



HIGHWAY EASEMENT DEED

THIS DEED, made this 16 day of February, 2018, by and between the UNITED STATES OF AMERICA, acting by and through the DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, hereinafter referred to as the DEPARTMENT, and the DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO, hereinafter referred to as the GRANTEE:

WITNESSETH

WHEREAS, the GRANTEE has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317), for the right of way of a highway over certain Federal land under the jurisdiction of the Department of Agriculture – United States Forest Service in the State of Colorado, and

WHEREAS, the Federal Highway Division Administrator, pursuant to delegation of authority from the Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for:

Project Code: 20142

Project Number: C 133A-042

Designation: SH 133 Top of McClure Pass MP 38.6 to 42.9

Parcel Number(s): HE-1, HE-2, HE-3

and,

WHEREAS, the Department of Agriculture, acting by and through the United States Forest Service, in its consent to the appropriation of the Federal land, has agreed to the transfer by the Department of an easement over the land to the Grantee;

NOW THEREFORE, the Department, as authorized by law, does hereby grant to the Grantee an easement for a right-of-way for the construction, operation, and maintenance of a highway and use of the space above and below the established grade line of the highway pavement for highway purposes on, over, across, in, and upon the following described Federal land within the United States in the County of Gunnison, State of Colorado.



Parcel	Section	Subdivision	Township	Range	Meridian
HE-1	16	NW ¼	11S	89W	6 <sup>th</sup> P.M.
HE-1	9	SW ¼	11S	89W	6 <sup>th</sup> P.M.
HE-2	9	NW ¼	11S	89W	6 <sup>th</sup> P.M.
HE-2	9	NE ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	9	NE ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	4	SE ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	3	SW ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	3	SE ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	2	SW ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	2	SE ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	2	NE ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	1	SW ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	1	NW ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	1	NE ¼	11S	89W	6 <sup>th</sup> P.M.
HE-3	1	SE ¼	11S	89W	6 <sup>th</sup> P.M.

as described in Exhibit A, attached hereto and made part hereof, subject to the stipulations in Exhibit B, attached hereto and made a part hereof, and the following terms and conditions:

- (1) Outstanding valid claims, if any, existing on the date of this grant, and the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) Construction of the highway facility is to be undertaken by the Grantee in compliance with the Act entitled "An Act for the Preservation of American Antiquities" approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and state laws where applicable.
- (3) The easement herein granted shall terminate ten (10) years from the date of the execution of this deed by the United States of America in the event construction of a highway on the right-of-way is not started during such period.
- (4) The easement herein granted is limited to use of the described right-of-way and the space above and below the established grade line of the highway pavement for the purpose of construction, operation, and maintenance of a highway in accordance with the approved plans described in the following condition numbered (5) and does not include the grant of any rights for non-highway purposes or facilities; provided, that the right of the United States Forest Service to use or authorize the use of any portion of the right-of-way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway



Administration regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case the Federal Highway Administration shall be consulted prior to the exercise of such rights.

- (5) The design and construction of highway projects situated on this right-of-way will be in accord with the provisions of Title 23, U.S.C. Highways, and amendments; the regulations contained in Title 23, code of Federal Regulations – Highways and amendments, the provisions of the Federal-Aid Policy Guide issued by the Federal Highway Administration; the construction specifications and approved plans of the Colorado Department of Transportation as approved by the Federal Highway Administration for use on Federal-aid projects.
- (6) Consistent with highway safety standards, the Grantee shall:
  - a. Protect and preserve soil and vegetative cover and scenic and aesthetic values on the right-of-way outside of construction limits and,
  - b. Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed where it is deemed necessary prior to completion of the highway and shall maintain all terracing, waterbars, leadoff ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
- (7) The Grantee shall establish no sites for highway operation and maintenance facilities, camps, supply depots or disposal areas within the right-of-way without obtaining approval from the USFS authorized officer.
- (8) The Grantee shall maintain the right-of-way and highway facilities to acceptable standards of repair, orderliness, neatness, sanitation, and safety.
- (9) The Grantee shall maintain the right of way clearing by means of chemicals only after consultation with the Forest Service. Consultation must address the time, method, chemicals, and the exact portion of the right of way to be chemically treated.



