AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Acceptance of a Portion of Lost River Land as a Public Road

Action Requested: Motion

Parties to the Agreement: United States Forest Service and Gunnison County

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
There is a .5 of a mile section of Lost River Lane that provides access to 12 homes that crosses Forest Service land that had a special Use Permit that was issued in 1960. This type of permit is no longer valid and the FS is just now notifying John Sloan who has owned there since 1993 that he and the others do not have legal access.

Fiscal Impact: None

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:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 10/14/2014 Certificate of Insurance Required

Yes ○ No ●

County Manager Review:

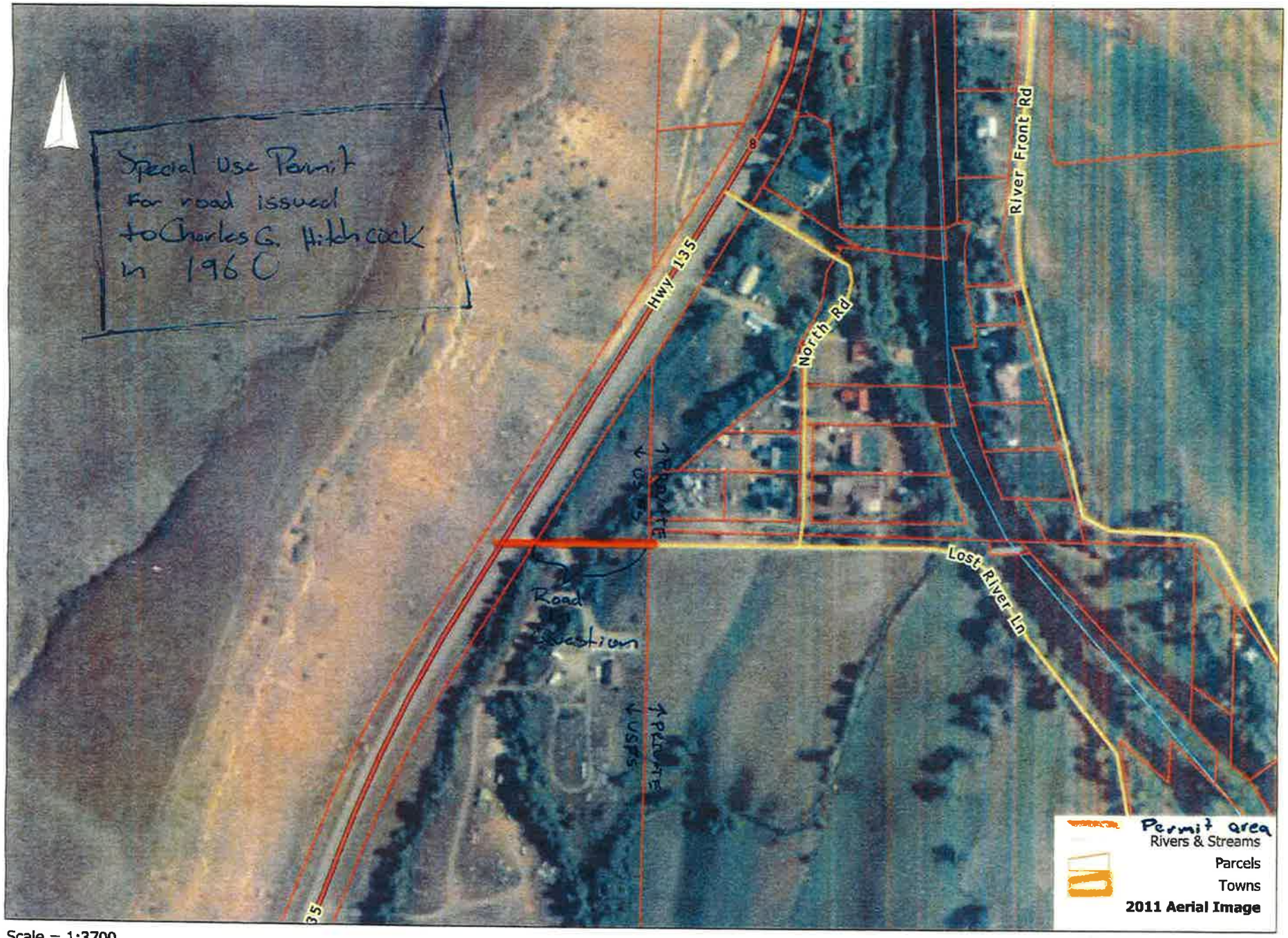
Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 10/14/2014

○ Consent Agenda ● Regular Agenda ○ Worksession Time Allotted: 10

Agenda Date: 10/21/2014 Follow Up Agenda Date:

Revised April 2013



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Thursday, August 14, 2014

Gun 51360

Case Designation:

Rights-of-Way
Hitchcock, Charles G., et al
Road 5/2/60

2730

SPECIAL USE PERMIT

Gunnison National Forest.

