

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, OR 97208

In Reply Refer to:
9231 (OR-931) P

December 20, 2002

EMS TRANSMISSION 12/23/2002
Instruction Memorandum No. OR-2003-025
Expires: 9/30/2004

To: All District Managers

From: State Director

Subject: Timber Trespass Administrative Costs

Program Area: Timber Management - Timber Trespass

Purpose: To provide clarification on the administrative costs that may be charged to timber trespassers by the Bureau of Land Management (BLM).

Policy/Action: Labor, operation, and indirect administrative costs incurred by BLM as a consequence of a timber trespass are administrative costs for which a timber trespasser should be charged. Establishing a percentage of the trespass value as a fixed administrative cost is not appropriate. Actual costs associated with investigating, evaluating, and processing the timber trespass should be recorded and recovered. The cost of determining the correct location of a property line should be included in the administrative costs charged to the trespasser. Coordination between management, timber management specialists, and law enforcement will ensure that all appropriate administrative costs are captured so that BLM recovers the cost incurred by the government as a consequence of the trespass.

Timeframe: Upon receipt.

Budget Impact: None.

Background: The Code of Federal Regulations (43 CFR 9239.1-3 Measure of damages) allows BLM to charge trespassers for administrative costs incurred by the government as a consequence of the trespass. In determining if a timber trespass exists, the government is required to determine the correct location of the property line where the trespass occurred. Informal administrative resolution cases (minor in terms of size and impact) may potentially be settled on the basis of unofficial surveys; however, if an Interior Board of Land Appeals or a civil case is expected and the property line is in doubt, a cadastral survey

may be required. When corner monuments are destroyed or missing or the validity of a property line location is in doubt, a survey may be required. Establishment of the property line is a valid administrative cost. The trespasser should be charged that portion of the survey necessary to establish that a trespass occurred.

The amount of the administrative costs incurred by the United States as a consequence of the trespass is a function of the size and complexity of the investigation and processing. Although the administrative costs will vary depending upon the situation, at a minimum, the following costs should be recovered:

- (1) Field investigation time.
- (2) Office time to document the case and establish the trespass case file.
- (3) Field and office time to cruise and appraise the timber trespass.
- (4) Vehicle mileage.
- (5) Resource assistant's time to process the Bill for Collection.
- (6) Postal rate for sending certified mail correspondence.
- (7) Cost of field supplies for identifying trespass (i.e., tree marking paint, flagging, etc.).
- (8) Cost of BLM Law Enforcement Officer/Ranger's investigation time, administrative time, and expenses (if applicable).
- (9) Cost of cadastral survey that is a consequence of the trespass.

If trespassed timber was hauled over BLM roads and road use and maintenance fees were not collected, fees should be collected. If the timber trespass is non-willful and the trespass is timely resolved, single road use and maintenance fees should be collected. If the timber trespass is willful and/or not timely resolved, refer to 43 CFR 2801.3. Contact the Oregon State Office Timber Trespass Program Lead prior to assessing damages for hauling trespassed timber over BLM roads.

See the attached example of a Timber Trespass Administrative Cost Worksheet.

Occasionally, inexperienced employees are assigned the duty of processing a timber trespass case. This is done to serve as on-the-job training for skill enhancement or as refresher training for skill retention. When work on a timber trespass is being done for employee skill enhancement or refresher training, adjust the number of hours claimed downward by an appropriate factor (the number of hours required for a fully qualified and experienced employee to complete the task). Do not include the time of the trainer or supervisor involved in conducting the training.

In some situations, District Law Enforcement Rangers and/or Criminal Investigators are involved in the investigation of timber trespass. Whenever a timber trespass case is being investigated and damages and administrative costs are being determined, it is crucial that the Field Manager, Law Enforcement Ranger and/or Criminal Investigator, and the Timber Management Specialist communicate on the progress, damages, and the administrative costs being incurred for the case. Ineffective communication and coordination between the Field Manager and Law Enforcement staff may result in BLM not fully capturing the administrative cost incurred by the government as a consequence of the trespass or prosecution of the trespass as a criminal case may be compromised.

Manual/Handbook Sections Affected: H-9231-1 - Timber Trespass Procedure Handbook, Chapters IV - Trespass Law and VI - Trespass Collection.

Coordination: Coordination occurred with Brad Grenham of the Regional Solicitor's Office, Pacific Northwest Region.

Contact: Refer questions to Bill Hatton, OR-931, at 503-808-6015.

Districts with Unions are reminded to notify their unions of this Instruction Memorandum and satisfy any bargaining obligations before implementation. Your servicing Human Resources Office or Labor Relations Specialist can provide you assistance in this matter.

