the chart in Table 1 lays out the possible decisions and the typical NEPA documentation required by the agencies.

Action	FHWA/CDOT	USFS	BLM
CDOT construction or maintenance activities within existing easement right-of-way	CE, EA, EIS	No NEPA action, coordination only	No NEPA action, coordination only
Temporary authorization outside right-of-way ( Special Use Permit or Right-of-way)	Typically CE	Typically CE.USFS Decision tiered to FHWA/CDOT NEPA Special Use Permit issued	Typically EA
Permanent easement/ land appropriation	Typically CE	Administrative Determination	Typically EA
Mineral materials sale	N/A	Typically CE or EA. USFS decision tiered to FHWA/CDOT NEPA. Mineral Material permit issued	Typically EA
Long term disposal or storage sites	N/A (Part of project NEPA clearance)	Typically CE or EA. FS decision tiered to FHWA/CDOT NEPA. Special use permit issued.	Typically EA
Associated amendment to land management plans	N/A	Typically EA	Typically EA
New construction on new alignment	EA/EIS	Administrative Determination	EA/EIS

**Table 1. Examples of Possible Decisions and the Typical NEPA Documentation Required by the Agencies.**

[CDOT=Colorado Department of Transportation, FHWA-Federal Highway Administration, USFS=U.S. Forest Service, BLM=Bureau of Land Management, CE=Categorical Exclusion, EA=Environmental Analysis, EIS=Environmental Impact Statement, N/A=Not Applicable, NEPA=National Environmental Policy Act]

All agencies that are party to this MOU recognize that each agency's NEPA process represents what each has defined as necessary through public review and comment, case law, and experience. Federal agencies must comply with the Council on Environmental Quality regulations (at Title 40—Protection of Environmental Quality, Code of Federal Regulation (CFR) Part 1500 to 1508) and with the intent of NEPA for better decisions and public disclosure.

The 40 CFR 1500 to 1508 is available online at

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title40/40cfr1500\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title40/40cfr1500_main_02.tpl)

Agency direction regarding NEPA compliance and processes can be found at:

**CDOT** - Colorado Department of Transportation, 2008, National Environmental Policy Act Handbook, Version 2. Available online at URL

<http://www.coloradodot.info/programs/environmental/nepa-program/nepa-manual>

**USFS** - U.S. Code of Federal Regulations 36 CFR 220 and U.S. Forest Service, 2008, Environmental Policy and Procedures Handbook, FSH 1909.15. Available on line at URL

[http://www.fs.fed.us/im/directives/dughtml/fsh\\_1000.html](http://www.fs.fed.us/im/directives/dughtml/fsh_1000.html)

**BLM** - Bureau of Land Management, National Environmental Policy Act Handbook, H-1790-1. Available online at URL

[http://www.blm.gov/wo/st/en/info/regulations/Instruction\\_Memos\\_and\\_Bulletins/blm\\_handbooks.html](http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/blm_handbooks.html)

**FHWA** - U.S. Code of Federal Regulations, Title 23—Highways, Part 771, Federal Highway Administration, Environmental Impact and Related Procedures. Available online at URL

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title23/23cfr771\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title23/23cfr771_main_02.tpl)

## B. ONE SHARED ANALYSIS

The CDOT, USFS, BLM, and FHWA agree to use one shared analysis as the common ground for developing NEPA documents. Agencies shall coordinate early to determine the scope of the analyses to be conducted. This means that the data and the analysis performed on that data is to be adequate for all highway related decisions required of the USFS, BLM, or FHWA. The analysis would include data and coordination with other environmental laws (such as consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service) required for FHWA's decision to proceed and the associated decisions by the land management agencies to authorize temporary occupancy, execute a plan amendment, or approval a NEPA decision.

The analysis then forms the basis of the resulting environmental documentation (categorical exclusion [CE], environmental assessment [EA], or environmental impact statement [EIS]) prepared by or for each agency. It also provides information needed to comply with other laws such as the Endangered Species Act.

Such a comprehensive analysis meets the intent of NEPA for better decisions and the intent of streamlining the process by ensuring effective cooperation early in the process, thereby avoiding late-arising issues and delays. The one shared analysis is consistent with the existing roles and responsibilities as defined by the CEQ regulations and outlined in this MOU.

## C. NEPA ROLES AND RESPONSIBILITIES

The Federal Highway Administration is the Federal Lead Agency for federally funded transportation projects and has final decision authority for such projects (40 CFR 1501.5). As such, FHWA is responsible for ensuring compliance with NEPA and for providing guidance and direction to CDOT in the preparation of NEPA documents. FHWA ensures that the regulatory requirement and coordination, for all agencies affected by the transportation project, are met during the planning and design phase.

The USFS consents to the appropriation and transfer of NFS land interests for transportation purposes through the Letter of Consent based on the NEPA documents. The BLM decision authorizing the issuance of a Letter of Consent (LOC) for land transfer is based on the NEPA document(s).

The Colorado Department of Transportation is the Joint Lead Agency and is responsible for preparation and processing of technical environmental reports, and NEPA documents developed for those projects. CDOT is also responsible for maintaining the formal record file for environmental documentation.

Upon request of the Lead Agency, any other Federal agency which has jurisdiction by law shall be a Cooperating Agency. In addition any other Federal agency which has special expertise with respect to any environmental issue may be a Cooperating Agency upon request of the Lead Agency. An agency may request the Lead Agency to designate it a Cooperating Agency (40 CFR 1501.6).

For projects within or adjacent to NFS or BLM lands, the U.S. Forest Service/Bureau of Land Management will be requested to be a Cooperating Agency unless the USFS/BLM specifically state that their interests are not affected by the project. The USFS and BLM are responsible for providing recommendations or stipulations to eliminate/mitigate the adverse effects of the projects on NFS/BLM lands and resources and are responsible for issuing a Letter of Consent. This includes a statement of consistency with the Forest Plan, and those stipulations necessary for the protection and utilization of NFS/BLM lands. The USFS/BLM may be Joint Lead Agencies with the FHWA on federally funded transportation projects involving or affecting NFS or Public Lands for which the preparation of an EIS is required.

The USFS or the BLM is the Lead Agency for any USFS/BLM land and resource management project or USFS federally funded transportation project. The FHWA/CDOT may be Joint Lead Agencies with the USFS or BLM or Cooperating Agencies on those agencies' land and resource management projects where significant impacts to the State transportation system may be reasonably anticipated.

The Federal Highway Administration (40 CFR 1501.6) and the CDOT may be Cooperating Agencies on any USFS/BLM project where significant impacts to the State transportation system may be reasonably anticipated.

In some instances each Federal agency must prepare a separate NEPA document. In the case of a Federal Aid highway project where the project qualifies for a Categorical Exclusion (CE) under the FHWA regulations, but not under USFS or BLM regulations, the CDOT (with FHWA oversight) will produce a document containing sufficient information to satisfy the content requirements of the USFS and BLM for production of an Environmental Assessment (EA). For a CDOT project that must be documented as an EA for USFS or BLM purposes, CDOT will develop the purpose and need statement, brief alternatives discussion (build, no build), environmental analyses, and forward to the land agencies for their public notification requirements.

Using the one shared analysis process, the shared data and analyses in the NEPA document is essentially the same for all agencies environmental reviews.

## D. INTERAGENCY PROJECT SCOPING

Effective and early interagency cooperation is crucial to the success of the one shared analysis process. Initiation of project coordination and the formal designation of a Project Coordinator are described in **Section II. Project Coordination**. If the steps described in **Section II.A. Designation of Project Coordinators** have not been taken, they should occur as part of project scoping.

During early scoping and consultation, Project Coordinators will identify the issues and concerns listed **Section II.B.2.d.** to the maximum extent possible.

