AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Right-of-Way Grant Renewal; Bureau of Land Managem

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Gunnison County and US Dept of Interior BLM

Term Begins: 4/06/2016 **Term Ends:** 12/31/2045 **Grant Contract #:** 7014 3490 0002 0507 9520

Summary:

This ROW grant is for the 4 acre parcel immediately to the west of our Somerset shop. The first grant was signed in 1985. The area is used for storage of equipment and material.

Fiscal Impact: The grant is rent exempt.

Submitted by: Marlene D. Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 3/24/2016 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 3/25/2016

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: DCM Report

Agenda Date: 4/5/2016

Revised April 2015

United States Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, Colorado 81401

MAR 16 2016

In Reply Refer to:
COC-41167 (CO-S050)

CERTIFIED MAIL—RETURN RECEIPT REQUESTED – ~~91 7199 9991 7035 8251 9891~~
7014 3490 0002 0507 9520

Gunnison County Public Works
Attn: Marlene Crosby
195 Basin Park Drive
Gunnison, CO 81230

Dear Ms. Crosby,

Enclosed are two copies of the right-of-way (ROW) grant, serial number COC-41167, which we propose to issue to Gunnison County Public Works for a materials storage yard located on public lands in T. 13 S., R. 89 W., sec. 7, 6th Principal Meridian, in Delta County, Colorado. Please review the document and, if it meets with your approval, have the authorized officer sign and date both copies and return to the address shown above, attention Jana Moe. Upon our receipt of the signed documents, we will issue the ROW grant, absent any other unresolved issues.

Rent for use of public lands must be paid in advance of such use and prior to issuance of the ROW grant. The grant is rent exempt.

Please return both signed copies of the grant within 30 days of this letter. If these requirements are not met, your application may be denied.

Please contact Jana Moe at (970)240-5324, or jpmoe@blm.gov if you should have any questions.

Sincerely,

Teresa Pfifer
Assistant Field Manager
Lands and Minerals

Enclosures:
Proposed Right-of-Way Grant (2 copies)

FORM 2800-14
(August 1985)

Issuing Office
Uncompahgre Field Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT
SERIAL NUMBER COC-41167 **RENEWAL**

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1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

   a. By this instrument, the holder:

      Gunnison County Public Works
      195 Basin Park Drive
      Gunnison, CO 81230

      receives a right to construct, operate, maintain, and terminate a materials storage yard. The right-of-way crosses public land described as follows:

      6th Principal Meridian,
      T. 13 S., R. 89 W.,
      sec. 7, SW1/4NE1/4.

   b. The right-of-way area granted herein is approximately 690 feet long, 253 feet wide, and contains 4.0 acres, more or less.

   c. This instrument shall terminate on December 31, 2045, unless prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

   d. This instrument may be renewed. If renewed, the right-of-way shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

   e. Notwithstanding the expiration of this instrument, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.

b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.

c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years of more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way granted herein may be reviewed at any time deemed necessary by the authorized officer.

d. The stipulations, plans, maps, or designs set forth in Exhibit A attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.

e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant shall constitute grounds for suspension or termination thereof.

f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

Attachments
Exhibit A: Stipulations
Exhibit B: Map

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant, COC-41167.

(Signature of Holder)	(Signature of Authorized Officer)
(Title)	(Title)
(Date)	(Effective Date of Grant)

RIGHT-OF-WAY RENEWAL STIPULATIONS

1. All previously authorized stipulations for the right-of-way grant associated with the requested renewal shall remain in full force and effect in addition to these renewal stipulations. If the original stipulations are in conflict with these renewal stipulations, renewal stipulations will supersede the original stipulations.

2. The holder shall contact the Authorized Officer (AO) at least 60 days prior to the anticipated start of any surface disturbing activities. For emergencies, the holder will contact the BLM as soon as possible after maintenance activities. It is the holder's responsibility to comply with all applicable Federal, State, and local laws and regulations existing or hereafter enacted or promulgated. The BLM will determine if any surveys or inventories are required. As necessary, the holder shall demonstrate compliance in writing, i.e., with surveys and inventories completed by qualified individuals, with the following laws including, but not limited to, the Endangered Species Act (if potential habitat is determined to be present), the National Historic Preservation Act, and the Native American Graves Protection and Repatriation Act. Evaluations and inventories can be completed by BLM, or by the holder in order to meet the holder's schedule and subject to approval by the AO. Inventories may be time sensitive and may require US Fish and Wildlife Service concurrence, therefore this process could take longer than 60 days to complete. The holder shall not initiate any surface disturbing activities on the right-of-way without prior written approval, as determined necessary by the AO. Contact the BLM Realty Specialist, or BLM Environmental Protection Specialist as the alternate, at (970) 240-5300.

