

2-5-23-1B

"COMPLIANCE REVIEW OF PREVIOUSLY DIVIDED PROPERTY" APPLICATION

Owner/Applicant KEN HARRISON TTEE & THOMAS WILLARDSON Date 8-10-15
Phone 602-510-8900 E-Mail KENHARRISON2@GMAIL.COM
Address 1408 S McALLISTER DR Fax: _____
City KANAB State UT Zip 84741

Registered Engineer or Surveyor LANNY TALBOT - TALBOT LAND SURVEYORS
Address 44 N MAIN ST. KANAB UTAH Fax: _____
City KANAB State UT Zip 84741
Phone 435-644-3556 E-Mail _____

Name of Subdivision, if any:
None

Location and Legal Description of Divided Land:
Approx 2 miles north of Hwy 89, 1/4 mile east of Johnson Canyon Rd. Up on top of cliffs. See survey for legal description.

Number of Lots 2 parcels created, due to canyon. Both parcels to be under same owner. Minimum Lot Size _____

Date land was divided 4-24-2008 date of survey. Total 15.32 acres.

Attached Documents:

Record of Survey Map: Y N Agreement of Understanding: Y N
Culinary Water Authority Approval: Y N N/A* Sanitary Sewer Authority Approval: Y N N/A*

(*Must show documentation that no system exists or is planned)
None currently ↗

Additional Comments:
See attached

I HEREBY CERTIFY THE ABOVE INFORMATION TO BE TRUE AND ACCURATE.

Signature: Ken Harrison To best of my knowledge.
8-10-15

Office Use Only:

Land Use Administrator Action:

Existing Zone AG General Plan Compliance: Y N
Water/Sewer Compliance: Y N Current Subdivision Reg. Compliance: Y N
Status of Divided Land: Compliant Substantive Non-Compliance Procedural Defect Only
Record of Survey Map: Approved Denied Easements: Approved Denied N/A

Land Use Authority Action:

Approved Denied LUA Chairman _____ Date: _____

Additional Comments

County parcel # 2-5-23-1B

We acquired property, 7/2/2015, as a result of a deed in lieu of foreclosure. The property was in this condition when we acquired the property. We are trying to get the property in compliance with the county regulation.

We have also acquired access to the property from the BLM. See attached BLM document. This access purchased, gives access from the property to the Nephi Pasture road.

Thanks for your consideration.



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Grand Staircase-Escalante National Monument
669 South Highway 89 A
Kanab, UT 84741
<http://www.ut.blm.gov/monument>

IN REPLY REFER TO:
2800 (UT030)
UTU-90181

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

July 21, 2015

DECISION

Assignment Approved
Right-of-Way Grant UTU-90181 Issued

Ken Hardison
Thomas Willardson
1408 S. McAllister Drive
Kanab, UT 84741

Enclosed is a copy of your right-of-way (ROW) grant, serial number UTU-90181, which allows the use of public land for an access route to private property. BLM approved the grant and assigned it to you on July 21, 2015.

The advance rental for the ROW is determined to be \$828.10 for the period from August 1, 2015 to December 31, 2024. BLM has received your advance rental for this period. *The next rental billing will be due at the beginning of the calendar year starting January 2025. Future billings will be based on the rent schedule in effect at that time.*

We have also already received your Category 1 processing fee and Category 1 monitoring fee payments of \$121.00 each.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

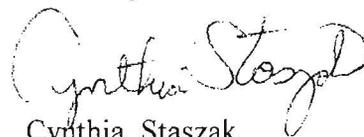
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions, please contact Grand Staircase-Escalante National Monument at the above address or call (435) 644-1200.