- (10) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the Grantee shall give notice of that fact to the Secretary of Agriculture and the rights herein granted shall terminate and land shall immediately revert to the full control of the Secretary of the Department of Agriculture or his assigns.

The Grantee, in consideration of the conveyance of said land, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that (a) no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such land hereby conveyed, (b) that the Grantee shall use said land so conveyed in compliance with all requirements imposed by or pursuant to 49CFR Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation, in effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

In the event of breach of any of the above-mentioned nondiscrimination conditions, the Department of Agriculture shall have the right to re-enter said land and facilities on said land, and the above-described land and facilities shall thereupon revert to and vest in and become the absolute property of the Department of Agriculture and its assigns, as such interest existed prior to this instrument.



IN WITNESS WHEREAS, I,

Pursuant to delegations of authority from the Secretary of Transportation, the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

By: John M. Cater

Division Administrator

STATE OF Colorado )  
COUNTY OF Jefferson )

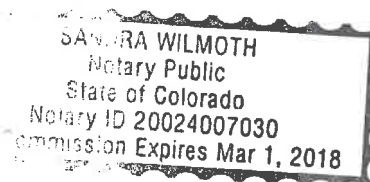
I, Sandra Wilmoth, a Notary Public in and for the State of Colorado, do hereby certify that on this the 28 day of Feb, 2018, before me personally appeared, John M. Cater, Division Administrator, Federal Highway Administration, and acknowledged that the foregoing instrument was executed by him in his official capacity and by authority in him vested by law, for the purposes and intents in said instrument described and set forth, and acknowledged the same to be his free act and deed as Division Administrator, Federal Highway Administration.

Witness my hand and seal this 28 day of Feb, 2018.

Sandra Wilmoth  
(Notary Public)

(SEAL)


My Commission Expires 03-01-18.



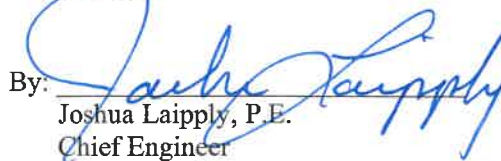


In compliance with the conditions set forth in the foregoing deed, the Department of Transportation, State of Colorado, certifies, and by the acceptance of this deed, accepts the right-of-way over certain lands herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

ATTEST:

  
David J. Edwards  
Chief Clerk – Right of Way

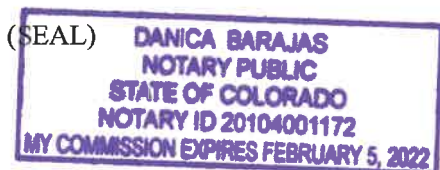
DEPARTMENT OF TRANSPORTATION  
STATE OF COLORADO


By:   
Joshua Laipply, P.E.  
Chief Engineer

STATE OF COLORADO )  
CITY AND COUNTY OF DENVER )

I, Danica Barajas, a Notary Public in and for said County and State, hereby certify that Joshua Laipply, <sup>Christine Rees CR</sup> Chief Engineer for the Department of Transportation, State of Colorado and ~~David J. Edwards~~ Chief Clerk – Right of Way for the Department of Transportation, State of Colorado, are signed to the foregoing conveyance and are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they in their capacity as much, have executed the same voluntarily on this day.

Given under my hand and seal of office this 16 day of February, 2018



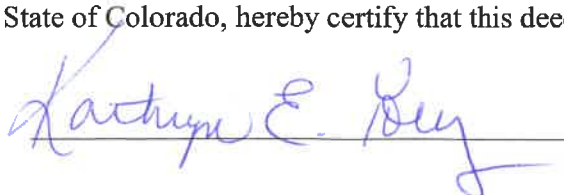
  
Notary Public  
4201 E. Arkansas  
Denver, Colorado

My Commission Expires 2-5-22.

### Certification

I, Kathryn E. Young, Chief Transportation Counsel, for Department of Transportation, State of Colorado, and duly licensed to practice law in the State of Colorado, hereby certify that this deed is legally sufficient for its stated purpose.