3. Any relocation, additional construction, or use that is not in accord with the approved conditions shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all plans and stipulations shall be made available at the right-of-way site during construction. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health or the environment.

4. If historic or archaeological materials are uncovered during permitted activities, the operator is to immediately stop activities in the immediate area of the find that might further disturb such materials, and immediately contact the AO. Within five working days the AO will inform the operator as to:

    a. whether the materials appear eligible for the National Register of Historic Places;
    b. the mitigation measures the operator will likely have to undertake before the construction may proceed.

5. Pursuant to 43 CFR 10.4(g) the holder of the authorization must notify the AO, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer. Unless permitted,

anyone associated with this project shall not disturb historic, archaeological, or scientific resources, including collecting artifacts, or will be subject to prosecution. If in connection with operations under this contract the project proponent, his contractors, subcontractors, or the employees of any of them, discovers, encounters or becomes aware of any objects or sites of cultural or paleontological value or scientific interest such as historic or prehistoric ruins, graves or grave markers, fossils, or artifacts, the proponent shall immediately suspend all operations in the vicinity of the cultural or paleontological resource and shall notify the BLM authorized officer of the findings (16 U.S.C. 470h-3, 36CFR800.112). Operations may resume at the discovery site upon receipt of written instructions and authorization by the authorized officer.

6. Use of pesticides/herbicides shall comply with the applicable Federal and state laws. Pesticides/herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides/herbicides, the holder shall obtain from the authorized officer written approval of the applicant's plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. The plan should be submitted no later than March 1 of any calendar year to cover the proposed activities for the next growing season. Emergency use of pesticides/herbicides shall be approved in writing by the authorized officer prior to such use.

7. The holder shall be responsible for weed control within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations) including pesticides/herbicides approved for use on BLM land.

8. The holder shall comply with applicable State standards for public health and safety, environmental protection and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.

9. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated regarding toxic substances or hazardous materials. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, section 102b. A copy of any report required or requested by any federal agency of state government as a result of a reportable release or spill of any toxic substances shall be furnished to the AO concurrent with the filing of the reports to the involved Federal agency of State government.

10. The AO may suspend or terminate in whole, or in part, any construction or maintenance activities, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.

11. All operation and maintenance activities shall be within the authorized limits of the right-of-way granted herein.

12. All brush, grasses, and other woody material cleared from the right-of-way shall be removed from the public land and not scattered on site; unless the debris is mulched and used for reclamation as natural materials to enhance surface stability and re-vegetation efforts.

13. No burning of trash, litter, trees, brush or other vegetative material shall be allowed under this grant.

14. No operations or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support such equipment. If the equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support the construction equipment. Emergency repairs to restore and maintain services are exempt; however, any damages to resources caused by emergency repairs during wet conditions will be repaired as directed by the AO as soon as possible after the occurrence.

15. The holder shall disturb the minimum amount of soils and vegetation necessary for the operation and maintenance of the facility. The holder shall recontour disturbed areas as necessary by grading to restore the area to approximately the original contour of the ground as directed by the AO.

16. The holder shall contact the AO to determine the appropriate seed mix to be used on all disturbed areas in the right-of-way. BLM places the following requirements on seed mixes which are put on BLM lands:

    a. Use the following minimum PLS (Pure Live Seed) tolerances:

PLS tested %	Tolerance % points
81-100	-7
61-80	-6
41-60	-5
21-40	-4
0-20	-3

All seed must comply with BLM and Colorado weed seed guidelines. There should be no prohibited species seed, and no more than allowable levels of restricted species seed. In addition, there should be no more that 0.5% total weed seed, less than 2% other seed, and no trash larger than ¼" in length. Seed shall not be stored in burlap bags.

b. The BLM Uncompahgre Field Office places additional local restrictions on seed to minimize cheatgrass spread. If seed tests show any Bromus tectorum or Bromus japonicus, the BLM should be consulted with for approval. No mix placed on BLM shall contain more than 150 Bromus tectorum and/or Bromus japonicus seeds per pound.
c. BLM requires additional seed tests on seeding projects that are greater than 20 acres and/or require over 200 lbs of seed. For these seeding projects, the holder should have the seed supply company store the purchased seed prior to mixing, and pull samples to be sent to a certified laboratory, preferably Wyoming State Seed Laboratory at the following address. Seed test results must comply with the criteria listed above before seed is mixed, shipped and applied to the project area:

Wyoming State Seed Laboratory
749 Road 9
Powell, WY 82435

d. BLM will need copies of seed tags and test results for all seed applied regardless of project size.
e. Only State Certified weed free mulch shall be used.