Sincerely,



Cynthia Staszak
Monument Manager

Enclosure:

Right-of-Way Grant UTU-90181 with Exhibits
Payment receipts
Appeals Form 1842-1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT

SERIAL NUMBER UTU-90181

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 holders:

Ken Hardison
Thomas Willardson
1408 S. McAllister Drive
Kanab, UT 84741

receives a right to construct, operate, maintain, and terminate an access road to private property on public lands described as follows:

Salt Lake Meridian, Kane County, Utah
Township 42 South, Range 5 West,
Section 14, lots 3 and 4;
Section 14, SE1/4SW1/4;
Section 23, E1/2NW1/4;

- b. The access road right-of-way area granted herein is 14 feet wide by 5,266 feet long and contains 1.692 acres, more or less. The road will be crowned and ditched with a travel surface of 8 feet wide and graveled to a depth of 4 to 6 inches. The road will include one culvert installed in the small drainage to prevent erosion. This culvert will be installed 1,924 feet from the intersection with Nephi Pasture Road.
- c. This instrument shall terminate on December 31, 2044 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 or may not be renewed. If renewed, the right-of-way or permit 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 or any renewal thereof, 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 or permit 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. The stipulations, plans, maps, or designs set forth in Exhibit A (Map), 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.
- d. Each grant issued for a term of 20 years or 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 or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit 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.
- g. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- h. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides 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, the holder shall obtain from the authorized officer written

approval of a 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. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

- i. The holder shall be responsible for weed control on disturbed areas 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).
- j. In order to reduce the potential for the introduction of noxious weeds, all equipment will be cleaned off, by pressure washing, prior to operating on BLM lands. Removal of all dirt, grease, and plant parts that may carry noxious weed seeds or vegetative parts is required and may be accomplished with a pressure hose.
- k. The holder shall protect all survey monuments found within or adjacent to the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
- l. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
- m. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of **four** inches deep, the soil shall be deemed too wet to adequately support construction equipment.
- n. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
- o. Holder shall maintain the right-of-way in a safe, usable condition, as directed by the authorized officer. (A regular maintenance program shall include, but is not limited to, blading, ditching, culvert installation and surfacing).
- p. The right-of-way shall be maintained in a sanitary condition at all times; waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to human

- waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
- q. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) 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 or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
- r. The holder of Right-of-Way No. UTU-90181 agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
- s. No construction activities will take place between April 1 and June 30 to reduce impacts to migratory birds.
- t. The holder shall utilize gravel for surfacing that does not cause contrast with the adjoining natural environment but blends with the adjoining natural environment. The gravel will be approved by the authorized officer's representative.
- u. To discourage public use of the right-of-way road, gravel will not be placed on the access road where it can be seen from Nephi Pasture Road.
- v. To discourage public use of the right-of-way road, a sign will be placed at the junction with Nephi Pasture Road. The sign will indicate that the road is not a through road (i.e. dead end) and there is no turnaround. The authorized officer will approve all signage. If public use increases despite the signs, the road will be gated to discourage use. Along with a gate, approximately 200 yards of fencing would be constructed. A *Notice to Proceed* must be issued by the authorized officer before any gate or fence construction occurs.
- w. The holder agrees to install specific erosion protection measures along the boundary between the right-of-way and the holder's private land as directed by the authorized officer. These measures will include placing up to 150 yards of geo cloth on the surface at the full width of the right-of-way, which will then be covered with gravel to a depth of 6 inches. These measures will extend 10 yards past the presumed private property boundary as directed by the authorized officer for the prevention of erosion and the protection of resource values. These measures will also be maintained on a regular basis to ensure continued effectiveness in preventing erosion in the area. Any ground-disturbing activities in this area beyond the initial construction phase will require a written *Notice to Proceed* from the authorized officer.

- x. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a pre-termination conference. This conference will be held to review the termination provisions of the grant.

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

Ken Anderson
 (Signature of Holder)

Cynthia Stager
 (Signature of BLM Authorized Officer)

 (Title)

Acting Manager, GSENM
 (Title)

