

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Arizona State Office**

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Instruction Memorandum No. AZ-2001-005
Expires: 9/30/2002

To: Field Managers

From: State Director

Subject: Minimum Rental for Rights-of-Way, Leases, Easements, and Permits, Land Use Authorizations

DD: None

Purpose: This memorandum establishes minimum rental payments for routine Bureau of Land Management land use authorizations within Arizona BLM jurisdiction not otherwise addressed by rental schedules or other authorities. These include rights-of-way (R/W) exempt from the linear schedule, and leases, easements and permits issued under 43CFR2920. It does not apply to authorizations covered by the linear R/W schedule (43CFR2801.1-2(c)(1)(i); 43CFR2883.1-2) or the communication site R/W schedule (43CFR.28031-2(d)); nor does this rental apply to apiary sites or commercial film permits.

Background: BLM frequently receives requests to use small tracts of otherwise vacant, rural, public land for industrial related facilities or uses. These uses are not addressed in the linear R/W or communication site rental schedules and often require a fair market value rental determination. The cost of even the most routine appraisal contract exceeds \$2,500; or if completed by BLM staff, requires a week to complete. It contradicts sound business management to spend more determining a rental than the amount of rental to be collected. Given the rising costs of appraisals, and the somewhat-routine nature of these valuations, an administratively established minimum rental appears warranted.

The appraisal staff polled major landowners and land managers in Arizona regarding practices and policies regarding small use authorizations. This survey is not intended to comport with the technical requirements of an appraisal, but rather the "comparable business practices" appearing in the regulations at 43CFR2803.1-2(a). These state: the holder shall pay . . . "the fair market rental value as determined by the authorized officer applying sound business management principles and, so far as practicable and feasible, using comparable commercial practices."

Survey Results: Eighteen owners and managers were contacted. The results range widely, including no established policy to rather structured rate schedules. Most entities do collect, either as a matter of policy or on a case-by-case determination, a minimum annual rental of several hundred dollars. The data ranges from \$200 for a 6-month authorization to \$5,000 per year. Several respondents stated \$500 as a minimum transaction value for any use they authorize. This is bracketed by the other instances and is slightly below the center of the range.

Determining Applicability: Some judgement is required in applying the minimum rental. No rental is due for casual use, as defined at 43CFR2920.0-5(k). Typically, the minimum rental applies for intrusive, atypical uses occupying approximately five acres or less and involving surface disturbance, construction of permanent structures or facilities, or frequent regular presence on the property. “Intrusive” means some use that is inconsistent with the type of land involved.

Examples include, but are not limited to:

- *Telephone facilities, normally small fenced sites with power and access available, but not in a particularly elevated location like a communication site.*
- *Ground water-monitoring well(s).*
- *Temporary industrial storage sites of short (less than five years) duration.*
- *Remote rural water tank, tower, or other facility sites for small, community water systems. Would not normally apply to urban water tank sites.*
- *Pipeline pumping stations, pig launcher sites, or other related sites if not authorized under the parent serial number.*

Implementation: Based on the information and rationale, and within the limitations detailed above, a minimum rental value of **\$500 per year** is established for BLM land use authorizations.

To implement this guidance with minimal impact on field personnel, the appraisal staff will apply this minimum rental on a case-by-case basis. Field specialists should continue to request appraisals as in the past, the appraisal staff will determine whether the minimum applies and, if so, provide a memorandum referencing this guidance as the basis for the minimum rental determination. If the minimum does not apply, appraisals will be completed.

This is an administrative determination of rentals; it is not an appraisal. If an applicant desires that the rental be determined by appraisal rather than this guidance, they may provide one. Selection of a contract appraiser and preparation of any appraisal shall be coordinated closely with the appraisal staff.

If the appropriate Field Manager determines this administrative determination is not applicable or appropriate for a specific case, the appraisal request should so note.

Contact: Questions or comments may be directed to Shawn Redfield, 602-417-9302.

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