The Project Coordinators will also identify the decisions that are required by their agency in order for the project to move forward, and whether additional analysis is necessary for these decisions. These needs will be addressed in the analysis done for the project.

In identifying the decisions required, the Project Coordinators will identify the anticipated level of NEPA required for their agency to support the decision: categorical exclusion, environmental assessment, or environmental impact statement.

The Lead Agency will ensure that the approvals received for the project include the regulatory requirements of other agencies that are not party to this MOU. Examples include the Endangered Species Act Section 7 Consultation with the U.S. Fish and Wildlife Service; Section 404 of the Clean Water Act permit, from the U.S. Army Corps of Engineers; and Section 106 of the National Historic Preservation Act, in consultation with the State Historic Preservation Office.

Agencies will cooperate in addressing issues as early as possible to identify information needs and avoid late-arising concerns. Resolution of issues will be documented in agency files for reference and consistency through the life of the project.

## E. SECTION 4(f)

Section 4(f) of the 1966 DOT Act as Amended and 23 CFR 774 apply to publicly owned parks, recreation areas, wildlife refuges, and to historic sites regardless of ownership. It is a separate environmental process required for projects under the jurisdiction of, or funded by, any agency of the U.S. Department of Transportation including the FHWA. It applies in instances where property from any one of these resources is converted to a transportation use. Conversion of land to a transportation use from USFS/BLM lands does not necessarily trigger a Section 4(f) evaluation. Only those areas intentionally managed for purposes protected by Section 4(f), such as recreation areas, campgrounds, or historic sites trigger Section 4(f) requirements. Determination of applicability of Section 4(f) to a specific project will be made by the FHWA in consultation with CDOT, USFS/BLM, and other agencies as required.

## F. PUBLIC INVOLVEMENT

The Lead Agency will work with the Cooperating Agencies to assure the public outreach and notification is sufficient for any related decisions. As part of early scoping, the agencies shall jointly develop a public involvement plan that shall adequately meet the needs of the agencies.

## G. PREPARATION, REVIEW, AND ADOPTION OF NEPA ENVIRONMENTAL DOCUMENTATION

As part of the interagency scoping (See **Section III.D.**), the agencies identify the level of documentation necessary for each agency to make their required decisions. Agencies may have different documentation needs for related decisions due to differing agency regulations; however the analysis that results from the early coordination and consultation should serve the needs of all.

Options to facilitate the preparation of a NEPA document for the USFS or BLM will be discussed early in the project scoping. Determination of how the document would be produced depends upon the project, the impacts, or the resources the USFS/BLM have available to devote to the project. The Lead Agency can prepare the NEPA document, contract with a Cooperating Agency for preparation of the documents, or contract with a private consultant for preparation of the document. **Section III.A.** provides guidance on locating agency NEPA requirements.

## IV. POST – NEPA PROJECT DESIGN, PERMITS, SURVEY, FIELD INSPECTION REVIEW, FINAL OFFICE REVIEW, AND SCHEDULE

The purpose of this section is to outline the coordinated process used by CDOT as they progress from preliminary design to final design.

The CDOT and USFS/BLM will jointly determine necessary authorizations or permits required prior to starting any field surveys or site investigations.

The USFS/BLM will authorize CDOT (and/or its consultant) to survey, with any needed terms and conditions, and will provide data on survey monuments, maps, access routes, fire regulations, clearing limitations, material sources, and other information pertinent to the survey.

The CDOT and USFS/BLM will participate in a joint Preliminary Field Review/CDOT design scoping review. A report documenting the review will be prepared and distributed by the originating agency.

The USFS/BLM will participate in the Field Inspection Review and submit comments to CDOT Project Manager in accordance with the agreed upon project schedule. This should include any features of construction/reconstruction that may have an effect on the protection and utilization of the land traversed by the right-of-way and adjoining land under the administration of USFS/BLM. Items to be added to CDOT construction plans and specifications will be mutually agreed upon by USFS/BLM, FHWA and CDOT by conference or other communication during the preparation of the plans and specifications for each project.

The CDOT Project Manager will review recommendations and return them to the USFS/BLM Project Coordinator if revisions are needed. USFS recommendations need to be agreed upon and finalized prior to final design. Recommendations received from USFS/BLM will be included in subsequent plans when feasible. Recommendations should be incorporated into the design plans as much as possible to keep Letter of Consent stipulations to a minimum. FHWA will request a Letter of Consent (LOC) from the USFS/BLM. The Colorado Department of Transportation will incorporate any construction stipulations required by the USFS/BLM in the LOC into the final designs and specifications for the project. The CDOT will provide the USFS/BLM with two sets of preliminary plans and notify the USFS/BLM District and Field Offices of the scheduled CDOT Field Inspection Review. Contract specifications resulting from stipulations in the USFS/BLM LOC cannot be modified without USFS agreement at delegated authority level for LOC (Regional Office).

Within 30 working days from the date of the design scoping meeting, the CDOT, USFS/BLM, and FHWA will coordinate a project schedule which will include timetables related to merchantable timber and mineral materials sale(s) contract/permit.

Prior to final design, CDOT will define work limits and notify USFS/BLM of proposed clearing limits and timber and mineral materials to be removed. USFS/BLM will determine appropriate method of disposing of merchantable timber and mineral materials and will coordinate with CDOT Road Design for inclusion in final plans

The CDOT will provide the USFS/BLM with two sets of construction and ROW plans along with proposed general contract provisions covering work affecting NFS/BLM Public Lands, and notify the USFS/BLM of the scheduled CDOT Final Office Review. The general contract provisions will include any appropriate USFS/BLM Fire Plan, Clearing Plan, and Erosion Control Plan.

The USFS/BLM local office personnel will participate in the Final Office Review and submit a concurrence letter to the CDOT, acknowledging approval and/or recommended changes to the final plans and specifications in accordance with the agreed upon project schedule. The CDOT will incorporate mutually agreeable recommendations from the Final Inspection Review and Final Office Review in plans and specifications. Disputes will be resolved as per **Section XIII** of this MOU.

## A. TIMBER

The U.S. Forest Service and BLM will retain the right to any merchantable timber not specifically appropriated. The CDOT will notify the USFS/BLM of timber within the clearing limits scheduled for removal. The USFS/BLM will determine whether a timber sale to an independent contractor or another authorization for removal is appropriate.

Any merchantable timber, defined as meeting current utilization standards for saw timber (logs) and wood products other than logs will be, as determined by the USFS/BLM:

- (1) Stockpiled in an area designated by the USFS/BLM to be disposed of by other means,
- (2) Acquired by the CDOT or the CDOT contractor at fair market value as determined by an appraisal, or
- (3) Permitted for removal as a non-sale disposal, if regulations apply, to be disposed of in whatever manner is most cost-efficient to CDOT, granted they actually remove the material from the site.

When the USFS/BLM retain ownership of the timber cut within the clearing limits, the USFS/BLM will stipulate the necessary procedures and specifications that must be followed for items such as marking, bucking, and decking (cutting and stacking). If the USFS/BLM retain ownership they will also be responsible for final disposal.

The CDOT will notify the USFS/BLM of any merchantable timber that may need to be removed as a result of construction or maintenance activities. All activities related to the removal of merchantable timber will be completed in accordance with the jointly developed project schedule described under the **Section IV** above. The clearance area required for construction will be staked by the CDOT for review by the USFS/BLM in accordance with the mutually agreed upon project schedule and prior to the scheduled timber cruising operations.

The USFS/BLM will provide a written appraisal (if required) and contract or permit in accordance with the joint project schedule developed under the **Section IV**. It is understood that the objective is for the appraisal (if

required) to be completed at least 30 days prior to the bid opening. A forest products contract or permit (if required) would be completed no later than 30 days after the CDOT awards the construction contract.