Date: 2/2/18



<p><b>Colorado Department of Transportation</b>                  222 South 6th Street                  Room 317                  Grand Junction, CO 81501                  Phone: 970-683-6234 FAX: 970-683-6227</p> <p><b>Region 3</b></p>	<p><b>Sheet Revisions</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> <th>CHK</th> </tr> </thead> <tbody> <tr> <td>MM/DD/YY</td> <td>XXXXXXXX</td> <td>XX</td> <td>XX</td> </tr> </tbody> </table>	DATE	DESCRIPTION	BY	CHK	MM/DD/YY	XXXXXXXX	XX	XX	<p><b>Sheet Revisions</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> <th>CHK</th> </tr> </thead> <tbody> <tr> <td>MM/DD/YY</td> <td>XXXXXXXX</td> <td>XX</td> <td>XX</td> </tr> </tbody> </table>	DATE	DESCRIPTION	BY	CHK	MM/DD/YY	XXXXXXXX	XX	XX	<p><b>Highway Easement Deed Exhibit 'A'</b>                  U.S.F.S and C.D.O.T.                  Project Number: Gunnison National Forest                  Project Location: SH 133 Mile Post 38.5 to 42.9                  Project Code: Gunnison County                  Contract Date: 3/2012                  Page: 1 of 9</p>
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<h1 style="margin: 0;">DEPARTMENT OF TRANSPORTATION</h1> <h1 style="margin: 0;">STATE OF COLORADO</h1> <h2 style="margin: 0;">EXHIBIT 'A'</h2> <h2 style="margin: 0;">HIGHWAY EASEMENT DEED</h2> <h2 style="margin: 0;">GUNNISON NATIONAL FOREST</h2> <h3 style="margin: 0;">STATE HIGHWAY NO. 133</h3> <h3 style="margin: 0;">GUNNISON COUNTY</h3>																			
<p><b>PROJECT LOCATION MAP</b></p>																			
<p><b>Legend</b></p> <ul style="list-style-type: none"> <li>PROPERTY BOUNDARY LINE</li> <li>RIGHT OF WAY LINE (PROPOSED AND EXISTING)</li> <li>CITY LIMIT LINE</li> <li>COUNTY LINE</li> <li>TOWNSHIP LINE</li> </ul>																			
<p><b>Note:</b> For a complete listing of symbology used within this set of plans, please refer to the M-100-1 Standard Symbols of the Colorado Department of Transportation M&amp;S Standards Publication dated July 2012.</p>																			
<p><b>Scale:</b> Scales of Original 11"x17" Drawings                  Plan Sheets 1"=200'</p>																			
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<p><b>1. This exhibit map is not a boundary survey of the adjoining property and is prepared for the Colorado Department of Transportation purposes only.</b></p> <p><b>2. For title information, The Colorado Department of Transportation relied on no Title Policy.</b></p> <p><b>3. This plan set is subject to change and may not be the most current set. It is the user's responsibility to verify with CDOT that this set is the most current.</b></p> <p><b>4. This Exhibit is intended to be for reference purposes only. Land line locations are approximate and need to be verified. The graphics shown on this exhibit are referenced from the Gunnison County Geographic Information System dated December 1, 2015, supplemented by records from the Colorado Department of Transportation. The Imagery is from National Aerial Imagery Program (NAIP 2013). All data is assumed current as of the date shown on this exhibit.</b></p>																			
<p><b>COLORADO DEPARTMENT OF TRANSPORTATION</b>                  FEDERAL-AID HIGHWAY PROJECT</p> <p>ROW PLANS AUTHORIZED: _____ DATE: _____</p> <p>CDOT ROW PROGRAM MANAGER</p>																			





# Exhibit A - Page 2 of 9

 Colorado Department of Transportation 222 South 6th Street Room 317 Grand Junction, CO 81501 Phone: 970-683-6234 FAX: 970-683-6227 LED		Date: mm/dd/yy Description: XXXXXXXX Initials: XXX		Date: mm/dd/yy Description: XXXXXXXX Initials: XXX		Date: mm/dd/yy Description: XXXXXXXX Initials: XXX		Highway Easement Deed Exhibit A U.S.F.S. and COOT Project Number: Gunnison National Forest Project Location: State Highway 133 Mile Post 38.6 to 42.9 Project Code: Last Load Date: 3-3-2018 Page: 2 of 9	
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- Note:
- This Exhibit is for informational purposes only and is not intended to be a land survey. Section Lines are protracted. Ownership and boundaries are approximate and need to be verified.
  - The easement width, as shown hereon, shall be 100 feet parallel with, and perpendicular to either side of the existing centerline of State Highway 133 through U.S.F.S. lands as constructed except for those areas designated otherwise.





