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.10 Pre-Application. A successful pre-application meeting requires advance preparation. This saves time later on. The checklist (Illustration 1) provides some factors for consideration.

A. Pre-Application Objectives. The objective of the pre-application meeting is to expedite the ROW granting process by fostering a mutual understanding of the process and the BLM's and the applicant's needs. It may take a combination of meetings and telephone conversations to develop an understanding of the prospective applicant's needs and to provide information on BLM policies and procedures.

B. Meeting. The BLM will encourage all prospective applicants to set aside a period of time for a pre-application meeting.

C. Participants. The BLM may invite other interested Federal/State agencies to participate in any pre-application meeting.

D. Plans of Development (PODs). The proponent shall be encouraged to submit a POD with any application to expedite the review process.

1. The proponent shall be informed that PODs shall always be required at the application stage when:

a. **Toxic substances**, as defined in the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.), are proposed for use or storage or will be generated or used during any phase of the project,

b. An **environmental impact statement (EIS)** is necessary, and/or

c. The ROW proposal is **major project** (e.g. 500kV transmission line, 10 inch or larger pipeline) in scope.

2. Proponent shall be given every opportunity to use Illustrations 2 through 8 - "Plan of Development Outlines", and the POD Handbook. Review of the descriptive outlines for PODs will allow the proponent to provide the BLM with more complete and useful application information.

E. Processing Time and Cost. Prior to the end of the meeting, the BLM shall inform the proponent of the estimated time and complexity of processing such an application and the anticipated cost (processing and monitoring fees and rent) involved. The applicant shall also be informed of potential bonding requirements.

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Note. For major projects this may be furnished after further review of the proposal.

No case processing work shall be done until the appropriate application processing fees have been paid.

.11 Office for Filing. An application for a ROW grant is filed with the Field Manager having jurisdiction over the lands involved.

A. Multiple Offices: If the application involves lands under the jurisdiction of more than one office, only one application needs to be filed. The filing office should be identified to the prospective applicant during the pre-application process.

B. Wrong Office: Applications filed with the wrong office are not considered officially filed. If the wrong office can determine the correct office, the application should be forwarded to that office and the applicant so informed.

C. Application Form. Applications are to be filed on Standard Form (SF) 299 - Application for Transportation and Utility Systems and Facilities on Federal Lands (see Illustration 9).

D. Electronic Filing. [Reserved]

.12 Contents. An application is considered “complete” when the applicant has furnished all required information with Form SF 299 and the nonrefundable application processing fee. (See 43 CFR 2804.12.) Telefaxed applications are acceptable. If the application is telefaxed to the BLM, it is recommended that the original signed application be mailed to the AO.

A. Assistance. The AO shall assist the proponent in completing the application whenever possible. When it is not possible to assist in preparing the application, mail the SF 299 and the brochure Obtaining A Right-of-Way on Public Lands, which contains background on ROWs and instructions for completing the form.

B. Authorizations with Other Federal Agencies. If the proposed use of public lands involves any other Federal license, certificate, or other authorization, the applicant must simultaneously file a ROW application with the BLM. The information filed with other Federal agencies must be attached to the BLM ROW application.

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C. Project Description /Plan of Development (POD). This information is the basis for defining the “proposed action” in the NEPA and related documents. The applicant is encouraged to use the POD as the vehicle to provide this information. The POD should detail all design features which may mitigate potential impacts. When toxic substances are proposed for use on the project, detailed descriptions shall be provided of the proposed use and how spills, release, fire, and other contingencies will be handled by the prospective holder. This will expedite the entire application review process.

.13 Confidentiality. The BLM will keep confidential any information in the application that the applicant has marked as “confidential” or “proprietary” to the extent allowed by law. Most of the information provided in a ROW application is public information, available to anyone filing a Freedom of Information Act (FOIA) request. Concerned applicants should discuss their particular situation with a State or Field Office FOIA coordinator prior to submitting an application.

