

BOR95RFP

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: CONTRACT AND TEMPORARY EASEMENT

NAME OF AGENCY OR CONTRACTOR: UNITED STATES DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: GRANT AND EASEMENT FOR
THE REDLANDS FISH PASSAGEWAY EASEMENT EXPIRES 04/01/98

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1996

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

United States Department of the Interior

BUREAU OF RECLAMATION

Upper Colorado Region
Western Colorado Area Office



Northern Division
2764 Compass Drive
PO Box 60340
Grand Junction CO 81506-8785

Southern Division
835 E 2nd Avenue
PO Box 640
Durango CO 81302-0640

Mr. Greg Trainer, Utility Manager
City of Grand Junction
250 North 5th Street
Grand Junction CO 81501

Subject: Redlands Fish Passageway Easement

Dear Mr. Trainer:

Attached for your records is a copy of the recorded Contract and Grant of Easement for the Redlands Fish Passageway. The easement was recorded at the Mesa County Clerk and Records Office on June 30, 1995 (Book No. 2155 Pages 397 through 403).

If you have any questions or need any additional information please give me a call at (970) 248-0628.

Sincerely,

D.J. Roberts 7/18/95

David J. Roberts
Land Acquisition and Repayment Branch
Northern Division

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION **BOOK 2155 PAGE 397**

UPPER COLORADO RIVER RECOVERY IMPLEMENTATION PROGRAM (RIP)
REDLANDS FISH PASSAGEWAY
REDLANDS DIVERSION DAM

CONTRACT AND GRANT OF EASEMENT

THIS CONTRACT AND GRANT OF EASEMENT (Contract), made this 11th day of April, 1995, in pursuance of the Act of June 17, 1902 (32 Stat. 388), and the Endangered Species Act of 1973 (16 USC Sec. 1531-1544), and acts amendatory thereof or supplementary thereto, between THE UNITED STATES OF AMERICA, hereinafter styled the United States, acting through such officer as is authorized therefor by the Secretary of the Interior, and

REDLANDS WATER AND POWER COMPANY
a Colorado Non-Profit Corporation

hereinafter styled Grantor,

1722040 01:30 PM 06/30/95
MONIKA TODD CLK&REC MESA COUNTY CO
DOC EXEMPT

WITNESSETH, That for and in consideration of the mutual agreements herein contained, the parties hereto do covenant and agree as follows:

1. The Grantor does hereby grant, with covenants of warranty, and by this Contract convey to the United States free of lien or encumbrance, except as otherwise provided herein, the following-described interests in real property situated in the County of Mesa, State of Colorado, to-wit:

A perpetual easement to construct, reconstruct, operate, and maintain a fish passageway, adjacent to the Redlands Diversion Dam (Dam), as part of the Recovery Implementation Program for endangered fish. The granting of the perpetual easement herein contained includes the right of ingress and egress to the perpetual easement area along existing access roads for purposes related to construction, reconstruction, operation, and maintenance of the fish passageway and its associated structures.

Together with a temporary construction and waste/borrow area easement (temporary easement) for the purpose of constructing the afore-mentioned fish passageway and appurtenant structures. The waste/borrow area will be used for the purposes of removing borrow material, wasting materials, and for receiving, storing and handling materials and equipment. The granting of the temporary easement herein contained includes the right of ingress and egress to the easement area along existing access roads for purposes related to construction of the fish passageway and its associated structures as deemed necessary by the United States and assigns. The temporary easement described herein shall expire on April 1, 1998, or at such earlier time as the fish passageway construction is completed.

Said easements are located in the Northwest Quarter (NW¼) of Section Thirty-five (35), Township One (1) South, Range One (1) West of the Ute Meridian, Mesa County, Colorado, more particularly described and shown on Drawing No. X-417-79, attached hereto and by this reference made a part hereof.

1a. It is understood and agreed that the United States, its employees, contractors, agents, and assigns hereby have the right to use the perpetual easement for the construction, reconstruction, operation, and maintenance of a fish passageway and its associated structures and also have the right to use the temporary easement for the construction of a fish passageway and its associated structures.