# Exhibit A - Page 3 of 9





# Exhibit A - Page 4 of 9

<b>Colorado Department of Transportation</b>  <b>Region 3</b>		<b>222 South 6th Street</b> <b>Room 317</b> <b>Denver, CO 80202</b> <b>Phone: 970-683-6234 FAX: 970-683-6227</b>		<b>LED</b>													
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**Colorado Department of Transportation**

222 South 6th Street  
 Room 317  
 Grand Junction, CO 81501  
 Phone: 970-683-6234 FAX: 970-683-6227

**Region 3**

LED

**Sheet Revisions**

Date mm/dd/yy	Description	Initials
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**Sheet Revisions**

Date mm/dd/yy	Description	Initials
	XXXXXXX	

**Highway Easement Deed Exhibit 'A'**

U.S.F.S. and CDDT

Project Number: Garrison National Forest

Project Location: State Highway 133 Mile Post 38.6 to 42.9

Gunnison County

Project: \_\_\_\_\_

Drawn: \_\_\_\_\_

Checked: \_\_\_\_\_

Approved: \_\_\_\_\_

Scale: \_\_\_\_\_

North Arrow: \_\_\_\_\_

0 100 200 400  
SCALE 1" = 200'

Note: This Exhibit is for informational purposes only and is not intended to be a land survey. Section lines are protracted. Ownership and boundaries are approximate and need to be verified.

2. The easement width, as shown hereon, shall be 100 feet parallel with, and perpendicular to either side of the existing centerline of State Highway 133 through U.S.F.S. lands as reconstructed except for those areas designated otherwise.

STATE HIGHWAY 133

Centerline of existing State Highway 133

HE-3

PROTRACTED SECTION LINE

APPROXIMATE PROPERTY LINE

JAMES AUSTER ETAL MERRILLEE BLISS  
GUNNISON COUNTY ACCOUNT No. R025067

NW 1/4 SEC 10

SE 1/4 SEC 3

90+00 100+00 110+00 120+00 130+00 140+00 150+00 160+00 170+00 180+00 190+00 200+00 210+00 220+00 230+00 240+00 250+00 260+00 270+00 280+00 290+00 300+00 310+00 320+00 330+00 340+00 350+00 360+00 370+00 380+00 390+00 400+00 410+00 420+00 430+00 440+00 450+00 460+00 470+00 480+00 490+00 500+00 510+00 520+00 530+00 540+00 550+00 560+00 570+00 580+00 590+00 600+00 610+00 620+00 630+00 640+00 650+00 660+00 670+00 680+00 690+00 700+00 710+00 720+00 730+00 740+00 750+00 760+00 770+00 780+00 790+00 800+00 810+00 820+00 830+00 840+00 850+00 860+00 870+00 880+00 890+00 900+00 910+00 920+00 930+00 940+00 950+00 960+00 970+00 980+00 990+00 1000+00