.14 Processing Fees.

A. General. Applicants for, or holders of, ROW grants must reimburse the Government for direct and indirect costs involved in processing applications. These reimbursements also include the costs of monitoring the construction, operation, maintenance, and termination phases of a grant or project, including rehabilitation of the land involved. Cost recovery is initiated at the time an application is submitted to the BLM or an existing hydroelectric power application is referred to the BLM from the Federal Energy Regulatory Commission (FERC). A letter of intent is not an approved application form.

1. Exemptions. See 2804.16 below.

2. Multiple or Joint Applications. Multiple applications shall be processed under the same criteria that are used in processing individual applications to ensure that all parties receive equal consideration and the best use of the public land is achieved. In all cases, each applicant is required to make the fee payment set by the appropriate ROW category.

3. Competitive Applications. Initiation of cost recovery in competitive situations depends on the approach selected by the AO; however, it should be at the earliest possible point in the competitive process selected. (See .23 below.)

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B. Cost Recovery Categories. The regulations establish a cost recovery fee schedule with six ROW cost reimbursement categories. (See Illustration 10.) Each category reflects a progressively more complex level of application processing or monitoring. Categories 1 through 4 (*minor categories*) have a non-refundable fee based on the average work time of processing typical cases covered by the category. The fees for categories 1 through 4 are adjusted annually based on an economic indicator. Applications in categories 5 and 6 (*major categories*) require an advance payment to be determined upon filing the application plus periodic advance payments of remaining processing costs and/or of anticipated costs that exceed the initial estimate.

1. Determination of Processing Category. The AO will determine the appropriate processing category (see Illustration 11) and issue a decision document, with the right of appeal.

a. Change in Decision. A category 1 to 4 determination may be changed, subject to appeal, to a Category 6 at any time it is determined that preparation of an EIS is required. No other category determination changes may be made.

b. Reductions. See 2804.20 and .21 below.

c. Category 5 - Master Agreements. See 2804.17 and .18 below.

d. Category 6. Development of preliminary estimated work and work costs is usually necessary prior to the applicant paying an advance processing fee.

e. Advance Payment. No additional work on the application will be undertaken before the appropriate fee has been paid.

.15 Reevaluation of Processing and Monitoring Fees. The BLM revises the fees annually based on the change in the Implicit Price Deflator-Gross Domestic Product.

.16 Exemptions. Cost Reimbursement Procedures do not apply to:

A. State and local governments or an agency of such a government which is not a municipal utility, where the public lands shall be used for governmental purposes, and such lands and resources shall continue to serve the general public.

B. Cost share roads or reciprocal ROW agreements.

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.17 Master Agreements.

A. General. A Master Agreement (MA) is a negotiated agreement, allowing considerable flexibility between the BLM and the applicant in the areas of how grants are issued, grant terms, applicability, and cost sharing. MAs will only be used with a single applicant who is subject to cost recovery. An applicant exempt from cost recovery must pursue another type of agreement (e.g. Cooperative Agreement). An MA must be in the public interest and usually involves either:

1. A project requiring multiple approvals from the BLM, or
2. Multiple projects requiring approvals from the BLM within a defined geographic area.

B. Purpose. A Master Agreement is intended to streamline usual ROW processing and administrative procedures, and to reduce paperwork for multiple, similar authorizations in a limited geographic area. It could be useful to operators/developers of oil and gas fields for access roads and feeder pipelines, and the associated gathering systems and transportation pipelines of the transport companies. It could also be useful for electric or telephone companies providing service to rural areas.

C. Cost Recovery. This is a negotiated agreement, and shall be based on the concept of reimbursing the BLM for all reasonable costs on FLPMA applications. By signing an MA, the applicant waives their right to request a reduction of FLPMA cost reimbursement charges.