If merchantable timber is being acquired by the CDOT or the CDOT's contractor, at a fair market value as determined by an appraisal, CDOT or the CDOT's contractor will provide direct payment to the USFS/BLM for the appraised value of the timber prior to cutting. The negotiated schedule in **Section IV** above should reflect the applicable dates for flagging of the cutting limit boundaries, the completion of volume estimates and corresponding appraisal, and the issuance of the contract. The USFS/BLM will not work directly with any subcontractors unless specified under the project schedule.

If the timber is stockpiled on NFS land/Public Land, the site must be identified by the USFS/BLM and agreed to by the CDOT, and any necessary environmental clearances obtained.

If so allowed by the USFS/BLM, the timber can be sold to the public or given to the public under non-sale disposal authorities.

## **B. BORROW PITS AND MINERAL MATERIAL SALES**

The USFS must collect fair market value for mineral materials taken from NFS.

The USFS retains the federal management responsibilities for all mineral materials. The negotiated project schedule must reflect all issues and decisions regarding the disposal or use of mineral resources. Excess mineral materials that are generated during construction activities will be temporarily stockpiled in an area designated by the USFS/BLM. The site and length of time the material may be stored will be designated in the project specifications. Such materials are the property of the United States and the sale or disposal of this material will follow the procedures outlined below.

A USFS mineral material contract is required whenever material is removed from a borrow pit or excess material is removed from the construction site. This contract/permit for a borrow pit is for the excavation, crushing, screening, and removal only. Further processing of the material on NFS/Public Lands such as batch plants will require a separate authorization from the USFS or BLM. The BLM will only issue the Free Use Permit to the appropriate government agency (CDOT). CDOT may contract out the removal of the material but the contractor may not charge for the minerals. The permit from BLM is for removal of the minerals and allows minerals to be stockpiled onsite.

The mineral materials contract will be issued by the USFS to CDOT's contractor within 20 working days from the date of the CDOT's notification to the USFS that the construction contract has been awarded. The BLM does not require a separate authorization for processing materials onsite. If further processing is required and the proposed activity is to be located on Public Lands, a permit will be necessary to authorize that activity.

Mineral material generated on NFS/Public Lands and used in a public purpose project, such as a highway construction project, is free of charge to FHWA or CDOT. Coordination between the USFS and CDOT will be required. A 'free use' contract/permit may be required. If required, the 'free use' contract/permit maybe issued to a designated agent (contractor) of FHWA or CDOT at the discretion of the USFS. BLM will not issue a permit to a contractor; the BLM will only issue the Free Use Permit to the appropriate government agency (CDOT). CDOT may contract out the removal of the material but the contractor may not charge for the minerals.

Excess material removed from NFS/Public Lands and/or sold for commercial purposes, other than for public projects, must be purchased by CDOT or by CDOT's contractor at fair market value. Fair Market Value may be determined by use of existing USFS value schedule or by separate appraisal at the discretion of CDOT. Appraisals conducted by CDOT or private parties must be reviewed and approved by USFS/BLM specialists.

The USFS mineral materials contracts and permits will contain requirements to rehabilitate the used borrow pits. The BLM may require a bond covering the cost of reclamation. The CDOT will hold the contractor responsible for meeting these requirements.

## C. IMPACTS TO NATIONAL FOREST SYSTEM LANDS OR PUBLIC LANDS

Features of construction/reconstruction projects that may have an effect on the protection and utilization of the land traversed by the ROW and adjoining land under the administration of the USFS/BLM will be mutually agreed upon by the USFS Forest Supervisor/BLM Field Manager and the CDOT Regional Transportation Director or their designees by conference or other communication during the preparation of the plans and specifications for each project. The responsibilities will be documented in writing on each project.

## D. FINAL DESIGN SPECIFICATION CONCURRENCE

The CDOT will submit final design and construction specifications to the USFS Regional Forester/BLM State Director, or their delegated representative, for written concurrence. Construction shall not begin prior to receiving written concurrence.

## V. RIGHT OF WAY

### A. PERPETUAL RIGHT-OF-WAY FOR TRANSPORTATION PURPOSES

All Right-of-Way (ROW) appropriations by the CDOT from USFS/BLM will be conducted consistent with the FHWA Federal Lands Transfer Manual. A USFS Special Use Permit held by CDOT is no longer the appropriate legal ROW document for highway/transportation purposes.

After preliminary design is complete and following the Field Inspection Review, the CDOT will submit to the FHWA a request for appropriation and transfer of land interests for transportation purposes sufficient to accommodate the proposed project. The FHWA/CDOT will ensure that all permanent facilities (such as drainage structures or bridge abutments) will be included in the request for permanent ROW. The request for permanent ROW will include sufficient ROW to maintain any permanent highway related features and structures. The request will be accompanied by the final ROW plans (including alignment, topography, and proposed ROW lines).

The FHWA will evaluate the request for appropriation and, if in agreement, request a Letter of Consent (LOC) from the USFS/BLM. The USFS/BLM has four months from the date of receipt of the request to respond for a Letter of Consent. If the USFS/BLM does not respond within the four months, FHWA may proceed with the appropriation of lands.

The USFS/BLM will review the request for a Letter of Consent and, if approved, issue a LOC with stipulations to the FHWA, with a copy to the CDOT. The BLM decision may be appealable under their administrative appeals process. Upon issuance of the LOC, the USFS/BLM authorizes immediate entry on the NFS/BLM Public Lands subject to the terms set forth in the stipulations and LOC.

The CDOT will prepare a U.S. Department of Transportation easement deed based upon authorized ROW plans that contain the stipulations and reduced plan set showing the property requested. The CDOT's Chief Engineer will execute the easement deed for the CDOT, approving the stipulations, and the Colorado Attorney General's office will review the easement deed for legal sufficiency and return the easement deed to CDOT to be forwarded to the FHWA.

The FHWA and the FHWA's Chief Counsel will review the easement deed. If it meets the requirements of the LOC and its stipulations, the FHWA will execute the deed and return it to the CDOT for recording.

The CDOT Headquarters Office will provide four (4) copies of the recorded easement to the FHWA for distribution to the appropriate offices of the USFS/BLM.

## **B. CONVERSION OF EXISTING HIGHWAYS TO EASEMENT DEEDS IN THE ABSENCE OF RECONSTRUCTION**

On existing State Highways, where no request for appropriation and transfer of land interests for transportation purposes has been requested and no Highway Easement Deed (HED) has been issued, the following Conversion process should be used to obtain the HED:

1. Follow the steps outlined above in **Section V. Right Of Way** to request a HED.
2. The requested target easement width is *150 feet, (75 feet* parallel with and perpendicular to either side of the physical centerline of the highway), with allowances for cuts, fills, drainage structures, etc. as mutually identified and agreed upon.
3. Prior to submitting a request for conversion of any highway, the CDOT Project Manager, CDOT Region Right of Way Manager and/or CDOT Region Survey/Plans Coordinator, and the USFS/BLM Authorized Officer (or their designated representative) shall travel the highway(s) involved in the conversion request. The CDOT Project Manager and USFS/BLM Authorized Officer shall make a determination as to whether an easement width of 75 feet on each side of centerline is appropriate. Where this width is not appropriate to cover the area required operating and maintaining the highway a more appropriate (either reduced or increased) width shall be identified.
4. The set of ROW Plans or Exhibit Maps reflecting the agreed upon easement locations and widths being requested shall be submitted by CDOT to the USFS/BLM Project Coordinator for review prior to submittal to FHWA to request a LOC.