1b. The Grantor warrants that Grantor is the sole owner of the real property whereon the above-described perpetual and temporary easements lie and that no prior easements and/or lease agreements, except those identified in this Contract, exist that will interfere with the perpetual and temporary easements identified in this Contract.

1c. It is understood and agreed that the rights to be granted to the United States, as described in paragraph 1 hereof, shall be free from lien or encumbrances except: (i) rights of way for roads, railroads, telephone lines, transmission lines, ditches, conduits, pipelines, utilities, patent reservations, on, over, or across said lands in existence on such date, or claimed easements in favor of the United States, the State of Colorado, or the public which exist or are claimed to exist in and over the present and past beds, banks or water of Gunnison River; (ii) court liens, judgements or financial encumbrances, such as Deeds of Trust, for which a formal consent has been obtained from the court or lien holder.

1d. The United States recognizes that there are multiple deeds of trust which form the security for the issuance of bonds and that it will be difficult for the Grantor to obtain consent from all bond holders as requested in paragraph 1c(ii). The Grantor agrees to exclude the property containing the fish passageway from the trust deeds as soon as the trust deeds mature. The bonds and attendant trust deeds are scheduled to mature/expire in the year 2001. The Grantor further agrees that the land encompassing the perpetual and temporary easements will not be used as collateral in any future bonding.

2. The Grantor shall have continuous and uninterrupted access over the fish passageway and perpetual and temporary easements granted herein to perform maintenance, construction, or replacement of the Dam.

3. The United States acknowledges the existence of lease agreements between the Grantor and City of Grand Junction (City). The United States agrees not to interfere with an existing City Gunnison River Pumping Station and Flow Line located within the above-described easement area. The United States further agrees to coordinate all associated construction activities with the City and to ensure that the City will continue to have access to and use of their existing and future facilities.

4. The United States shall not change or alter the Dam and/or its associated structures at the afore-described location or, through operations of the fish passageway, restrict the Grantor's and/or City's ability to divert water from the Gunnison River as they have historically diverted water without prior written consent from the Grantor and ~~for City~~ ^{AS TO ITS FACILITIES} ~~AS TO ITS FACILITIES~~ ^{PERMIT} ~~AS TO ITS FACILITIES~~ ^{RS M}

5. The United States shall acquire the perpetual and temporary easements on the terms herein expressed, and on execution and delivery of this Contract, and approval by the proper officials of the United States, it shall cause to be paid to the Grantor the full purchase price as described in paragraph 6 below.

6. The price to be paid for the perpetual and temporary easements will be determined by an appraisal to be paid by the United States, estimating the fair market value. If the Grantor disagrees with the value estimated by the United States, the Grantor agrees to have the property appraised at the Grantor's expense within 45 days of receiving the United States appraised value. If the first two appraisals are within 15%, then the price paid will be an exact split of these two appraised values. If the first two appraisals are more than 15% apart, the two appraisers will mutually agree on a third appraiser who will independently review and conclude an estimated valuation based on the two previous appraisal reports which he/she considers to represent fair market value based on the Uniform Appraisal Standards For Federal Land Acquisitions, dated 1992 (Uniform Standards). All appraisals will conform to the Uniform Standards and all appraisers will be certified by the State of Colorado to appraise property similar to the subject.

7. The United States agrees that if damages occur to the existing features located within the perpetual and temporary easement areas as a result of construction of the fish passageway and appurtenant structures: (i) payment will be made by the United States to the owner thereof on the basis of an appraisal approved by the United States and mutually agreed upon by both parties; or (ii) the United States shall at its option make replacement or repair with materials of like kind and equal quality.

7a. The United States, upon completion of construction activities and at its sole cost and expense, within the temporary easement herein described, will: (i) replace or repair with materials of like kind and equal quality any fences, ditches, pipelines, driveways, or roadways, including appurtenances thereto, existing at the time of execution of this contract, that are damaged or destroyed by construction activities associated with the fish passageway; (ii) the United States or its assigns will restore the temporary easement as near as practicable to its original condition after construction of said fish passageway and appurtenant parts thereof are completed; (iii) remove all trash, construction equipment and structures from the site; (iv) at its own option, either remove topsoil and stockpile separately and after completion of excavation, respread over the area, or take a like amount and quality of new topsoil and so spread; and (v) after construction is completed reseed the land with vegetation common to the area.

