I. DECISION

A. Project Background

On April 27, 2012, Christopher Watkins submitted an application for a private road special use permit to access his private property, (Northern Cross Lode) off of York Gulch Road, Overlooked Way. Multiple field visits with the proponent, Christopher Watkins, Patti Turecek, Clear Creek RD Lands Staff and Trent Hyatt, Clear Creek County Site Development determined that the existing road leading to the property, although steep, is the most reasonable to access the building site. An alternative, less steep route was submitted, but it was determined by the District Engineer that this route would create an undue additional impact, both visually and physically to the natural resource. The alternative alignment would be at least 1,200 feet (with a 10% maximum grade), and two switchbacks would likely be necessary.

B. Description of Decision

My decision is to issue a Private Road Special Use Permit (under the authority of the Federal Land Policy and Management Act of 1976) for the purpose of reconstructing, using and maintaining an approximately 460’ existing access road across National Forest System lands. The driveway will be graveled surface. The total right of way width is 20 feet, to accommodate drainage structures, 10 feet of center line. The beginning of the access road utilizes an existing road, Overlooked Way, authorized by an easement issued to Gilpin Clear Creek Homeowners Association. The driveway is located in T3S, R73W, Sec 17, 6th PM (Exhibit A) off of Overlooked Way, in the York Gulch Area.

The authorization will be issued for 20 years and will expire on 12/31/2032. I have also decided to adopt the Road Operation and Maintenance Plan (Exhibit B). This document will be attached to, and made a part of, the special use permit. It is also my decision that a fee will be charged for this special use permit because the applicant does not qualify for a fee waiver in accordance with 36 CFR 251.57(b).

C. Purpose and Need for the Decision

This documentation is in response to a special use application (SF299) submitted by Christopher Watkins, requesting year-round access to his private property. This action is needed to meet the mandate of the Alaska National Interest Lands Conservation Act (ANILCA) (Public Law 96-487) to provide access to private land. Section 1323(a) of
ANILCA provides that the Forest Service must grant access across federal lands as the Forest Service deems adequate to secure the owner’s reasonable use and enjoyment of the private land, subject to Forest Service rules and regulations. Access utilizing private property is not possible in this area, without crossing National Forest System lands, due to steepness of slope and location of existing homes and infrastructure.

II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA) 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 shown in 36 Code of Federal Regulations (CFR) 220.6, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

The effects of implementing this action will be of limited context and intensity and will result in little or no environmental effects to either the physical or biological components of the environment. The action does not involve any effects on extraordinary circumstances. Therefore, this action will be categorically excluded from documentation in an EA or an EIS.

A. Category of Exclusion

The permit authorization is included in 36 CFR 220.6(e)(3) which states “Approval, modification or continuation of minor special uses of NFS lands that require less than five contiguous acres of land.”

B. Relationship to Extraordinary Circumstances

There are no conditions that would constitute an extraordinary circumstance related to the proposed project. This conclusion is based on an interdisciplinary team review of the proposal as well as knowledge of similar past projects and professional judgment.

1. Federally listed threatened and endangered species or designated critical habitat, species proposed for federal listing or proposed critical habitat, or Forest Service sensitive species – The Endangered Species Act requires that federal activities do not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species’ designated critical habitat. In accordance with Section 7 (c) of this Act, the U.S. Fish and Wildlife Service’s Colorado Field Office list of threatened, endangered and proposed species for the ARP dated March 2010 was used to determine the potential for effects to listed and proposed. The wildlife biologist and botanist reviewed the proposal and determined that:

1) The action will have no effect to Federally Listed Threatened, Endangered or Proposed species. Therefore, there are no extraordinary circumstances for any TEP species.
2) The action will not contribute to a loss of viability of native or desired non-native plant or animal species, or cause a trend towards listing under the Endangered Species Act for any Forest Service Sensitive species.

2. **Floodplains and wetlands** – The proposed project will have no effect to these types of areas, therefore, this action would comply with Executive Orders 11988 and 11990.

3. **Municipal watersheds** – This use will have a negligible effect on public water supply, therefore no extraordinary circumstance is triggered.

4. **Congressionally designated areas** – The proposed project will not occur within or adjacent to any congressionally designated Wilderness areas, therefore no extraordinary circumstances are triggered.

5. **Inventoried Roadless Areas and Research Natural Areas** – The proposed project will not occur in any inventoried Roadless Areas or Research Natural Areas, and thus will have no effect on these types of areas.

6. **Native American religious or cultural sites, archaeologist sites or area, or historic properties** – This project meets the definition of an undertaking as defined in 36 CFR 800.16(y); however, the area was inventoried by an approved contract archeologist and no items of cultural significance were present in the area. I have determined that the permit issuance does not have the potential to adversely affect historic properties pursuant to the National Historic Preservation Act, 36 CFR 800.3(a) [1]. The District has no further obligations under Section 106 of the National Historic Preservation Act, no consultation with SHPO will be necessary. Therefore, there are no extraordinary circumstances presented by cultural resources in this project area.

**III. SCOPING**

The project was listed in the quarterly Schedule of Proposed Actions (SOPA) calendar starting in February, 2013. A Legal Notice was published in the Denver Post, the paper of record on Month xx, 2013. No comments were received. Appropriate resource specialists within the agency were contacted and asked to submit any issues or concerns with the proposal. No outstanding issues were identified during the internal scoping process related to this proposal.

**IV. 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 and Management Act:** This Act allows the granting of easements across National Forest System Lands. The regulations at 36 CFR 251 guide the issuance of permits, leases and easements under this Act. Permits, leases and easements are granted
across National Forest System lands when the need for such is consistent with planned uses and Forest Service regulation and policy.