## **C. AUTHORIZATION FOR OTHER USES ON NFS/PUBLIC LANDS**

The CDOT easement applies only to facilities directly used for transportation purposes and in the right-of-way. All other facilities on USFS/BLM land, including maintenance yards and other structures, will require a Special Use Permit or Right-Of Way Grant from the BLM.

## **D. NOTIFICATION OF LAND OWNERSHIP ADJUSTMENT**

The USFS/BLM will notify the CDOT Headquarters Right-of-Way Office of any proposed land ownership adjustment or land exchanges affecting CDOT facilities or ROW. Upon notification, the CDOT will determine the necessity of applying for an easement deed to protect its interest prior to completion of the land exchange.

## VI. AUTHORIZATION FOR ENTRY DURING EMERGENCY SITUATION

In the case of emergencies (floods, landslides, wildfires, hazardous material spill(s), etc.), the CDOT may conduct work outside the ROW to repair, stabilize or neutralize the problem area(s) and will promptly notify the USFS/BLM of actions taken or proposed.

The USFS/BLM may construct temporary approaches as necessary during fire fighting or other emergencies without formal CDOT approval. The USFS/BLM will notify the CDOT as soon as practicable. Following emergency use, necessary obliteration and restoration measures will be made at no expense to the CDOT. The USFS/BLM will take precautions during such emergencies to safeguard highway users.

## VII. CONSTRUCTION/RECONSTRUCTION

### A. DESIGNATION OF CONSTRUCTION COORDINATORS

The CDOT and the USFS/BLM will designate respective Construction Coordinators to provide coordination on matters related to the construction work or changed conditions that may alter the land allocations for approved plans.

### B. COORDINATION DURING CONSTRUCTION/RECONSTRUCTION

The CDOT will invite the USFS/BLM to attend the pre-construction conference with the successful bidder.

After the LOC is issued and during construction, and before committing to any action, CDOT will consult with the USFS/BLM Construction Coordinators prior to approving any changes in design, materials, plans, or specifications that may affect NFS/BLM Public Lands or resources.

Changes in ROW requirements or conditions affecting the project NEPA decision that occur during construction or reconstruction activities may necessitate additional analysis and coordination.

In preparation for final inspection, the CDOT will invite USFS/BLM to participate in a site visit.

### C. POST-CONSTRUCTION COORDINATION

The FHWA/CDOT, in coordination with the USFS/BLM, will continue to monitor project mitigation measures to ensure effectiveness and compliance with NEPA decisions and permit requirements.

Project and construction coordinators shall evaluate, on a project specific basis, what processes or coordination worked well or did not work well. Processes that worked well should be implemented into future projects.

## VIII. MAINTENANCE

### A. GENERAL MAINTENANCE WITHIN THE RIGHT-OF-WAY

Maintenance activities within the right-of-way (ROW) will not require coordination unless specifically required in either the Highway Easement Deed or this MOU.

Maintenance is defined as restoration and upkeep to preserve the entire facility (including roadway, shoulders, slopes, drainage improvements, safety devices, and other features consistent with the stipulations in the Letter of

Consent). Maintenance also includes snow removal, sanding, mowing, vegetation removal, culvert and ditch cleaning, and other services necessary for safe and efficient operation of the state highway system. Maintenance does not include activities that result in betterment or a higher service level of the facility, such as realignment, widening, or other improvements considered to be reconstruction.

The CDOT will conduct maintenance activities to preserve and enhance scenic, environmental, and safety characteristics of transportation facilities to be compatible with the adjacent NFS/BLM Public Lands and resources. The Department of Agriculture's guidelines for weed spraying and the CDOT Standard Operating principles for Snow Removal shall be used as a baseline for maintenance operation by CDOT within ROW on NFS/BLM Public Lands.

With respect to maintenance activities only, the term right-of-way (ROW) is defined as the legal limits of the easement if an easement exists, or the area between the existing top of cuts and toe of fills if no easement exists.

For use of biological or chemical control in clearing or vegetation maintenance on any NFS/BLM Public Lands, the CDOT will follow the provisions contained in the highway easement deed if within a ROW covered by an easement; consult with the USFS/BLM if within a ROW not covered by an easement; or obtain written approval for outside the limits of the ROW.

The CDOT will notify the USFS/BLM of any merchantable timber that may be removed or damaged as a result of maintenance activities, prior to that activity (see **Section IV.A**).

The CDOT may assess right-of-way corridors for potentially hazardous trees, bug damaged trees, and sufficient clear zones/areas and will request that USFS include removal of such trees in any future timber sales planned for the area. The USFS shall determine the method of removal within its authorities including sale of trees to the CDOT for removal. If the Forest Service is not able to remove the trees, the CDOT may request authority as outlined in **Section IV.A**.

The USFS shall notify the CDOT of planned timber sales and vegetative management projects and provide maps identifying planned management areas. The CDOT shall review the planning areas for trees that need to be cleared for public safety of the highways. The trees will be identified to the USFS for inclusion in timber sales or other vegetative management where possible. If the Forest Service is not able to remove the trees, the CDOT may request authority as outlined in **Section IV.A**.

The CDOT will notify the USFS/BLM when facilities (such as fences or cattle guards) that are USFS/BLM responsibility are not being adequately maintained or will be impacted by CDOT maintenance within the ROW.

## **B. IMMINENT HAZARDS**

The CDOT may remove imminent hazards, such as rockslides or trees, without formal USFS/BLM approval and will notify the USFS/BLM as soon as practicable. Removed material will be disposed of at locations mutually agreeable to the CDOT and the USFS/BLM.

## **C. MAINTENANCE OUTSIDE THE RIGHT-OF-WAY**

The CDOT will coordinate with the USFS/BLM on any maintenance activities, which may affect NFS/BLM Public Lands outside the ROW and will require prior approval by the FS/BLM. Snow avalanche control is covered in **Section XII**.

## D. NON-ROUTINE MAINTENANCE ACTIVITIES

Non-routine maintenance activities within the ROW such as significant amounts of clearing, changes in established drainage patterns, and material sources and storage/disposal sites will be mutually agreed upon by the USFS/BLM and the CDOT by conference or other communication prior to commencing the work.

## IX. SIGNING AND PAVEMENT MARKINGS

### A. GENERAL POLICIES AND RESPONSIBILITIES

The agencies should jointly develop a project public access sign plan in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and the Colorado supplement of the MUTCD. Examples of common signs are shown, but are not limited to those, in Attachment 2 of this agreement.

Any signing needs not covered under this section will be proposed, mutually reviewed and approved on a site-specific basis by the USFS/BLM and the CDOT. Unresolved problems and items requiring approval of higher authority will first be referred to the CDOT Sign Variance Committee. If the USFS/BLM and the Sign Variance Committee do not resolve the issues, they will be referred to upper management using the dispute resolution process.

The CDOT will furnish, install, and maintain all regulatory, warning, and guide signs, other than those requested by the USFS/BLM, within the ROW along the interstate and State highway systems. CDOT will maintain all pavement markings including lines, words and symbols

The USFS/BLM requested signs will be mutually reviewed and agreed upon by the USFS/BLM and the CDOT to assure compliance with this MOU, the "Manual on Uniform Traffic Control Devices (MUTCD)", CDOT "Guide Signing Practices and procedures", and CDOT standards. The USFS/BLM will furnish, install, and maintain the following signs:

- USFS/BLM boundary signs (see Attachment 2 examples BDY-1, BDY-2, and BDY-3)
- USFS/BLM signs RD-1 and RD-2
- Special interpretive signing
- Other signs needed for USFS/BLM management.