8. The Grantor shall procure and have recorded all assurances of title and affidavits which the Grantor may be advised by the United States are necessary and proper to show in the Grantor complete fee simple unencumbered title to the property whereon the above-described easements lie, subject only to the interests, liens, or encumbrances currently shown of record. Abstracts or certificates of title or title insurance will be procured by the United States at its expense. The expense of recording this Contract shall be borne by the United States.

9. This Contract shall become effective immediately on its execution by the Contracting Officer acting under the authority of the Secretary of the Interior, and shall inure to the benefit of and be binding upon the heirs, executors, administrators, and assigns of the Grantor, and the assigns of the United States. Each signatory represents that it has authority to execute this Contract.

10. After execution of this Contract by the United States, the proper officers and agents of the United States shall have unrestricted access under said easements, as described in above paragraph 1., to survey for and perform construction, reconstruction, operation and maintenance activities.

11. If the fish passageway is no longer needed, as determined by the United States, the perpetual easement will be terminated and the fish passageway removed without cost to the Grantor, or to the heirs, successors, or assigns of such Grantor subject to the availability of funds.

12. The Grantor warrants that the Grantor has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the United States the right to annul the Contract, or in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage brokerage, or contingent fees. This warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the Grantor for the purpose of securing business with others than the United States.

13. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Contract, or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this Contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above-written.

THE UNITED STATES OF AMERICA

By Bruce E Snyder
Realty Officer,
Resources Management Office,
Bureau of Reclamation
Upper Colorado Region
125 South State Street
Salt Lake City, Utah 84138-1102

REDLANDS WATER AND POWER COMPANY
a Colorado Non-Profit Corporation

Lewis R Beach 4-7-95
President
197 Power Road
Grand Junction, Colorado 81503

Attest for
REDLANDS WATER AND POWER COMPANY

Dennis A Strong
Assistant Secretary

CONCUR: By: JB.
CITY OF GRAND JUNCTION

RT Mantle
Mayor

Attest for
CITY OF GRAND JUNCTION

Theresa A. Martinez
City Clerk, Deputy

Approved

Christopher B. Birch
Reg. Solicitor's Office

CORPORATE ACKNOWLEDGMENT

State of Colorado)

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County of Wes) S.S.

On this 7th day of April, 1995, before personally appeared Louis R. Brown, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he (she) is the President (title or office) of the Redlands Water Supply Corp, and that said document was signed by him (her) in behalf of said corporation by authority of its bylaws (or of a Resolution of its Board of Directors), and acknowledged to me that said corporation executed the same.



[Signature]
Notary Public
My Commission Expires on 7/3/98

ACKNOWLEDGMENT

State of Colorado)

County of Mesa) S.S.

On this 11th day of April, 1996, personally appeared before me R.T. Mantle - Theresa F. Martinez, the signer of the within instrument, who duly acknowledged to me that he/she executed the same.