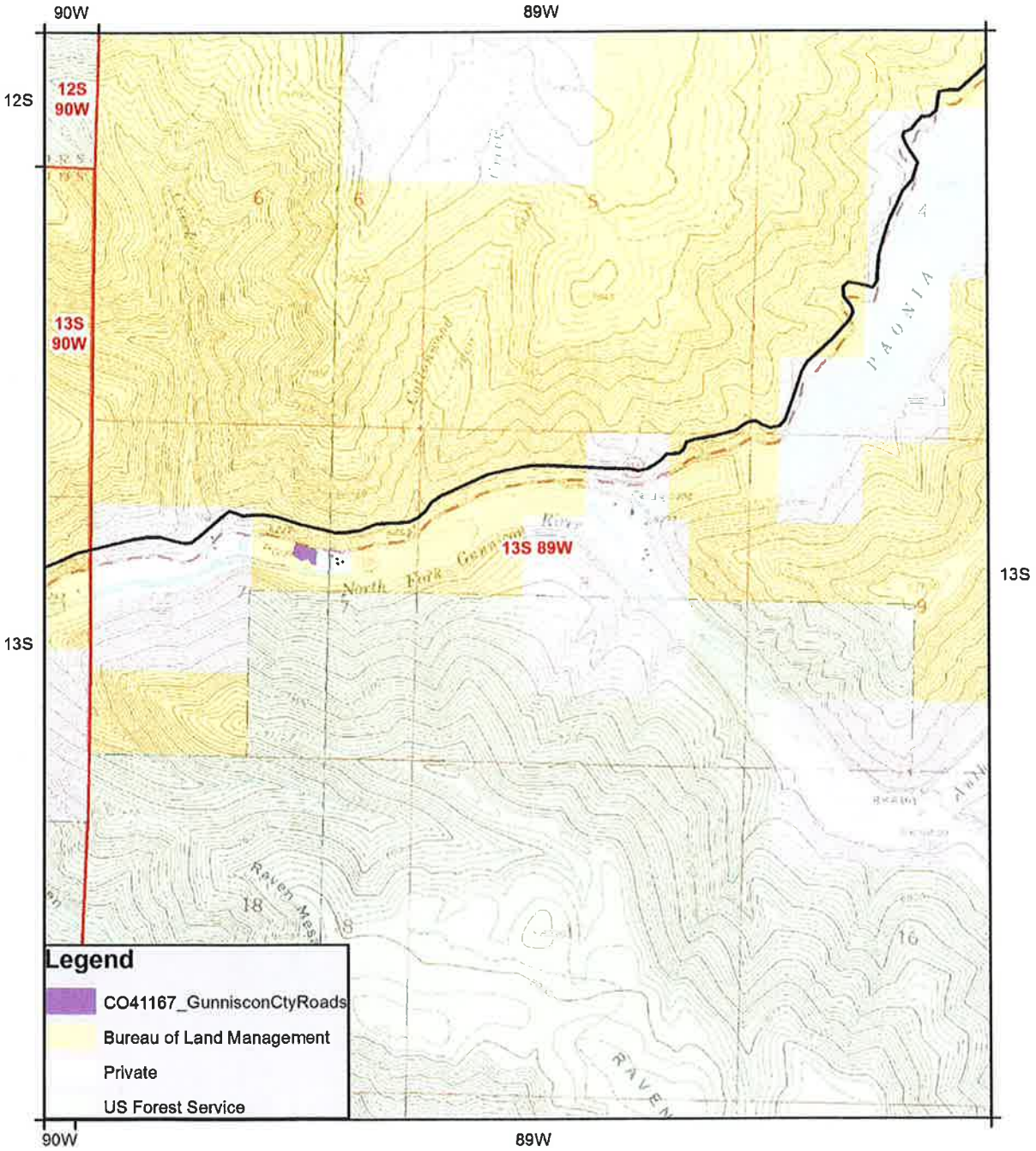
17. For access and maintenance of facilities, the holder shall use existing roads. When existing roads are not available, the holder may use the right-of-way for access. BLM roads should not be maintained without first consulting with the AO.