D. Accounting Procedures.

1. Supporting Documentation. All costs must be supported by documentation sufficient to establish that the costs were accurately determined and properly recorded. A Reimbursable Project Log or similar form is used to document costs for a case. The applicant/holder may audit this documentation.

2. Project/Subproject Code Assignments. Project/subproject codes are assigned to track costs associated with MAs. The National Business Center (NBC) assigns project/subproject codes from a bank of pre-assigned numbers for all deposits and expenditures.

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3. Notifying the National Business Center. Each MA established in the Financial Management Information System (FMIS) requires a cost recovery *Project/Subproject Number Assignment and Information Data Form* (1310-20). (See Illustration 13). Complete the necessary information and send the 1310-20, approved MA, and Collections and Billing System (CBS) receipt and related information to the NBC Program Management Team (BC-612). After establishing the project, it remains open until the NBC (BC-612) receives a Project Completion Report.

4. Financial Management Information System. Expenditures and collections are monitored by the BLM through the Financial Management Information System or its successor.

.18 Master Agreement Content.

A. Required Content.

1. Geographical area covered by agreement.
 - a. Generally this would not exceed a Field Office or District area.
 - b. Conditions may exist where a single State would be the geographical area.
2. Description of work the applicant and the BLM will do to process the application(s).
3. Description of method of periodic billing, payment and auditing.
4. Identifies the processes, studies, evaluations, etc, the applicant will pay for.
5. Description of monitoring and how the BLM will recover its costs.
6. Provisions for periodic review, update, cancellation or termination.

B. Other Conditions considered necessary by the BLM.

.19. Processing Category 6 Applications.

A. Determination. Upon determination that an application meets the criteria of Category 6 - will require more than 50 hours of work - the AO shall:

1. Notify the applicant in writing of the Category 6 determination, with an opportunity for appeal. (See Illustration 12.)

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2. Complete a preliminary scoping of the issues involved.
3. Prepare a preliminary work plan.
4. Prepare a preliminary financial plan.
5. Meet with the applicant to discuss the scoping plan, the preliminary work plan, and the preliminary financial plan.
6. If the applicant wishes to proceed with the application, develop a final scoping plan, work plan, and financial plan which reflects any work the applicant agrees to perform. This information is incorporated into a formal written agreement between the applicant and the BLM.

7. **Advance payment.** The BLM shall require the applicant to make periodic payments in advance of such costs being incurred by the BLM, as required. If payments exceed the costs that BLM incurred for the period, the BLM will either adjust the next billing to reflect the excess or refund the excess to the applicant.

B. **Accounting Procedures.** The AO estimates the costs to be incurred through a work period, usually a quarter year. The applicant is billed by the local office CBS specialist for this amount less any prior overpayment. Advance payment requirements must be reviewed at least quarterly by the AO or project manager. The total advance payments on hand must be at least sufficient to cover the estimated total costs to be incurred before the next payment is expected, otherwise all work should be suspended.

1. **Supporting Documentation.** All costs must be supported by documentation sufficient to establish that the costs were accurately determined and properly recorded. A Reimbursable Project Log or similar form is used to document costs for a case. The applicant/holder may audit this documentation.

2. **Project Code Assignments.** Project codes are assigned to track costs associated with Category 6 ROWs. State Offices assign Category 6 ROW project numbers from a bank of pre-assigned numbers for the service charges, deposits and forfeiture activities.

3. **Notifying the National Business Center.** Each Category 6 ROW project established in the Financial Management Information System (FMIS) requires a cost recovery *Project/Subproject Number Assignment and Information Data Form* (1310-20). (See Illustration 13). Complete the necessary information and send the 1310-20, Cost Recovery Agreement, and CBS receipt and related information to the NBC Program Management Team (BC-612). After establishing the project, it remains open until the NBC (BC-612) receives a Project Completion Report.

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4. Financial Management Information System: Expenditures and collections are monitored by the BLM through the Financial Management Information System or its successor.

.20 Reasonable Costs.