Permission is hereby granted to Charles G. Hitchcock, et al

of Gunnison, Colorado,

hereinafter called the permittee, to use, subject to the conditions set out below, the following-described lands or improvements: A right-of-way of the minimum essential width across portions of NE¼NW¼ Section 33, T51N., R1E., N.M.P.M. as shown on the attached plat which is hereby made a part of this permit.

5w¼

This permit covers -- acres and/or .05 miles for the purpose of:

constructing and maintaining a single track graded and drained road to provide access to private land.

The exercise of any of the privileges granted in this permit constitutes acceptance of all the conditions of this permit.

Issued free of charge under the provisions of Regulation U-41

I. In consideration for this use, the permittee shall deposit with the Regional Fiscal Agent, Forest Service, ..., a check, draft, or money order made payable to the Treasurer of the United States in the sum of ..... dollars ($.....) for the period from ....., 19....., to ....., 19....., and thereafter annually on ....., ... dollars ($.....). The charges for this use may be readjusted from time to time to place this permit on a basis consistent with the charge to other permittees for like privileges.

Form FS-832
(Revised 11-1-57)

2. Construction or occupancy and use under this permit shall begin within 6 months, and construction, if any, shall be completed within 12 months, from the date of the permit. [redacted]

[redacted]

writing.

3. Development plans; lay-out plans; construction, reconstruction, or alteration of improvements; or revision of lay-out or construction plans for this area must be approved in advance and in writing by the forest supervisor. Trees or shrubbery on the permitted area may be removed or destroyed only after the forest officer in charge has approved, and has marked or otherwise designated that which may be removed or destroyed. Timber cut or destroyed will be paid for by the permittee as follows: Merchantable timber at appraised value; young-growth timber below merchantable size at current damage appraisal value; *provided* that the Forest Service reserves the right to dispose of the merchantable timber to others than the permittee at no stumpage cost to the permittee. Trees, shrubs, and other plants may be planted in such manner and in such places about the premises as may be approved by the forest officer in charge.

4. The permittee shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the forest officer in charge.

5. This permit is subject to all valid claims.

6. The permittee, in exercising the privileges granted by this permit, shall comply with the regulations of the Department of Agriculture and all Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit.

7. The permittee shall take all reasonable precautions to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during the closed season established by law or regulation without a written permit from the forest officer in charge or his authorized agent.

8. The permittee shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit, and shall pay the United States for any damage resulting from negligence or from the violation of the terms of this permit or of any law or regulation applicable to the national forests by the permittee, or by any agents or employees of the permittee acting within the scope of their agency or employment.

9. The permittee shall fully repair all damage, other than ordinary wear and tear, to national forest roads and trails caused by the permittee in the exercise of the privilege granted by this permit.

10. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

11. Upon abandonment, termination, revocation, or cancellation of this permit, the permittee shall remove within a reasonable time all structures and improvements except those owned by the United States, and shall restore the site, unless otherwise agreed upon in writing or in this permit. If the permittee fails to remove all such structures or improvements within a reasonable period, they shall become the property of the United States, but that will not relieve the permittee of liability for the cost of their removal and restoration of the site.

12. This permit is not transferable. If the permittee through voluntary sale or transfer, or through enforcement of contract, foreclosure, tax sale, or other valid legal proceeding shall cease to be the owner of the physical improvements situated on the land described in this permit and is unable to furnish adequate proof of ability to redeem or otherwise reestablish title to said improvements, this permit shall be subject to cancellation. But if the person to whom title to said improvements shall have been transferred in either manner above provided is qualified as a permittee, and is willing that his future occupancy of the premises shall be subject to such new conditions and stipulations as existing or prospective circumstances may warrant, his continued occupancy of the premises may be authorized by permit to him if, in the opinion of the forest supervisor, issuance of a permit is desirable and in the public interest.