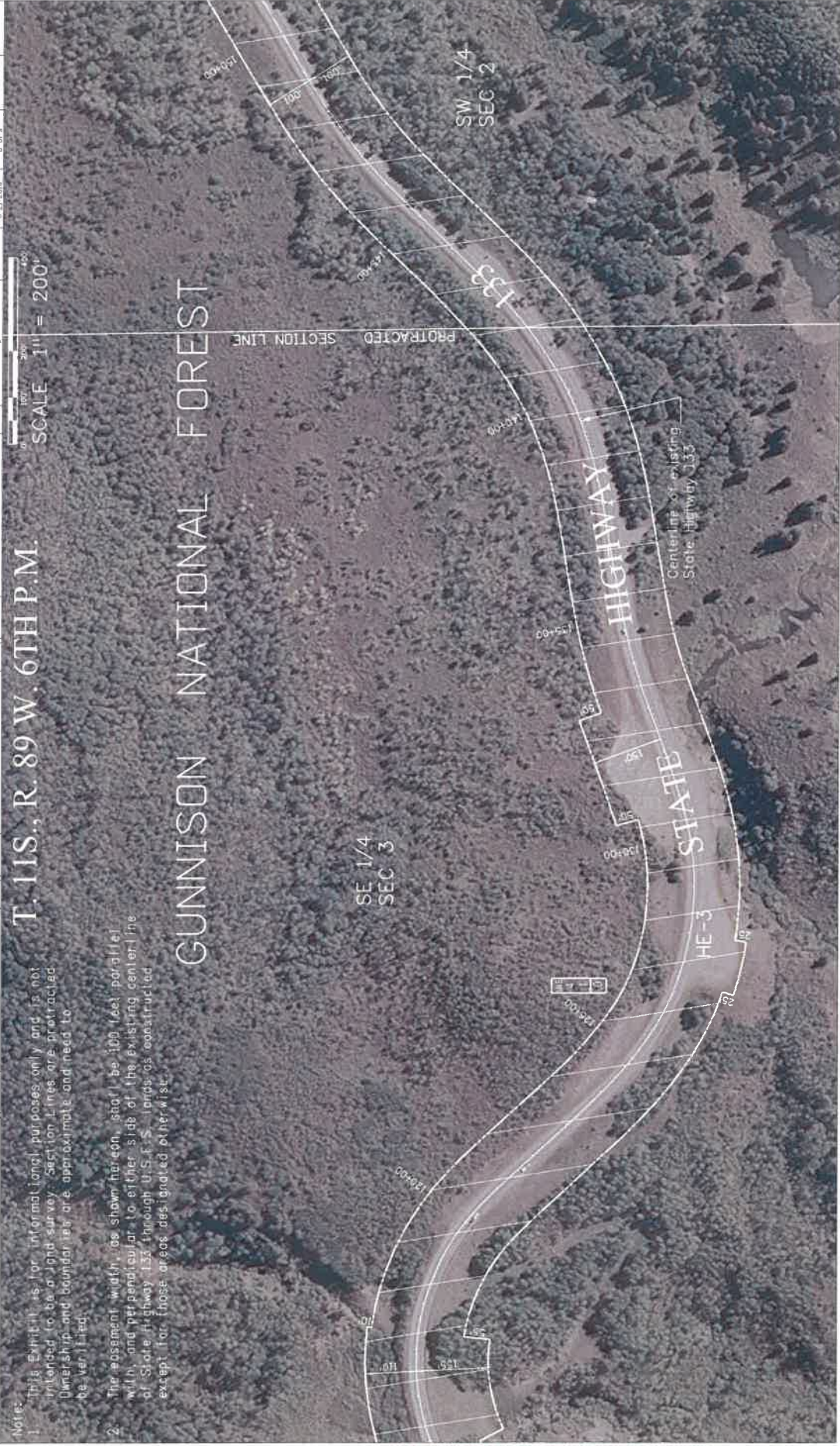
**Gunnison County, CO**  
**3/26/2018 11:10:43 AM**  
**173**





# Exhibit A - Page 6 of 9

<b>Colorado Department of Transportation</b> 222 South 6th Street Room 317 Grand Junction, CO 81501 Phone: 970-685-6234 FAX: 970-685-6227 LED		<b>Region 3</b>																	
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07/12/18	1	AKC/DAK	AKC/DAK																





# Exhibit A - Page 7 of 9





# Exhibit A - Page 8 of 9





# Exhibit A - Page 9 of 9



**Notes:**

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- The easement width, as shown hereon, shall be 100 feet parallel with, and perpendicular to either side of the existing centerline of State Highway 133 through U.S.F.S. lands as constructed except for those areas designated otherwise.