A. Cost Recovery. Section 304(b) of FLPMA requires that all reasonable costs be recovered.

1. The BLM calculates its direct and indirect costs to process an application, and uses that figure as a basis for reasonable costs.

2. It is the applicant's responsibility to submit an analysis of the FLPMA §304(b) factors to the BLM, if the applicant believes that those factors apply, for the BLM's consideration in determining reasonable costs. The factors are:

- a. Actual costs;
- b. The monetary value of the rights and privileges sought;
- c. The BLM's ability to process an application with maximum efficiency and minimum waste and effort;
- d. Costs incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant;
- e. The public service provided; and
- f. Other factors (including why the factors are believed to be relevant).

3. It must be made clear to the applicant that the dollar amount of any reductions in actual/reasonable costs due to FLPMA §304(b) factors must come from BLM appropriated funds or from within the existing BLM budget. Such situations may lead to extensive delays in processing an application if those funds are not available.

4. Final decisions on reasonable costs are made by the State Director for the area in which the ROW is located or, if multijurisdictional, by the lead State Director assigned by the Director. This authority/responsibility may not be re-delegated by the State Director.

.21 Other Factors that may be considered in setting reasonable costs include:

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- A. The payment of actual costs would:
 - 1. Result in undue financial hardship to a small business,
 - 2. Secure little monetary value for a small business from the ROW grant as compared to the processing and monitoring costs, or
 - 3. Prevent use and enjoyment of the ROW grant for a non-commercial purpose;
- B. The cost of processing and monitoring grossly exceeds the cost of project construction;
- C. For a non-profit entity not controlled by or a subsidiary of a profit-making entity:
 - 1. The studies undertaken in connection with processing or monitoring have a public benefit, or
 - 2. The facility or project will provide a benefit or special service to the general public or to a program of the Secretary;
- D. The grant is needed to prevent or mitigate damage to lands or property or to mitigate hazards or danger to public health and safety arising from an act of God, an act or war, or negligence of the United States;
- E. A new or amended grant is required in order to relocate an authorized facility to comply with public health and safety and environmental protection laws, regulations, and standards which were not in effect at the time the BLM issued the original grant;
- F. A new grant is needed to relocate facilities which must be moved because a Federal agency or federally-funded project needs the lands and the United States does not pay the costs associated with the relocation; and
- G. For whatever other reason, such as public benefits or public services provided, collecting processing and monitoring fees would be inconsistent with prudent and appropriate management of public lands and with applicant's equitable interests or the equitable interests of the United States.
- H. Final decisions on other factors that may be considered in setting reasonable costs are made by the State Director for the area in which the ROW is located or, if multijurisdictional, by the lead State Director assigned by the Director. This authority/responsibility may not be re-delegated by the State Director.

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.22 Available Funds. If the BLM does not have sufficient funds to process the application, it will not be processed until adequate funds become available.

.23 Multiple, Joint, or Competing Applications.

A. Multiple or Joint Applications. Multiple applications shall be processed under the same criteria that are used in processing individual applications to ensure that all parties receive equal consideration and the best use of the public land is achieved. In all cases, each applicant is required to make the nonrefundable application fee payment set by the appropriate ROW category.

1. Evaluating Multiple Applications. Where possible, provide space for all qualified applicants consistent with approved land use planning decisions. Provide for full site utilization through modifications of applications and grant stipulations which meet the need of the applicant.

B. Competitive Applications.

1. Determining Competitive Interest. The AO may determine that there is potential competitive interest in a particular project, such as a potential communication site, or the AO may receive two or more applications for the same project or land. Otherwise, applications are generally processed in the order of receipt.