Christine English
Notary Public
My Commission Expires on 2/2/98

ACKNOWLEDGMENT

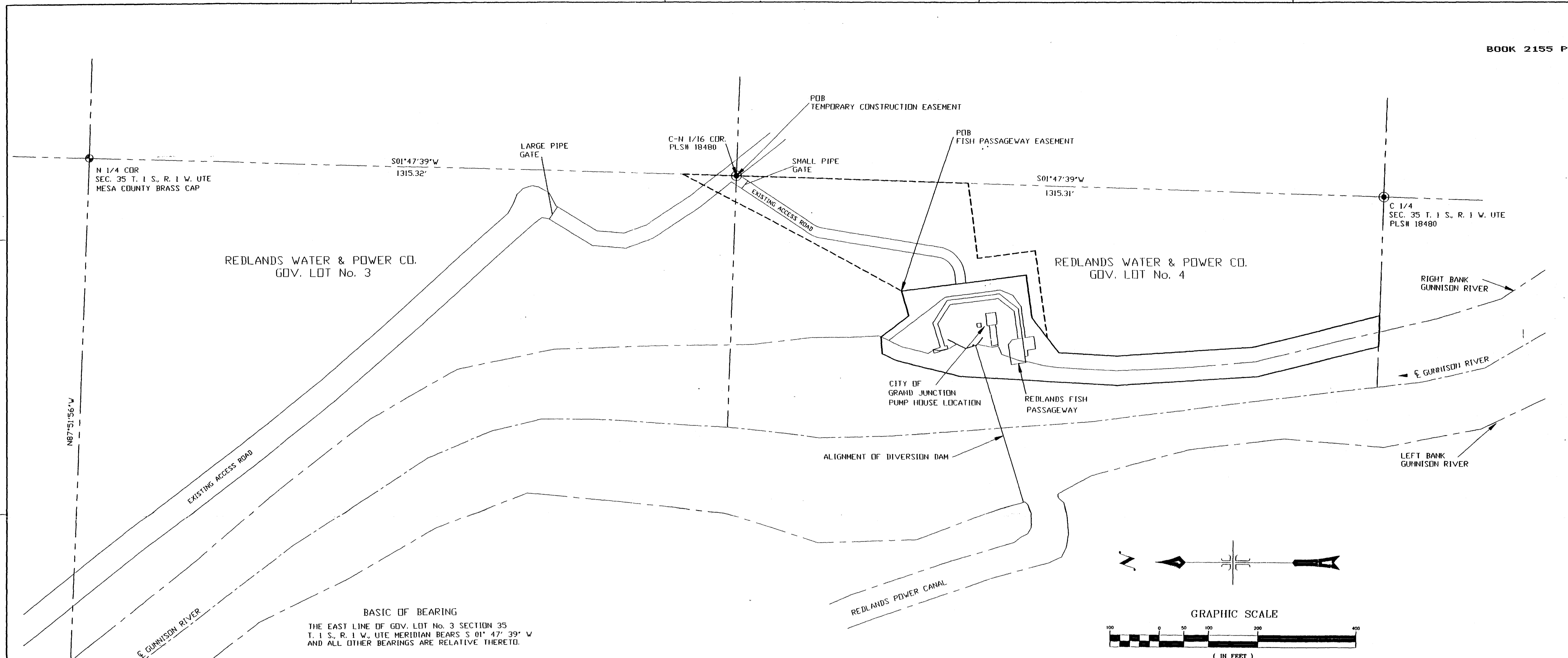
State of Colorado)

County of _____) S.S.

On this _____ day of _____, 19____, personally appeared before me _____, the signer of the within instrument, who duly acknowledged to me that he/she executed the same.

SEAL

Notary Public
My Commission Expires on _____



BASIC OF BEARING
 THE EAST LINE OF GOV. LOT No. 3 SECTION 35
 T. 1 S., R. 1 W., UTE MERIDIAN BEARS S 01° 47' 39" W
 AND ALL OTHER BEARINGS ARE RELATIVE THERETO.

FISH PASSAGEWAY EASEMENT

A PERPETUAL EASEMENT LOCATED IN GOV. LOT No. 4 SECTION 35 T. 1 S., R. 1 W., UTE MERIDIAN BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE C-N 1/16 CORNER OF SAID SECTION 35;
 THENCE S 01° 47' 39" W 341.28 FEET ALONG THE EAST LINE OF GOV. LOT No. 4 OF SAID SECTION 35;
 THENCE N 88° 12' 21" W 219.69 FEET TO THE POINT OF BEGINNING;
 THENCE S 07° 06' 42" E 255.16 FEET;
 THENCE S 82° 00' 53" W 85.14 FEET;
 THENCE S 52° 26' 55" W 89.17 FEET;
 THENCE S 03° 12' 07" W 116.64 FEET;
 THENCE S 03° 51' 12" E 277.79 FEET;
 THENCE S 13° 58' 10" E 266.10 FEET TO SOUTH LINE OF GOV. LOT No. 4 OF SAID SECTION 35;
 THENCE N 87° 51' 56" W 62.45 FEET ALONG SAID SOUTH LINE TO A POINT IN THE GUNNISON RIVER, SAID POINT BEING APPROXIMATELY 30 WEST OF THE RIGHT BANK OF THE GUNNISON RIVER;
 THENCE ALONG A LINE THAT IS APPROXIMATELY 30 FEET WEST OF THE RIGHT BANK THE GUNNISON RIVER THE FOLLOWING S COURSES AND DISTANCES:
 N 13° 58' 10" W 254.06 FEET
 N 03° 51' 12" W 286.80 FEET
 N 03° 12' 07" E 318.52 FEET
 N 13° 55' 58" E 132.40 FEET
 N 25° 45' 39" E 32.44 FEET
 THENCE N 85° 41' 55" E 34.60 FEET LEAVING SAID RIVER;
 THENCE S 37° 02' 59" E 71.09 FEET;
 THENCE N 72° 54' 37" E 51.14 FEET TO THE POINT OF BEGINNING.
 SAID EASEMENT CONTAINS 2.18 ACRES (95072 SQ. FT.) MORE OR LESS.