18. Prior to termination of the right-of-way, the holder shall contact the AO to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination and rehabilitation plan as necessary. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The AO must approve the plan in writing prior to the holder's commencement of any termination activities.

19. Per the AO, the holder shall conform to the following mitigation measures to ensure the project has no effect on any federally listed or sensitive species:

a. ROW COC-41167: To protect wintering big game and crucial habitats, no surface disturbing activities shall occur from December 1 through April 30. Exceptions or variances to this restriction will be considered and evaluated according to UFO policies.
b. ROW COC-41167: To protect wintering bald eagles and crucial habitats, no surface disturbing activities shall occur from December 1 through April 30. Exceptions or variances to this restriction will be considered and evaluated according to UFO policies.
c. To the extent possible, reptiles or amphibians observed in the project area will be avoided and will not be intentionally harmed.
d. Migratory Birds and Raptors: To minimize impacts on migratory bird populations, it is recommended that no surface disturbing activities occur from May 15th through July 15th.

e. Surface disturbing activities or application of herbicide will not occur within 660 feet of known federally protected plant populations, or within 330 feet of known BLM sensitive plant populations. For small scale or less intensive treatments or activities (e.g., vegetation trimming, handtool work, etc., as determined by a BLM biologist), ground disturbing activities will not occur within 100 feet of known federally protected plants, or within 50 feet of known BLM sensitive plants. Appropriate sediment and erosion control, weed control, and similar practices will be applied as necessary to protect plant populations.



COC-41167
Gunnison County Roads Storage Yard

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

0 — 0.5 Miles
1:24,000

Date 12/1/2015
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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MONTROSE DISTRICT OFFICE
2465 South Townsend
Montrose, Colorado 81401

Copy

Serial No. C-41167
Expiration Date 12/22/2015

Right-of-Way Grant

This grant, the details of which are shown below, is a nonexclusive, nonpossessory right-of-way issued by the Bureau of Land Management under Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1761-1771).

Sec. A. Details of Grant

1. Name of Holder: Gunnison County Road Department

2. Address of Holder: 11th & Rio Grande
Gunnison, Colorado 81230

The holder shall promptly notify the Montrose District Manager, Bureau of Land Management, of any subsequent change in status or address. See 43 CFR 2803.2(c).

3. Location of the Right-of-Way: The above-named holder is hereby authorized to use, subject to the terms, conditions and stipulations set out below, the following-described public land:

T. 13 S., R. 89 W., 6th P.M.
Sec. 7 SW¼NE¼

4. Description of the Right-of-Way Facility and Purpose: The above-named holder is hereby authorized to construct, operate, maintain and terminate a(n) material storage area on the above-described public land.

Dimensions of the Right-of-Way: The right-of-way authorized herein shall be approx. 690 feet in length and approx 253 feet in width, containing approximately 4.0 acres.

Approved Map:

Exhibit "C"

This right-of-way may be used only for the purposes specified above. See 43 CFR 2801.1-1(b).

S. HI 2/12/98 Gwk
P. CKD

Terms and Conditions

Sec. B.

This right-of-way is granted subject to all valid rights existing on the effective date it is granted and to the following terms and conditions:

1. The holder agrees to comply with applicable regulations contained in 43 CFR, Part 2800, which regulations are incorporated herein and made a part hereof, as well as with all State and Federal laws and implementing regulations applicable to the authorized use now or hereafter in force.

2. The authorized officer may temporarily suspend all activities under this right-of-way grant upon a determination that the holder is in violation of the terms and conditions of this grant and that such suspension is necessary to protect the public health and safety or the environment.

3. Upon written notice to the holder, the authorized officer may suspend or terminate this right-of-way if he determines that the holder has failed to comply with applicable laws or regulations, or any of the terms, conditions or stipulations of this grant; or has abandoned the right-of-way.

4. The holder shall relinquish the right-of-way to the United States if the authorized facilities are no longer needed.

5. The United States reserves all rights in the public land affected by this right-of-way not expressly granted herein to the holder, including, but not limited to, a continuing right of access onto public lands and upon reasonable notice to the holder, access to any facility constructed on the right-of-way; and the right of the authorized officer to require common use of the right-of-way and to grant additional uses of the right-of-way for compatible purposes.

6. The holder shall comply with the stipulations attached hereto as Exhibit A and made a part hereof.

7. This right-of-way may be renewed at the end of its term if the facility authorized herein is still in existence and being used for the purposes authorized herein. If renewed, the right-of-way shall be subject to regulations existing at the time of renewal and such other terms and conditions deemed necessary by the authorized officer to protect the public interest.