The USFS/BLM requested signs guiding motorists to USFS/BLM facilities will be funded as follows:

- Furnishing of signs and initial sign installation will be funded on a case-by-case basis, depending on the scope of the proposal and funding availability, and, may be provided by either agency or on a cost shared basis (for example, USFS/BLM furnish and CDOT install).
- The CDOT will maintain these signs in CDOT ROW only after installation. Any special signs will be maintained by the USFS/BLM.
- USFS/BLM recreation site guide and identifier signs shall consist of white lettering or symbols on a brown background.

Location and installation of specific service (LOGO) signs and tourist oriented directional signs (TODS) within the limits of USDOT easements across NFS/BLM lands, is the responsibility of the CDOT or their contractor (Colorado Logos), and will be done in conformance with the Manual on Uniform Traffic Control Devices and the CDOT standards.

The CDOT will review proposed sign locations with the USFS/BLM prior to selecting final locations.

Only the most direct route for any destination will be signed.

Existing signs on the State Highway System, which do not meet the standards established in this MOU, may be removed by the CDOT after prior written notification to the USFS Ranger District/BLM Field Office of signs to be removed.

USFS/BLM boundary signs shall include the respective agency's shield.

## B. CRITERIA FOR SIGN LOCATIONS

The U.S. Forest Service/BLM land access signs (see Attachment 2 examples ACC-1, ACC-2, and ACC-3) are installed at locations where roads provide all-weather, passenger car access to USFS/BLM developed recreation sites originating from State highways.

The National Forest Boundary/BLM Boundary signs (see Attachment 2 examples BDY-1, BDY-2, and BDY-3) are installed at points where a highway first crosses a USFS/BLM boundary.

Visitor Information Site signs (see Attachment 2 examples INF-1 and INF-2) are installed for staffed facilities that are adjacent to a State highway, are within ten (10) road miles of a Federal lands boundary, and are located in a rural area or a community of less than 50,000 population.

Developed Recreation Sites and other recreation areas – Signs will meet the requirements of MUTCD Section 2H-08 and depicted in Figure 2H-2 of the MUTCD. Sites generally should be located within one mile of the State highway, have physical improvements (other than roadway), be identified on USFS or BLM visitor maps, and provide parking for at least ten vehicles. Included are such sites as:

- Campgrounds—when sanitary facilities are provided
- Picnic areas—when sanitary facilities are provided
- Overlooks—when interpretive signing is provided
- Fishing Access Sites—when accessible for handicapped persons (exempt from ten vehicle minimum parking limitation)
- Historical information sites
- Other points of interest as mutually agreed

Primary access roads signs (see Attachment 2 examples RD-1 and RD-2) are installed at junctions with USFS/BLM roads, which are maintained for passenger car traffic.

Scenic Byway signs (see Attachment 2 example SB-1) are installed at locations established under the Guidelines for Scenic Byway Signing (see Attachment 3). Signs will be installed by CDOT along highways.

Wildlife Viewing Area signs (see Attachment 2 example WW-1) are installed at sites identified in the Colorado Wildlife Viewing Guides and in accordance with CDOT guidelines. Signs will be installed by CDOT along highways.

Other areas are to be mutually agreed upon (e.g. interpretive waysides and scenic overlooks).

## X. ACCESS CONTROL

Access to interstate highways will be only by established interchanges, except for emergency use in accordance with the rules and regulations governing the Interstate Highway System.

The USFS/BLM or its permit holders will obtain a State Highway Access Permit for any new or revised road approaches to State highways. New approaches and any other requirements for complying with the State Highway Access Permit will be the responsibility of the USFS/BLM permit holders unless specifically addressed in the permit.

If planned activities of the USFS/BLM, or its permit holders, will affect highway operations, any necessary permits from CDOT will be obtained, for example traffic control permits.

## XI. THIRD PARTY OCCUPANCY

The grant of an easement to the CDOT by the FHWA does not include the grant of any rights for non-highway purposes, facilities, or occupancy by third parties.

In the case of a third party, such as a public utility, wishing to locate on highway ROW over NFS/Public Lands, the CDOT will advise the third party that it must first apply to the USFS/BLM for a permit pursuant to the Third Party Occupancy Consultation Requirements contained in Attachment 3.

The CDOT, USFS, and BLM will consult before any third party occupancy permits and/or other encumbrances are acted upon to determine if such occupancy may impact highway safety, maintenance, and efficiency. Requirements for consultation are included in Attachment 3, Third Party Occupancy Consultation Requirements.

## XII. SNOW AVALANCHE CONTROL

A statewide avalanche management plan will be prepared and maintained by the CDOT to specify methods of snow avalanche hazard reduction, public and employee safety, protection of public and private property, rescue procedures related to highway operations, and other elements of avalanche control operations that are uniform across the State. Local operating procedures will be developed to prescribe site-specific avalanche management activities and may include: maps and photographs, area control measures, gun placements, media contacts, location and responsibility for warning signs, and names and/or positions of personnel responsible for various activities. These local procedures will become part of the statewide avalanche management plan and will be prepared in cooperation with CDOT Regions and local USFS/BLM field offices.

The CDOT, the USFS and the BLM mutually agree to cooperate in highway maintenance and advance warning signing as it relates to snow avalanche reduction activities and safety in accord with the general principles and specific procedures outlined in this MOU.

### XIII. DISPUTE RESOLUTION

All agencies agree to work cooperatively to avoid and resolve conflicts. The agencies agree to explore issues thoroughly before seeking to use this dispute resolution mechanism by ensuring that adequate communication has occurred, that all agencies fully understand the issues, and the reasons why an agency is committed to a position.

If disagreements emerge which cannot be resolved, the impasse shall be escalated as illustrated in Table 2.

1	FS Project Coordinator	BLM Project Coordinator	CDOT Project Coordinator	FHWA Operation Engineer
2	Director/Forest Supervisor	Field Manager and District Manager	Resident Engineer/ Program Engineer/ Regional Transportation Director	Program Delivery Engineer
3	Deputy Regional Forester	Deputy State Director, Division of Energy, Lands, and Minerals	Chief Engineer	Assistant Division Administrator
4	Regional Forester	State Director	Executive Director	Division Administrator

TABLE 2. LIST OF AGENCY CONTACTS AND LEVEL OF DISPUTE RESOLUTION (BEGINNING WITH LEVEL 1 AND PROGRESSING TO LEVEL 4).

When the parties at the lowest organizational level of the agencies have agreed to escalate, a meeting date will be established within 5 days. At that time, representatives from the agencies at both levels will meet to discuss the issues and come up with a resolution. If an agreement cannot be reached, then the issue will be escalated to the next level and a meeting date established within 5 working days. At that time, representatives from the agencies at all three levels will meet to discuss the issues and come to a resolution. If an agreement cannot be reached, the issue will be escalated to the highest level and a meeting date established within 5 working days. At that time, all agencies will come to resolution.

Mediation and facilitation may be used at any level to help expedite resolution.

Documentation of all disagreements and resolutions shall be furnished to all involved agencies and included in the project file.