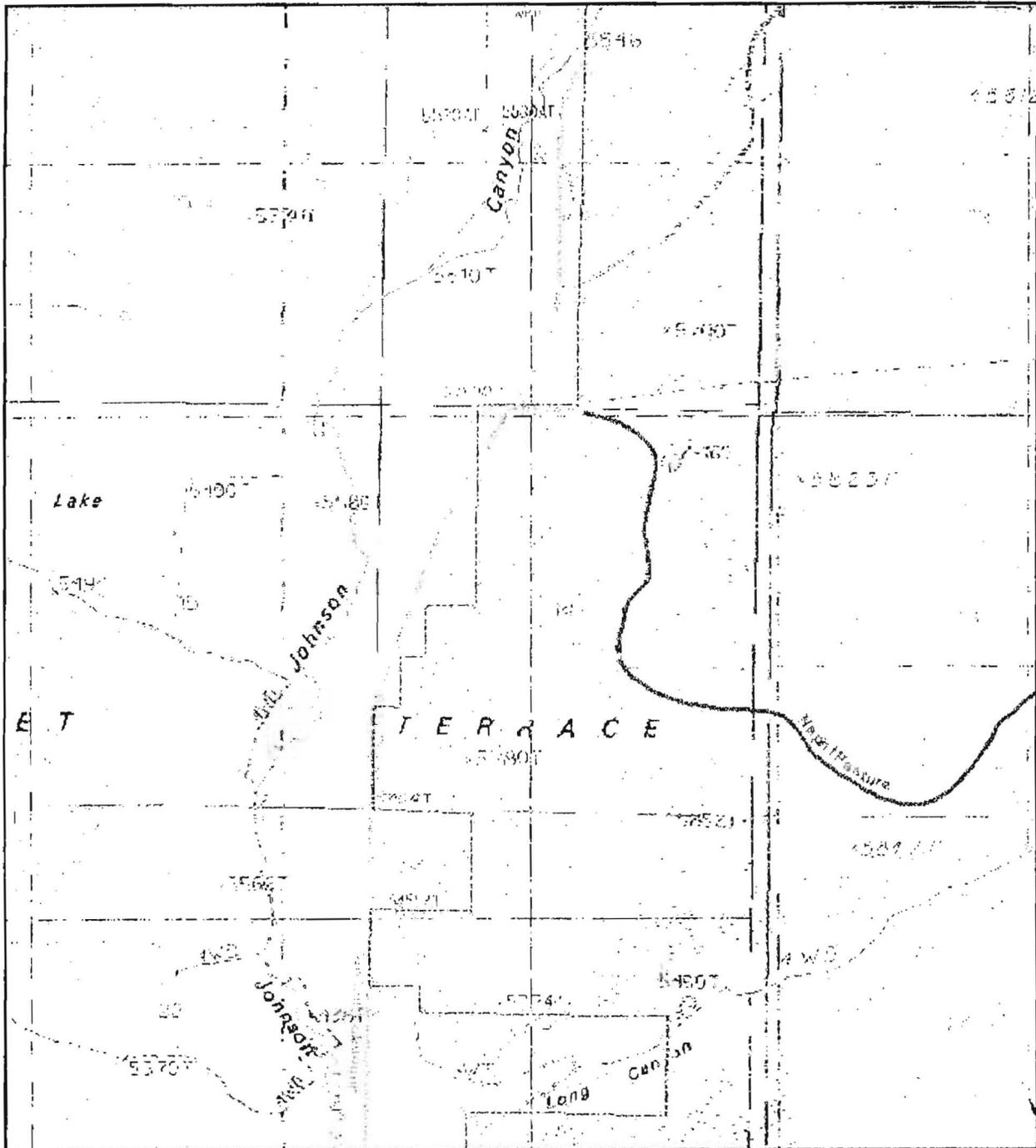
7-17-2015
 (Date)

7-21-15
 (Effective Date of Grant)

Tom Willardson
 (Signature of Holder)

 (Title)

01/17/15
 (Date)



<p>Legend</p> <ul style="list-style-type: none"> BLM Open/ATV UT-90181 Cotham access 	<p>Escalante Garfield County Kane County GSENM Kanab</p>	<p>Kilometers 0 0.25 0.5</p> <p>Miles 0 0.25 0.5</p> <p>Grand Staircase - Escalante National Monument</p> <p>UTM NAD 83 Zone 12 Scale: 1:24,000</p> <p>No warranty is made by the BLM for use of the data for purposes not intended by the BLM.</p>
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