Signed by

Authenticated by

Charles E. Wassinger
Associate State Director

Mary O'Leary
Management Assistant

1 Attachment

1 - Example, [Timber Trespass Administrative Cost](#) Worksheet (2pp)

Distribution

- WO-230 (204LS) - 1
- OR-014 (Mel Crockett) - 1
- OR-020 (Jon Reponen) - 1
- OR-035 (Dick Watson) - 1
- OR-050 (Steve Castillo) - 1
- OR-082 (Jeffrey Gordon) - 1
- OR-090 (Dave DeMoss) - 1
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- OR-110 (David D. Reed) - 1
- OR-120 (Jon Menten) - 1
- OR-130 (Allen Gardner) - 1

Accounting for Timber Trespass Administrative Cost

Timber Trespass Case Name _____

Timber Trespass Case No. _____

Wages

Employee Name	Position	Specific Activity Performed	Hourly Rate	Total # of Hrs	Total Cost

Supplies or Expenses

Item / Expense and Purpose of Expense	Quantity Used	Unit Cost	Total Cost

Vehicle Cost

Vehicle Type	Activity Performed	Vehicle Nos.	# Miles Driven	Cost/Mile	Total Cost

Attachment 1-1

Road Use / Road Maintenance Fee (Single or Double)

BLM Road No.	Distance (Miles)	Road Use Fee per Mile (\$)	Road Maintenance Fee per Mile (\$)

Administrative Cost Summation

Wages = \$ _____

Supplies / Expenses = _____

Vehicle Cost = _____

Road Use Fee = _____

Road Maintenance Fee = _____

\$ _____

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BUREAU OF LAND MANAGEMENT
Oregon State Office
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In Reply Refer to:
9231 (OR-931) P

May 29, 2003

EMS TRANSMISSION 06/03/2003
Instruction Memorandum No. OR-2003-025, Change 1
Expires: 9/30/2004

To: All District Managers
From: State Director
Subject: Timber Trespass Administrative Costs

Program Area: Timber Management - Timber Trespass

Purpose: To provide clarification on the administrative costs that may be charged to timber trespassers by the Bureau of Land Management (BLM). Instruction Memorandum (IM) No. OR-2003-025, Change 1, further clarifies the role of BLM Cadastral survey in trespass investigations as contained in the Background section.

Policy/Action: Labor, operation, and indirect administrative costs incurred by BLM as a consequence of a timber trespass are administrative costs for which a timber trespasser should be charged. Establishing a percentage of the trespass value as a fixed administrative cost is not appropriate. Actual costs associated with investigating, evaluating, and processing the timber trespass should be recorded and recovered. The cost of determining the correct location of a property line should be included in the administrative costs charged to the trespasser. Coordination between management, timber management specialists, and law enforcement will ensure that all appropriate administrative costs are captured so that BLM recovers the cost incurred by the government as a consequence of the trespass.

Timeframe: Upon receipt.

Budget Impact: None.

Background: The Code of Federal Regulations (43 CFR 9239.1-3 Measure of damages) allows BLM to charge trespassers for administrative costs incurred by the government as a consequence of the trespass. In determining if a timber trespass exists, the government is required to determine the correct location of the property line where the trespass occurred. Informal administrative resolution cases (minor in terms of size and impact) may potentially be settled on the basis of unofficial surveys or other agreement by the parties. Unofficial surveys, which

include BLM administrative and those performed by private surveyors, can be used if reviewed and found to be acceptable by a BLM cadastral surveyor. However, if an Interior Board of Land Appeals or a civil case is expected, an official BLM cadastral survey may be required. When corner monuments are destroyed or missing, or the validity of a

property line location is in doubt, a survey is required. Establishment of the property line is a valid administrative cost. The trespasser should be charged that portion of the survey necessary to establish that a trespass occurred. In a recent case a party complained that no opportunity to avoid survey costs was provided by BLM. Districts may want to see if a party is willing to pay trespass costs without completion of a survey.

The amount of the administrative costs incurred by the United States as a consequence of the trespass is a function of the size and complexity of the investigation and processing. Although the administrative costs will vary depending upon the situation, at a minimum, the following costs should be recovered:

- (1) Field investigation time.
- (2) Office time to document the case and establish the trespass case file.
- (3) Field and office time to cruise and appraise the timber trespass.
- (4) Vehicle mileage.
- (5) Resource assistant's time to process the Bill for Collection.
- (6) Postal rate for sending certified mail correspondence.
- (7) Cost of field supplies for identifying trespass (i.e., tree marking paint, flagging, etc.).
- (8) Cost of BLM Law Enforcement Officer/Ranger's investigation time, administrative time, and expenses (if applicable).
- (9) Cost of cadastral survey that is a consequence of the trespass.
- (10) Field and office time to review unofficial surveys by a BLM cadastral surveyor.

If trespassed timber was hauled over BLM roads and road use and maintenance fees were not collected, fees should be collected. If the timber trespass is non-willful and the trespass is timely resolved, single road use and maintenance fees should be collected. If the timber trespass is willful and/or not timely resolved, refer to 43 CFR 2801.3. Contact the Oregon State Office Timber Trespass Program Lead prior to assessing damages for hauling trespassed timber over BLM roads.

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communicate on the progress, damages, and the administrative costs being incurred for the case. Ineffective communication and coordination between the Field Manager and Law Enforcement staff may result in BLM not fully capturing the administrative cost incurred by the government as a consequence of the trespass or prosecution of the trespass as a criminal case may be compromised.

Manual/Handbook Sections Affected: H-9231-1 - Timber Trespass Procedure Handbook, Chapters IV - Trespass Law and VI - Trespass Collection.

Coordination: Coordination occurred with Brad Grenham of the Regional Solicitor's Office, Pacific Northwest Region and Mary Hartel, Chief, OSO Branch of Geographic Sciences.

Contact: Refer questions to Bill Hatton, OR-931, at 503-808-6015.

Districts with Unions are reminded to notify their unions of this IM and satisfy any bargaining obligations before implementation. Your servicing Human Resources Office or Labor Relations Specialist can provide you assistance in this matter.

Signed by
/s/ Charles E. Wassinger

Authenticated by
John Hamil

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