# ATTACHMENT 1: EXAMPLE COORDINATION SCHEDULE

Project \_\_\_\_\_ County \_\_\_\_\_

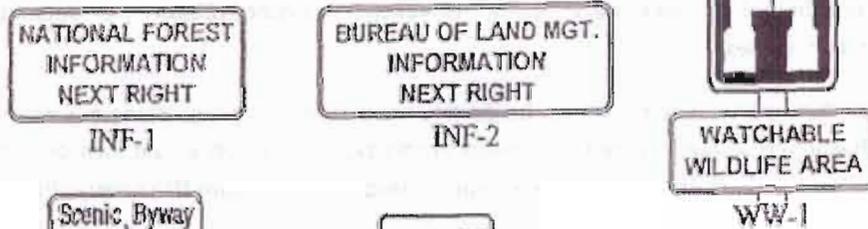
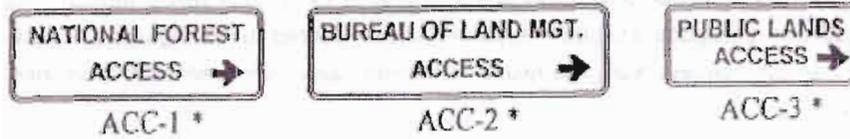
Date Prepared \_\_\_\_\_ Revised \_\_\_\_\_

CDOT Project Manager \_\_\_\_\_ USFS/BLM Manager \_\_\_\_\_

Scheduled Tasks	Schedule Date	Schedule Date
<b>A. CDOT/USFS/BLM</b> review STIP and/or land management plans to determine project compatibility.		
<b>B. USFS/BLM/CDOT</b> provide necessary authorizations or For surveys or site investigations.		
<b>C. CDOT/USFS/BLM</b> conduct joint Preliminary Field Review/CDOT Scoping Review. Develop schedules.		
<b>1. CDOT</b> flag clearing limits for timber valuation.		
<b>2. USFS/BLM</b> cruise and appraise timber (at least 30 before construction starts).		
<b>3. USFS/BLM</b> issue timber contract before construction commences.		
<b>D. CDOT/FHWA/USFS/BLM</b> tentatively determine NEPA document required CE _____ EA _____ EIS _____		
<b>E. CDOT/FHWA/BLM</b> submit NEPA document, and construction plans to USFS/BLM/CDOT.		
<b>F. (USFS/BLM</b> submit recommendations, if needed, to CDOT).		
<b>G. (CDOT)</b> submit ROW plans to FHWA.		
<b>H. (FHWA)</b> request Letter of Consent (LOC) from USFS Regional Office/BLM State Office.		
<b>I. (USFS Regional Forester/ BLM State Director</b> issue LOC with stipulations to FHWA, copy to CDOT.		

<b>J</b> CDOT/USFS/BLM submit final plans to USFS/BLM/CDOT.	_____	_____
<b>K</b> CDOT/USFS/BLM advertise project.	_____	_____
<b>L</b> (CDOT process easement deed with FHWA)	_____	_____
<b>M</b> CDOT/USFS/BLM conduct final project inspection	_____	_____
<b>N</b> Construction Coordinators:  (name and phone number)	CDOT _____  USFS/BLM _____	

## ATTACHMENT 2: TYPICAL SIGNS



\* May include road name.

## ATTACHMENT 3: THIRD PARTY OCCUPANCY CONSULTATION REQUIREMENTS

### USFS/BLM/CDOT/FHWA Third Party Agreement Process

There are four variations of third party requests for access/use of CDOT ROW. Three of the request types require coordination between the USFS/BLM and CDOT to determine the proposed occupancy does not adversely affect the safety, operations and maintenance of the highway. The remaining request type requires only the review and approval by CDOT.

The first type of third party request would be one in which the requester would like to make modifications to, or add to, the CDOT transportation facility. Examples of this type of request would include, but are not limited to: bike/pedestrian paths or recreational facilities appurtenant/connected to the highway; pedestrian underpasses; or bridge structures. In this request type, the facility ownership and maintenance responsibilities remain with the third party.

The second type of third party request would be one in which long term, or permanent, improvements are constructed within the ROW, but do not physically impact the CDOT facility. Examples of this type of request would include, but are not limited to: cell towers; utilities; driveways to private property; or detached bike/pedestrian paths or recreational facilities.

The third type of third party request would be limited to a temporary ingress/egress to and from the ROW (crossing the highway Access Control line). Examples of this type of request would include but not be limited to: temporary logging roads; or other motorized or non-motorized access to/from NFS land/public land.

The first three types of third party requests should be handled as set forth below:

#### Request Type: 1 Actual Improvements to CDOT Facilities

1. Third Party submits proposal to USFS/BLM
2. USFS or BLM screens the proposal. If proposal passes screening, USFS/ BLM accepts the proposal as an application. USFS/BLM forwards the application to CDOT Region ROW Office for review, and to conceptually approve that the proposed occupancy does not adversely affect the safety, operations and maintenance of the highway.
3. Upon notification of conceptual approval from CDOT, USFS/BLM requests the Third Party prepare more detailed documents required for CDOT, USFS/BLM and FHWA (when request involves Interstate ROW) for NEPA analysis.
4. Third Party submits the following to USFS/BLM:
  - a. Location Maps
  - b. Construction Plans
  - c. Site Photos
  - d. All available environmental documents
5. USFS/BLM forwards applicant information to CDOT Region ROW Office
6. USFS/BLM conducts NEPA in consultation with CDOT. As NEPA requires, USFS/BLM, CDOT and Third Party will work in concert to refine the project design
7. CDOT Region ROW determines the appropriate approval documents
  - a. Access Control line Crossing License (Exhibit A) \*
  - b. License to cover use and maintenance of improvements (Exhibit B) \*\*
  - c. CDOT Special Use Permit for construction (Exhibit C) \*\*

8. If the request involves Interstate ROW, CDOT Property Management will request FHWA approval of:
  - a. Access Control line Crossing License (Requires Form 128 Environmental Clearance, prepared from USFS/BLM NEPA document).
  - b. License to cover use and maintenance of improvements (Requires Form 128 Environmental Clearance)
9. CDOT Region ROW Office will issue all necessary CDOT permits/licenses to Third Party
10. CDOT Property Management will forward concurrence letter to USFS/BLM along with all applicable CDOT permits and the executed A-Line license, if necessary.
11. USFS/BLM will make a NEPA decision. If the decision is to authorize the use, the USFS will issue the Special Use Permit or the BLM will issue the right-of-way grant, including any CDOT stipulations in the operation and maintenance plan and will forward a copy of the executed permit to CDOT.

Request Type 2: Permanent Improvements within the ROW, with no Direct Impact to the CDOT Transportation Facility, and

Request Type 3: Ingress/Egress to and From CDOT Transportation Facility

1. Third Party submits proposal to USFS/BLM
2. USFS or BLM screens the proposal. If proposal passes screening, USFS/BLM accepts the proposal as an application. USFS/BLM forwards the application to CDOT Region ROW Office for review, and to conceptually approve that the proposed occupancy does not adversely affect the safety, operations and maintenance of the highway.
3. Upon notification of conceptual approval from CDOT, USFS/BLM requests the Third Party prepare more detailed documents required for CDOT, USFS/BLM and FHWA (when request involves Interstate ROW) for NEPA analysis.
4. Third Party submits the following to USFS/BLM:
  - a. Location Maps
  - b. Construction Plans
  - c. Site Photos
  - d. All Available Environmental Documents
5. USFS/BLM forwards application information to CDOT Region ROW Office
6. USFS/BLM conducts NEPA. If the request involves an A-Line Crossing on an interstate highway, then NEPA is done in consultation with CDOT. As NEPA requires, USFS/BLM, CDOT and Third Party will work in concert to refine the project design.
7. CDOT Region Office determines impacts to the highway facility, and drafts necessary stipulations and forwards them to CDOT Property Management.
8. CDOT Property Management will draft concurrence letter with the necessary stipulations.
9. If the request involves an A-Line Crossing an A-Line Crossing License will be drafted
  - a. If the request involves Interstate ROW, Property Management will request FHWA approval of an Access Control line Crossing License (Requires Form 128 Environmental Clearance prepared from USFS/BLM NEPA document )
  - b. CDOT Region ROW Office will issue the A-Line Control licenses to Third Party
10. CDOT Property Management will forward concurrence letter to USFS/BLM along with the executed A-Line license, if necessary
11. USFS/BLM will make a NEPA decision. If the decision is to authorize the use, the USFS will issue the Special Use Permit or the BLM will issue the right-of-way grant, along with CDOT stipulations for the maintenance and operation plan and will forward a copy of the executed permit to CDOT.