Serial No. C-41167

8. The United States retains the right to review this right-of-way at the end of the twentieth year of its term, and at regular intervals thereafter not to exceed ten years, and to revise or modify its terms at that time if necessary to protect the public interest.

Sec. C. Execution and Agreement

This right-of-way grant, and the authority to use the public land described above, shall become effective on the date it is executed by an authorized officer of the Bureau of Land Management.

For Execution by the Holder:

The undersigned agrees to the terms, conditions and stipulations of this right-of-way grant.

Jim Katkeisis
(Name)

Road Supervisor
(Title)

Dec 19, 1985
(Date)

For Execution by the United States:

This right-of-way grant is executed this 23rd day of December, 1985.

Charles R. Zwick
(Authorized Officer)

Realty Specialist
(Title)

Attachments:
Exhibit A, Stipulations
Exhibit B, Special Stipulations
Exhibit C, Map

Serial No. C-41167

Exhibit A

Standard Stipulations:

1. The holder shall immediately bring to the attention of the authorized officer any and all antiquities or other objects of historic or scientific interest including, but not limited to, historic or prehistoric ruins or artifacts discovered as a result of operations under this right-of-way grant. The holder shall immediately suspend all activities in the area of the object and shall leave such discoveries intact until told to proceed by the authorized officer. Approval to proceed will be based upon evaluation of the cultural significance of the object. Evaluation shall be by a qualified professional selected by the authorized officer from a Federal agency insofar as practicable. When not practicable, the holder shall bear the cost of the service of a non-Federal professional. The holder shall follow the mitigation requirements set forth by the authorized officer concerning protection, preservation or disposition of any sites or material discovered. In those situations where the authorized officer determines that data recovery and/or salvage excavations are necessary, the holder shall bear the cost of such data recovery and/or salvage operations.

2. The holder shall comply with the applicable Federal and state laws and regulations concerning the use of pesticides (i.e., insecticides, herbicides, fungicides, rodenticides, and other similar substances) in all activities and/or operations under this right-of-way grant. The holder shall obtain from the authorized officer approval of a written plan prior to the the use of such substances. The plan must provide for the type and quantity of material to be used; the pest, insect, fungus, etc., to be controlled; the method of application, the location for storage and disposal of containers, and other pertinent information that the authorized officer may require. The plan should be submitted no later than December 1 of any calendar year to cover the proposed activities for the next fiscal year.

   If need for emergency use of pesticides is identified, the use must be approved by the authorized officer. The use of substances on or near the right-of-way area shall be in accordance with the approved plan. A pesticide shall be used only in accordance with its registered uses and without other limitations if the Secretary of the Interior has not imposed restrictions. A pesticide shall not be used if the Secretary has prohibited its use. Pesticides shall not be permanently stored on Federal lands authorized for use under this right-of-way grant.

3. No burning of trash, litter, trees, brush or other vegetative material generated by clearing the right-of-way shall be allowed under this grant.

4. The holder shall comply with applicable State standards for public health and safety, environmental protection and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.

5. The holder shall be fully liable to the United States for any damage or injury incurred by the United States in connection with the use and occupancy of the right-of-way area by the holder, its employees, contractors or employees of the contractors.

6. The holder shall be fully liable for injuries or damages to third parties resulting from activities or facilities on lands under Federal jurisdiction in which the damage or injury occurred. The holder shall fully indemnify the United States for liability, damage or claims arising in connection with the holder's use and occupancy of the right-of-way area.

7. In the construction, operation, maintenance and termination of the facilities authorized by this grant, the holder shall not descriminate against any employee or applicant for employment because of race, creed, color, sex, or national origin. All subcontracts shall include an identical provision.

Exhibit B

GUNNISON COUNTY
Materials Storage Right-of-Way
C-41167

Special Stipulations

1. The existing gravel storage site will be used; no further expansion will be allowed.

2. **The south right-of-way boundary as shown on the attached drawing i.e., the side adjacent to the river, shall be sloped, topsoil placed on that slope and reseeded with the seed mixture described below.**