2. Cost Recovery. Generally competitive situations will be treated as a Category 6 for cost recovery. Costs for determining whether to competitively offer a specific ROW use on specific land must be paid by the BLM unless an application(s) has been filed. The filing of an application(s) should be sought at the earliest possible time in the process.

a. BLM Processing. Where no applications are sought, the BLM will complete its analysis, NEPA and related studies, and determine under what conditions to offer a ROW use through competition. Costs are not directly recovered; recovery may be to the United States in general through methods such as bonus bidding.

b. Applications. Where applications have been received, costs are prorated among the applicants. Proration may be by area in relation to acres requested/obtained for wind farms. Proration may be equal among the applicants for some ROWs, such as a communication site facility.

.24 Exceptions. An individual/company may not have to file an application using SF 299 if:

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A. Competition. The BLM determines that competition exists; or

B. ROW Application is in conjunction with Oil and Gas Lease activities. Applications for Permit to Drill (APD) and the accompanying surface use program, and/or Sundry Notices (SN), shall be accepted as ROW applications for those portions of the proposed facilities located off-lease.

1. General.

a. Production facilities located on a lease or unit shall be approved by an APD or SN authorized under the lease terms.

b. ROW Applications. To avoid redundant requirements, acceptable ROW applications may be made via the following:

(1) An APD;

(2) A SN.

c. The information provided in the surface use program submitted with the above two options shall be considered, and serve as, the POD.

d. As with all ROW applications, the BLM may request additional information needed for a complete NEPA analysis and decision.

e. A stipulation allowing for automatic amendment of the ROW in the event of future boundary adjustments of a lease or unit shall be included in ROW grants which authorize facilities downstream of custody transfer, or off lease facilities that traverse lease or unit boundaries.

f. The cost recovery fee determination shall be based on the extent of the off-lease ROW needs.

g. ROW grants are needed for:

(1) Oil and Gas facilities lying outside of a lease or unit boundary;

(2) That portion of the facility which occurs downstream from the sales (custody transfer) point, (whether on or off lease); and

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(3) A facility (other than a production facility) or portion thereof which is owned by any party other than the lessee or designated operator.

2. Unit Contraction or Lease Boundary Changes.

a. Future Changes. Facilities originally authorized by, but no longer included in oil and gas leases, or communitized or unitized areas, require appropriate ROW grants. A copy of the lease or unit change decision together with any APD or SN activity within the lease or unit shall be furnished to the appropriate FO Realty Specialist.

(1) The AO shall determine whether sufficient information exists or additional information is needed from the lease/unit holder/operator. With completed information the AO may issue the ROW grant.

(2) As the issuance of the ROW grant is a change in authorization, not a new approval, additional NEPA analysis and decision documents are not normally required.

(3) Rent begins on the first full month from the date of conversion.

(4) Unit approval could result in previously issued ROWs now being covered under lease authority. In such cases the operator may either relinquish the ROW and convert to coverage under a SN, or continue the authorization under the existing ROW grant.

b. Past Unit Contraction and Lease Boundary Changes. Many of the past changes in units or leases have left facilities originally covered by the unit or lease without proper authorization.

(1) A grace period which ended on January 1, 1993, allowed holders of such facilities to obtain ROW authorizations as provided in a. above.

(2) Such remaining facilities are considered unauthorized and are subject to trespass action.

.25 Application Processing. When an application is received by the AO:

A. Information Verification. The information on the application should be verified upon receipt of the application and prior to formally accepting the application.

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1. Significant Deficiencies. If a significant deficiency is noted, the application, including any cost recovery fee, shall not be accepted. The applicant will be notified of the application deficiencies in writing.

B. Application Acceptance. A verified application shall be date stamped, serialized, and entered into LR2000. If processing or other fees are paid, the money will be deposited and Collection and Billing System(CBS)-generated receipts produced for the casefile and the applicant.

C. Administrative Scoping. An “administrative scoping” procedure shall be promptly completed. This procedure will be used to determine if the application is complete and the cost recovery category, and to schedule, coordinate, and determine the workload required for processing the application.

1. Incomplete Information. The applicant shall be requested to supply any information the AO determines is necessary to have a completed application.