The fourth type of third party request would be one in which the requestor wishes to use the transportation facility only (no access to NFS land/public land outside the CDOT ROW) for a temporary use. Examples of this type of request would include, but are not limited to: bike or pedestrian races/events.

The fourth type of third party requests should be handled as set forth below:

Request Type 4: Use of CDOT Transportation Facility Only

1. Third Party Submits request for use of ROW to CDOT Region ROW office.
2. CDOT Region ROW Office to Determine Need for/Request Appropriate Approval Documents
  - a. CDOT Special Use Permits (Exhibit D)
3. CDOT Region Traffic Section issues Special Use Permit for Event

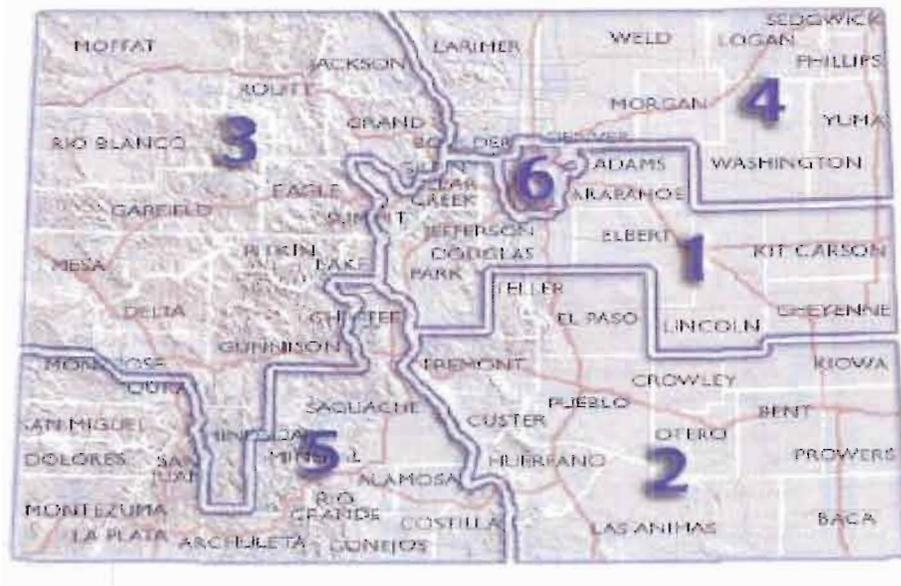
\* Title 23 of the Act of August 27, 1958, as amended, 'Highway Act' gives FHWA the authority to approve crossing of the Access Control (A-line) for interstate highways.

ISTEA gives authority to the state DOTs to approve changes to the A-lines of non-interstate highways. Change to the A-line includes crossing of the A-line, moving the A-line, etc. Note: not all non-interstate highways have A-lines. It will be necessary to look at the ROW plans to determine if an A-line is present. If no A-line then the Access Control line Crossing License will not be applicable.

\*\* These documents are necessary as the improvement is connected to the highway

5/4/10

# ATTACHMENT 4: COLORADO DEPT. OF TRANSPORTATION REGION MAP AND CONTACTS



**Region 1**  
18500 E. Colfax Ave.  
Aurora, CO 80011  
Phone: (303) 757-9371

**Region 2**  
905 Erie Ave.  
Pueblo, CO 81002  
Phone: (719) 546-5452

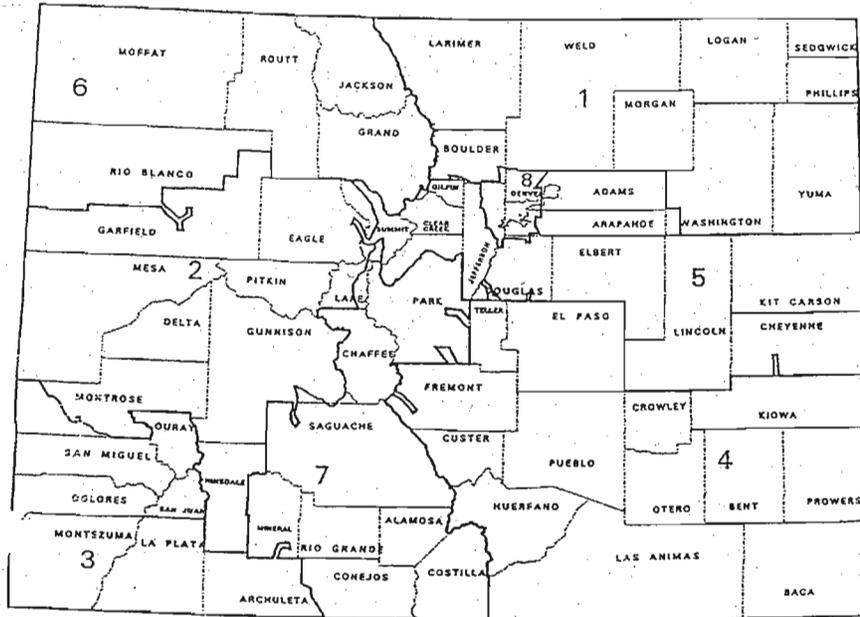
**Region 3**  
222 South 6th St., #317  
Grand Jct., CO 81501-2769  
Phone: (970) 248-7225