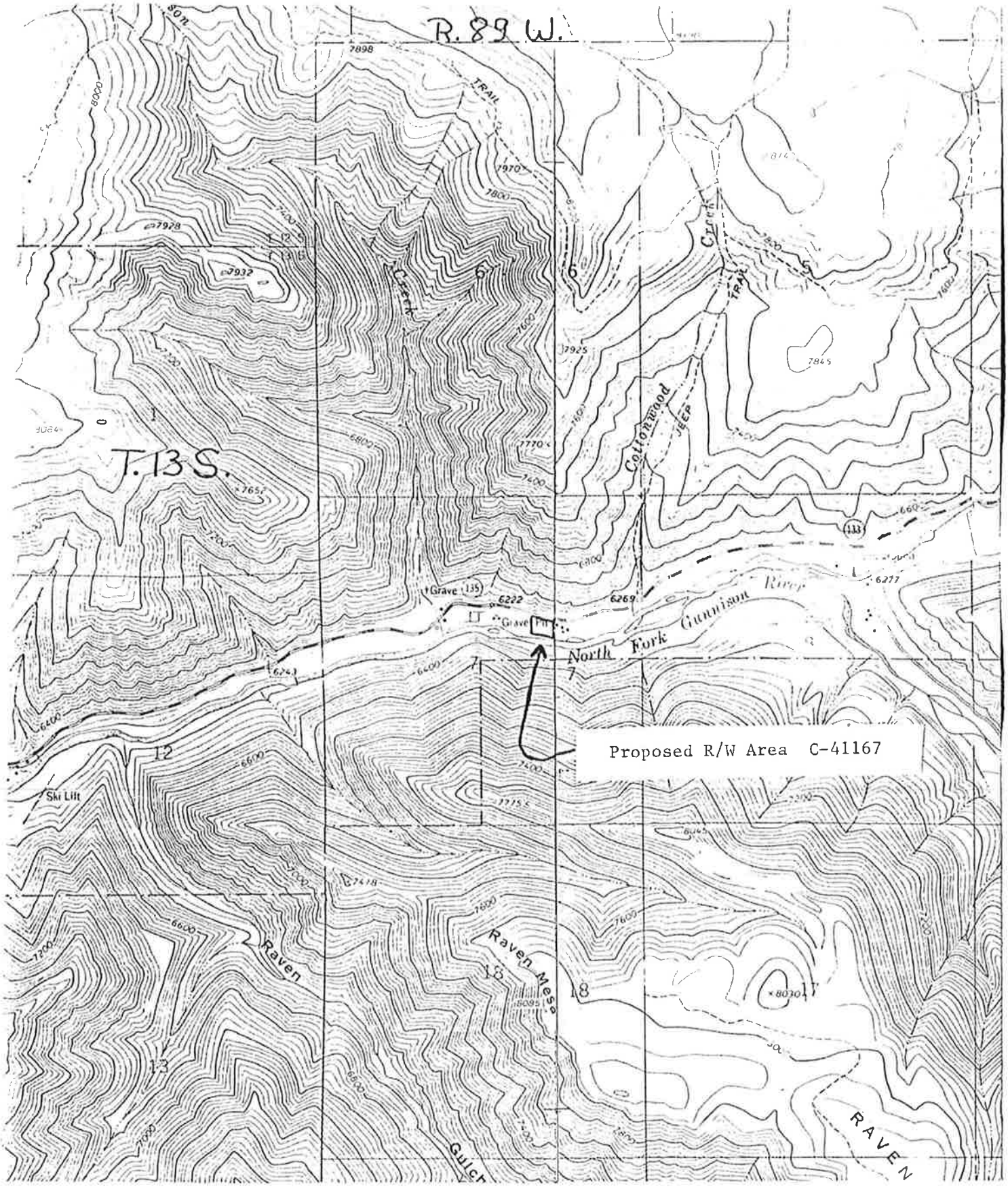
3. The holder shall fence the south and west right-of-way boundaries with a minimum of two strands smooth wire on steel posts 16-1/2 feet apart.

4. Vegetation on the existing gravel storage area will not be disturbed. This includes trees and vegetation within the fenced boundaries, next to Colorado State Highway 135, and adjacent to the North Fork of the Gunnison River.

5. No waste oil or lubricant shall be dumped on the site, including any trash or litter. The site must be maintained in a clean and orderly manner.

6. Upon termination of the right-of-way use, the holder shall reclaim the area. The site shall be regraded and covered with 6 inches of suitable topsoil. The area will then be seeded with the following seed mixture:

Yellow sweetclover	6 lbs./acre
Dry land alfalfa	2 lbs./acre
Rabbitbrush	1 lb./acre
Intermediate wheatgrass	4 lbs./acre
Kentucky bluegrass	1 lb./acre
Total	14 lbs./acre

Exhibit "C"

C-41167