EXCEPTING THEREFROM THE REDLANDS WATER AND POWER COMPANY'S DIVERSION DAM, THE CITY OF GRAND JUNCTION'S PUMPING STATION, AND RELATED STRUCTURES LOCATED WITHIN THE ABOVE DESCRIBED EASEMENT.

TEMPORARY CONSTRUCTION EASEMENT

A TEMPORARY EASEMENT LOCATED IN GOV. LOT No. 3 AND GOV. LOT No. 4 SECTION 35 T. 1 S., R. 1 W., UTE MERIDIAN BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE C-N 1/16 CORNER OF SAID SECTION 35.
 THENCE S 01° 47' 39" W 470.33 FEET ALONG THE EAST LINE OF GOV. LOT No. 4 OF SAID SECTION 35;
 THENCE S 82° 53' 18" W 152.06 FEET
 THENCE S 07° 06' 42" E 118.41 FEET
 THENCE S 82° 00' 53" W 173.83 FEET
 THENCE N 52° 26' 55" E 50.67 FEET
 THENCE N 82° 00' 53" E 85.14 FEET
 THENCE N 07° 06' 42" W 255.61 FEET
 THENCE N 27° 47' 52" E 501.08 FEET TO THE EAST LINE OF GOV. LOT No. 3 OF SAID SECTION 35;
 THENCE S 01° 47' 39" W 109.08 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING.
 SAID TEMPORARY EASEMENT CONTAINS 2.01 ACRES (87577 SQ. FT.) MORE OR LESS
 THE TEMPORARY EASEMENT SHALL EXPIRE ON APRIL 1, 1998 OR AT SUCH EARLIER TIME AS THE FISH PASSAGEWAY CONSTRUCTION IS COMPLETED.

-LEGEND-

- ⊕ MESA COUNTY SURVEY MONUMENT
- ⊙ PRIVATE SURVEY MONUMENT
- FISH PASSAGEWAY EASEMENT
- - - TEMPORARY CONSTRUCTION EASEMENT
- SECTION / PROPERTY LINE
- - - CENTERLINE (C) GUNNISON RIVER

CERTIFIED CORRECT
 LIMITED TO THE CORRECTNESS OF
 INFORMATION SUBMITTED FOR USE
 IN PREPARATION
D. J. R. 2/07/95
 (NAME) (DATE)
 THIS IS NOT A L.S. CERTIFICATION

ALWAYS THINK SAFETY	
UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION ENDANGERED SPECIES RECOVERY PROGRAM REDLANDS FISH PASSAGEWAY EASEMENT LOCATION	
DESIGNED <i>D.J.R.</i>	FIELD APPROVAL <i>James M. Stevan</i>
DRAWN <i>D.J.R.</i>	TECHNICAL APPROVAL <i>R.B. Gage</i>
CHECKED <i>G. Reer</i>	APPROVED <i>[Signature]</i>
CADD SYSTEM AutoCAD 12 c2	DATE AND TIME PLOTTED APR 17 1995 10:21 AM
CADD FILENAME LAC-EAST.DWG	DRAWING No. X-417-79
GRAND JUNCTION, COLORADO	