Exhibit B  
Stipulations

Highway: US 133  
Landowner: United States Forest Service  
Project Code: 20142  
Project Number: C 133A-042  
Parcel Number(s): HE-1, HE-2, HE-3  
County: Gunnison

The following stipulations are supplementary to the terms and conditions of the highway easement deed (HED) between the United States, acting through the Department of Transportation, Federal Highway Administration (FHWA) and issued to the Colorado Department of Transportation (CDOT).

1. Before any clearing of the right-of-way or construction of the highway commences:
  - a. Prepare, in cooperation with the Forest Supervisor, a fire protection plan that sets forth in detail the fire prevention, pre-suppression, and suppression measures that will be taken by the Grantee, its employees, contractors, and subcontractors, and their employees in all operations during the construction stage. The fire plan shall be made available to all bidders prior to letting contract and the Grantees shall cause its contractors to comply with all provisions of the fire plan and of all burning permits issued for disposal of flammable materials.
  - b. Prepare, in cooperation with the Forest Supervisor, a clearing plan that sets forth in detail the procedures and standards that will apply to (1) all clearing and disposal of merchantable timber and young growth in the right-of-way and (2) debris disposals, including debris removal from all streams. Such plan shall include provision for payment by the Grantee or its contractors for the merchantable timber on lands of the United States to be cut, used, or destroyed in the construction of the highway or in clearing said right-of-way. Payment for merchantable timber shall be at appraised value as determined by the Regional Forester: Provided, that the Regional Forester may dispose of the merchantable timber to other than the Grantee or its contractors at no stumpage cost to the Grantee or its contractors.
  - c. Prepare, in cooperation with the Forest Supervisor, a landscape and erosion control plan with the objective of protecting, restoring, or enhancing the roadside landscape, protecting soil, and protecting or reestablishing vegetative cover. Such plan will provide for vegetating cuts, fills, and other areas damaged because of highway construction; maintenance or operation; and for terraces, drainage, waste disposal areas, soil replacement, and other related requirements necessary to achieve the objective.





2. Comply with the following recommendations of the Colorado Parks and Wildlife and Forest Service for wildlife and fish management:
  - a. Take all necessary precautions to avoid damage to fish habitat and exercise every reasonable precaution to prevent muddying or stiling live streams. For the purpose of these stipulations Lee Creek and Chair Creek shall be considered live streams.
  - b. Not deposit material removed from the roadway or channel changes in live streams or into the streams or stream channel where it would be washed away by high stream flows.
  - c. Not haul materials, including logs, brush, and debris by fording live streams, but shall provide temporary bridges or other structures for this purpose.
  - d. Not operate mechanized equipment for live streams, except as may be required to construct bridges, retaining walls, or channel changes as stipulated.
  - e. Not all oil or greasy substances originating from construction operations to enter or be placed where they may later enter a live stream.
  - f. Not remove gravel from the bed of Lee Creek or Chair Creek, important spawning streams, during the period from May 1 to August 1.
3. Dispose of waste material resulting from slides during and after construction and surplus material at locations approved by the Forest Supervisor. A plan showing the proposed method of disposal shall be submitted by the Grantee at the time approval is requested.
4. Permanently monument the right-of-way in accordance with the State Requirements for such right-of-way before completing construction. Where survey monumentation is impractical, the physical centerline of the highway, as identified by Global Positioning System Survey, will be the monument.
5. Reestablish or restore public land monuments disturbed or destroyed by construction, reconstruction, or maintenance according to instructions by the Bureau of Land Management, Department of the Interior. Other land monuments and property corners or witness markers shall not be damaged, destroyed, or obliterated without the prior permission of the Regional Forester and shall be relocated or reestablished in accordance with standards satisfactory to the Regional Forester.
6. Provide standard highway signs to identify the following locations:  
The West Elk Loop Scenic and Historic Byway, at appropriate locations.
7. Treat sections of existing road, to be abandoned as a result of any new construction, as designated by the Forest Supervisor, to restore them to their natural state. The necessary treatment shall be determined during a joint review



between the Forest Service and the State and ay include ripping of roadbed, removal of drainage structure, and opening of drainage channels. Plans and specifications as mutually deemed appropriate to accomplish the objective shall become a part of this stipulation.