13. In case of change of address, the permittee shall immediately notify the forest supervisor.

14. The temporary use and occupancy of the premises and improvements herein described may not be sublet by the permittee to third parties without the prior written approval of the forest supervisor and the permittee shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet.

15. This permit may be terminated upon breach of any of the conditions herein or at the discretion of the regional forester or the Chief, Forest Service.

16. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provision thereof, the preceding printed clauses will control.

17. This permit is subject to the conditions set forth above and to conditions 18 to 36 attached hereto and made a part of this permit.

E. W. STEIN, Forest Supervisor

Date May 2, 1960

By: [signature]
(Signature of issuing officer)

Staff Assistant
(Title)

GPO 932378

18. The road shall be so constructed and maintained as to prevent the accumulation of excessive heads of water and the erosion of the road surface and drainage ditches.

19. Cuts in earth shall not be steeper than 1 to 1, and the fills, regardless of materials, shall not be steeper than 1-1/4 to 1.

20. The permittee shall install corrugated metal pipe culverts or other suitable devices and drainage structures, as directed by the forest officer, sufficient in number to prevent the accumulation of excessive heads of water and the erosion of the road surface, drainage ditches, and adjacent lands, including post-construction maintenance and protection from erosion.

21. The road design, and the construction of the road shall be such that all forms of encroachment on streams will be avoided, and under no circumstances shall waste materials be deposited in, or be permitted to obstruct, natural stream channels.

22. The permittee shall construct gates and automobile crossings at such points as may be designated by the forest officer.

23. Upon termination of the related operation, the permittee shall obliterate the road, so far as may be practicable, in such manner as may be required by the forest officer to prevent soil erosion and effectively block the road to prevent further use, whereupon this permit shall automatically terminate.

24. All earth cut or fill slopes favorable to revegetation and which are flatter than 1 to 1, or other areas on which ground cover is destroyed in the course of construction, will be seeded or planted to grasses or other suitable vegetation as required by the forest supervisor. In unusual situations, he may also require that a ground cover be established on cut or fill slopes favorable to revegetation but which are steeper than 1 to 1.

25. Seeding or planting will be done at a time of the year, in a manner, and with species which in the opinion of the forest supervisor offers the best chance of success.

26. Depending on the species used, 8 to 15 pounds per acre of seed will be required for revegetation. The minimum to be required will be specified by the forest Supervisor.

27. The permittee may elect to deposit funds and have the work done by the Forest Service, in which case the cost of seeding or planting, including ground preparation, will be financed by the permittee at a rate to be determined by the forest supervisor.

28. The permittee shall obtain written permission from the forest supervisor before removing any timber growth or opening any borrow pit for earth, gravel, and stone adjacent to ditches or to the high-water contour of reservoirs, and shall abide by the decision of the forest supervisor as to the removal of timber and the location of such borrow pits.

29. Any lands affected by this permit which are or may be contained in power reservations under the Federal Water Power Act of June 10, 1920, as amended, shall be subject at all times to use in connection with the development of water power, as provided in that Act.

30. The Forest Service reserves the right, whenever desired, to install cattle guards or stock crossings at any points on the road on national-forest land.

31. As this road is a proposed takeoff from a highway on the State system maintained by the State, no work shall be started until the takeoff has been approved by the State Highway Department in writing, and a copy of such approval is furnished the forest supervisor.

32. In connection with the performance of work under this permit, the permittee agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The permittee agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the Forest Service setting forth the provisions of the nondiscrimination clause.

The permittee further agrees to insert the foregoing provisions in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

33. The permittee shall make the conditions of the permit a part of the obligations of all contractors to whom construction work on the project is given.

34. The permittee shall permit free and unrestricted access by the public to and upon the premises at all times for all lawful and proper purposes not inconsistent with the objects of the permit or with the reasonable exercise and enjoyment by the permittee of the rights thereof.

35. None of the conditions of the permit as set forth herein can be varied or modified, except with the written consent of the forest supervisor.

Special Use Permits

Hitchcock, Charles G., et al.