**Forest Plan Consistency (National Forest Management Act):** This Act requires the development of a long-range land and resource management plan (Forest Plan). The Arapaho and Roosevelt Land and Resource Management Plan was revised in 1997, as required by this Act. The revised plan provides guidance for all natural resource management activities on the Forest. The Act requires all projects and activities be consistent with the Forest Plan. The Forest Plan has been reviewed in consideration of this project. This decision is consistent with the standards and guidelines contained in the Forest Plan.

**Air Quality:** Air quality within the project area is within National Ambient Air Quality Standards and not located within an EPA-designated non-attainment area for PM10 or ozone. Therefore, this proposal will have no effect on air quality.

**Effects of Alternatives on Social Groups:** There will be no effects on minorities, Native American Indians, women or the civil liberties of any American citizen through this project.

**Effects of Alternatives on Prime Range Land, Forest Land, and Farm Land:** The proposal presented is in compliance with Federal Regulations for prime lands. There are no designated prime range lands, forest lands or farm lands on the Arapaho National Forest; therefore, the project has no effect on these lands.

**Energy Requirements and Conservation Potential of Alternatives:** The energy required to implement the proposal in terms of petroleum products will be insignificant when viewed in light of the production costs and effects of the national and worldwide petroleum reserves.

**Environmental Justice:** No minority or low-income populations are expected to be disproportionately impacted by implementation of the authorization.

**Invasive Species:** The decision presented is not likely to cause or promote the introduction or spread of invasive species. Feasible and prudent measures as stated in the O&M plan (Exhibit B) will be taken to minimize the risk of harm from activities proposed in this project. (Executive Order 13112).

**Water Quality:** Section 313 of the Clean Water Act requires Federal Agencies to comply with all Federal, State, interstate and local requirements, administrative authority and process and sanctions with respect to the control and abatement of water pollution. Executive Order 12088 also requires the Forest Service to meet the requirements of the Act.

This proposal will comply with the Clean Water Act and Colorado State Water Quality Control Commission standards. This decision will incorporate reasonable Soil and Water Conservation Practices, avoid channel degradation, and comply with the Forest Plan.
V. ADMINISTRATIVE REVIEW OR APPEAL

This decision is not subject to a higher level of administrative review or appeal pursuant to 36 CFR 215.12(f).

VI. IMPLEMENTATION DATE

This decision may be implemented immediately.

VII. CONTACT PERSON

Further information about this decision can be obtained from Patti Turecek, Lands and Minerals Staff, at the Clear Creek Ranger District, 101 Chicago Creek Road, PO Box 3307, Idaho Springs, CO 80452, 303-567-3011, Fax: 303-567-3021, email: pturecek@fs.fed.us.

VII. 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 36 CFR 220.6(e)(3) identified by the Chief of the Forest Service in 36 CFR 220.6, and there are no extraordinary circumstances related to the decision. My conclusion is based on information presented in this document and the entirety of the Planning Record.

Approved by: ____________________________  ____________________________

GLENN P. CASAMASSA  DATE
Forest Supervisor
Arapaho and Roosevelt National Forests
and Pawnee National Grassland
Exhibit B
Construction, Operation and Maintenance Plan
For
Christopher Watkins Special Use Permit

This plan identifies holder requirements for the construction and maintenance of the road (driveway) authorized by the special use permit, located on National Forest System lands. The Holder and the Forest Service will review the requirements of this Plan periodically, and it will be modified as necessary to reflect current conditions.

A. Construction

1. The special use permit does not replace the need for a county driveway construction permit. After obtaining the county permit, contact Patti Turecek for final District Engineer approval, before construction can begin. The final driveway design will be evaluated against Forest Service construction standards.

2. The road should not be built over septic lines and/or leach fields.

3. The driveway should be constructed at a 2 - 5 percent grade at the parking area, and a maximum of 12% for the rest of the drive.

5. The road should be designed to utilize natural drainage features.

6. The driving surface should be at a minimum width of 12 feet wide.

7. Retaining walls or other constructed features should blend with the natural environment.

8. Gravel placed on the road surface should match the native soil color.

B. Maintenance

1. Annual maintenance of the driveway must occur to prevent sedimentation into adjacent water sources.

2. Ruts and washouts that prevent normal road surface runoff and have a potential to further damage the road or adjacent resources shall be repaired. Materials for filling the ruts shall be generated from the roadway or, if necessary, from approved aggregate sources. Material, if used, shall be placed in layers and compacted by operating equipment over the full width of each layer.
3. Drainage outlets protection: Drainage outlets shall be provided with sediment traps, vegetated filter strips, rock stabilizers, or other features to trap sediment, disperse water, and minimize erosion.

4. No changes to, or widening of, the road surface or the cleared width will be made unless the authorized officer approves the work.

5. Except for snowplowing, all maintenance activities will be limited to periods without snow, runoff or saturated soils. Limit equipment operations in wet soils to minimize puddling, rutting and gullying.

6. All seed and mulch used will be certified weed-free. Any maintenance or repair activities requiring the use of seed shall require an approved seed mix by the authorized officer.

7. The holder is responsible for treating noxious weeds within the right of way as outlined in the permit.

8. Holder will prevent hazardous materials, including petroleum-based products, from reaching any stream or other waters. Holder will not store hazardous materials on National Forest System lands.

C. Snow Removal -

1. During snow removal operations, banks shall not be undercut nor shall gravel or other road surface material be bladed off the roadway surface.

2. Snow berms shall not be left on the road surface. Berms left on the shoulder of the road shall be removed and/or drainage holes opened.

3. Holder’s damage from, or as a result of, snow removal shall be restored in a timely manner as determined by the authorized officer.

D. Gate and Road Sign Installation -

1. Must be approved prior to installation.

2. Shall be installed by Holder, according to Forest Service gate and sign specifications.