**Region 4**  
1420 2nd Street  
Greeley, CO 80632  
Phone: (970) 350-2101

**Region 5**  
3803 N. Main Ave., #306  
Durango, CO 81301  
Phone: (970) 385-1402

**Region 6**  
2000 South Holly St.  
Denver, CO 80222  
Phone: (303) 757-9459

# ATTACHMENT 5: COLORADO DEPT. OF TRANSPORTATION MAINTENANCE MAP AND CONTACTS



**Section 1 – Greeley**

1420 – 2<sup>nd</sup> Street  
Greeley, CO 80631  
(970) 350-2122

**Section 5 – Aurora**

18500 East Colfax Avenue  
Aurora, CO 80011  
(303) 757-9649

**Section 9 – Eisenhower  
Tunnel**

P.O. Box 397  
Idaho Springs, CO  
80452  
(303) 512-5730

**Section 2 – Grand Junction**

606 S. 9<sup>th</sup> Street  
Grand Junction, CO 81501  
(970) 248-7362

**Section 6 – Craig**

260 Ranney Street  
Craig, CO 81625  
(970) 824-5104

**Headquarters – Staff Mtce.**

15285 S. Golden Road  
Golden, CO 80401  
(303) 273-1840

**Section 3 – Durango**

20581 W. Hwy. 160  
Durango, CO 81301  
(970) 385-1652

**Section 7 – Alamosa**

P.O. Box 478  
Alamosa, CO 81101  
(719) 589-3616

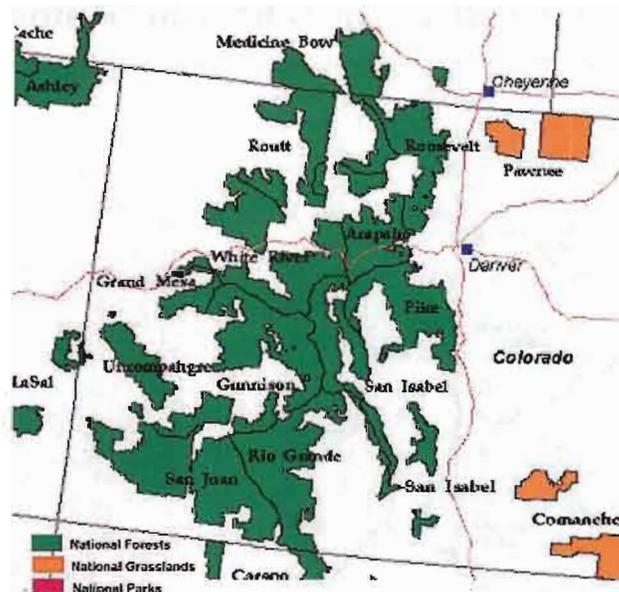
**Section 4 – Pueblo**

905 Erie Avenue  
Pueblo, CO 81002  
(719) 546-5419

**Section 8 – Denver**

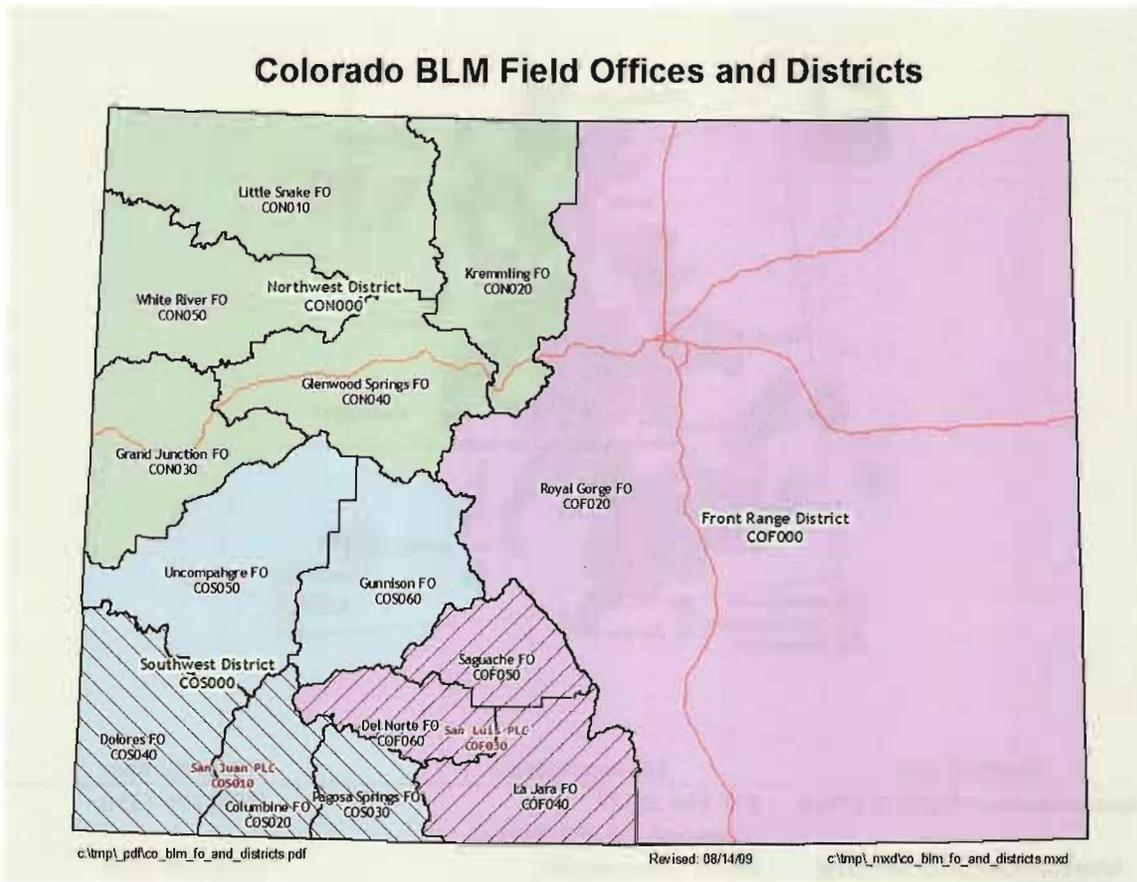
5640 East Atlantic Place  
Denver, CO 80211  
(303) 757-9514

## ATTACHMENT 6: U.S. FOREST SERVICE COLORADO FIELD OFFICES MAP AND CONTACTS



Forest Office	Mailing Address	Phone Number
Rocky Mountain Regional Office	P.O. Box 25127 Lakewood, CO 80225-0127	(303) 275-5350
Arapaho/Roosevelt National Forest & Pawnee National Grasslands	240 W. Prospect Rd. Ft. Collins, CO 80526-2098	(970) 498-1100
Grand Mesa, Uncompahgre, & Gunnison National Forests	2250 Highway 50 Delta, CO 81416-8723	(970) 874-6600
Pike/San Isabel National Forests, National Grasslands	1920 Valley Drive Comanche/Cimarron Pueblo, CO 81008	(719) 545-8737
Rio Grande National Forest	1803 W. Hwy 160 Monte Vista, CO 81144	(719) 852-5941
San Juan National Forest	15 Burnett Ct Durango, CO 81301	(970) 247-4874
White River National Forest	900 Grand Ave. P.O. Box 948 Glenwood Springs, CO 81602	(970) 945-2521

# ATTACHMENT 7: COLORADO BLM FIELD OFFICE BOUNDARIES AND CONTACTS



**Front Range District Office**

3028 East Main Street  
Cañon City, Colorado 81212  
719-269-8500  
FAX 719-269-8599

Del Norte Field Office  
13308 W. Hwy. 160  
Del Norte, Colorado 81132  
719-657-3321  
FAX 719-657-6035

La Jara Field Office  
15571 County Rd T5  
La Jara, CO 81140  
719-274-8971  
FAX 719-274-6301

Royal Gorge Field Office  
3028 East Main Street  
Cañon City, Colorado 81212  
719-269-8500  
FAX 719-269-8599

Saguache Field Office  
46525 Highway 114  
PO Box 67  
Saguache, Colorado 81149  
719-655-2547  
FAX 719-655-2502

San Luis Valley Public Lands Center  
1803 West Hwy 160  
Monte Vista, CO 81144  
719-852-5941  
FAX 719-852-6250

**Northwest District Office**

2815 H Road  
Grand Junction, Colorado 81506  
970-244-3000  
FAX 970-244-3083

Grand Junction Field Office  
2815 H Road  
Grand Junction, Colorado 81506  
970-244-3000  
FAX 970-244-3083

Little Snake Field Office  
455 Emerson Street  
Craig, Colorado 81625  
970- 826-5000  
FAX 970- 826-5002

Colorado River Valley Field Office  
2300 River Frontage Road  
Silt, CO 81652  
970-876-9000  
FAX 970-876-9090

White River Field Office  
220 East Market St.  
Meeker, Colorado 81641  
970-878-3800  
FAX 970-878-3805  
TDD 970-878-4227

Kremmling Field Office  
2103 E. Park Avenue  
P.O. Box 68  
Kremmling, Colorado 80459  
970-724-3000  
FAX 970-724-9590

**Southwest District Office**

2465 South Townsend Avenue  
Montrose, Colorado 81401  
970-240-5300  
FAX 970-240-5367

Columbine Field Office  
PO Box 439, 367 Pearl St.  
Bayfield, CO 81122  
970-884-2512  
FAX 970-385-1375

Dolores Public Lands Office  
29211 Hwy. 184  
Dolores, Colorado 81323  
970-882-7296  
FAX 970-882-6841

Gunnison Field Office  
216 N. Colorado  
Gunnison, Colorado 81230  
970-641-0471  
FAX 970-642-4425

Pagosa Field Office  
P.O. Box 310  
Pagosa Springs, Colorado 81147  
970-264-2268

San Juan Public Lands Center  
15 Burnett Court  
Durango, CO 81301  
970- 247-4874  
FAX: 970- 385-1243

Uncompahgre Field Office  
2465 South Townsend Avenue  
Montrose, Colorado 81401  
970-240-5300  
FAX 970-240-5367