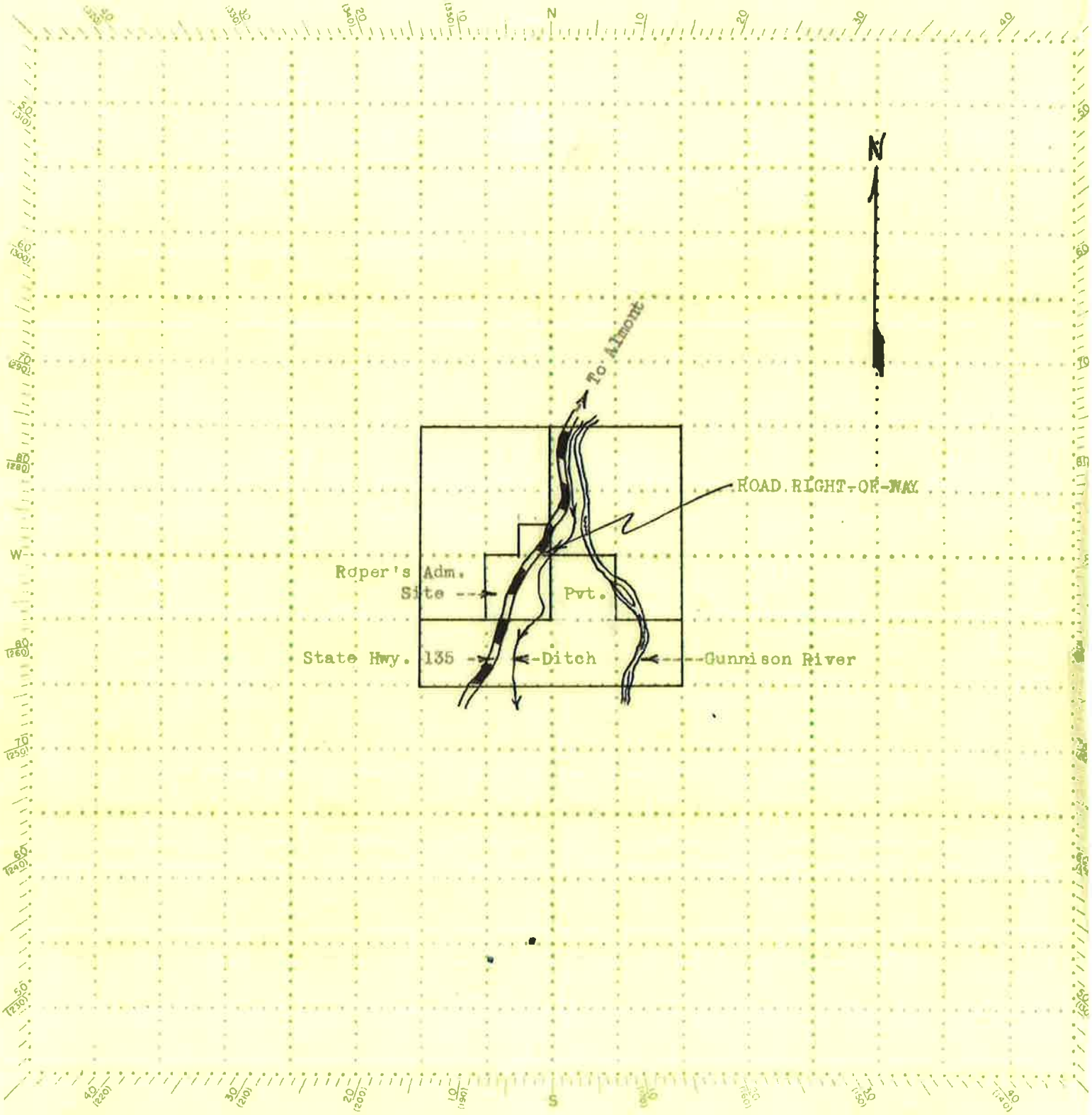
Road
(Case designation)

DEPARTMENT OF AGRICULTURE
FOREST SERVICE
FIELD MAP SHEET

Scale 2 inches=1 mile.

T. 51N. R. 1E. N.M. Sec. 33

Unit Taylor River Dist., Gunnison N.F. Mag. Dec. 14 30' Acres



Field work by Date Platted by F.M.H.

Remarks

Approved , 19

Approving Officer.

Form 878 b
(Rev. May 1945)

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