2. Mining Claims present a unique problem for ROWs. Until July 23, 1955, mining claims entailed all rights in the land. In 1955 Congress enacted the Surface Management Act, commonly referred to as PL 167, and placed the management of non-interfering surface uses on new mining claims with the United States. It also provide for the “publishing out” of the limitation on surface use of existing mining claims.

a. Claims located prior to July 23, 1955. Lands within mining claims located prior to July 23, 1955, and the United States has not subsequently obtained surface management rights, do not qualify as public lands under FLPMA. ROW grants may not be issued for lands included in such mining claims.

(1) To alleviate this problem the ROW applicant may 1) seek to have the validity of the mining claim challenged or 2) may seek to obtain a relinquishment, donation or sale of sufficient interest in the mining claim to the United States.

b. Claims located subsequent to July 23, 1955 and pre-1955 claims where the United States has subsequently obtained management of the surface uses qualify as public lands under FLPMA.

(1) If the ROW use interferes with prospecting, mining or related mining activities a non-interfering route should be sought; otherwise the ROW application should be rejected.

.25C2b(2)

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(2) If the ROW use does not interfere with prospecting, mining or related mining activities the ROW may be processed and grant issued subject to the rights of the mining claimant.

3. Cost Recovery. If the application is determined to be complete, prepare and issue the Processing Category and Fee Determination Record (Decision) for those applications subject to cost recovery.

D. Cost Recovery Considerations. Work beyond pre-application conferences shall be limited for applications subject to cost recovery until the appropriate fee has been paid.

1. Categories 1 - 4. Work necessary for verification and application scoping to determine completeness of the application and to issue the cost recovery category determination may be conducted. Further action on the application must await the payment of the determined fee.

2. Category 5 - Master Agreements. Development of the MA may proceed. Actual work on any applications may not occur until the Agreement has been accepted.

3. Category 6. Initial review and scoping may be performed in order to provide a written estimate of the time to process and the total processing cost to the applicant.

E. Customer Service Standard. In order to ensure timely service to ROW applicants, field offices must establish priorities for their lands and realty program which are consistent with Strategic Plan goals, Director's priorities, and State priorities. Pursuit of "discretionary" or lower priority work or assignments by field offices must not detract from the BLM's ability to serve its ROW customers and achieve its Strategic Plan objectives. (See Illustration 15, Customer Service Flow Chart.)

1. Time Standards by Category. From the initial processing to the offer-to-issue letter or application rejection decision, the BLM will meet established processing time standards. These time standards also apply to applications not subject to cost recovery, therefore the AO will have to estimate a processing category.

a. Category 1 - 4 Applications. Applications that are or would be designated as Category 1- 4, should be processed within 60 calendar days. Where more than 60 days are anticipated, the applicant must be notified within the first 30 days and advised of the reason for the delay and the anticipated date of decision on the application. (See Illustration 16, "29th Day" Letter.)

b. Category 5 Applications. Applications under an MA will be processed according to the specifications contained in the Agreement.

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c. Category 6 Applications. For applications that would require over 50 work hours to process, the BLM will provide the applicant, within the first 60 days, a written estimate of the time for processing the application.

2. All Categories. Anytime it appears that the processing of any application will require more than 60 days longer than determined above, the AO shall inform the applicant in writing of this fact. A reasonable explanation for the delay and a new estimate of when the processing of the application may be completed will also be provided.

3. EIS Preparation. When an EIS is required, the AO shall include in the notice to the applicant the estimated time to complete the EIS.

4. Start of Time. The Customer Service Time Standard begins when the BLM has received a “completed” application or 30 calendar days have passed since an application was given a serial number (see .25A above).

a. Completed Application. An application is considered “completed” when:

(1) The Processing Category and Fee Determination Record (Decision) is issued and the fee paid (see .13 above) **or**

(2) State or local government non-cost recovery application is considered complete by the AO.

b. Time. By the 31st day following receipt, unless prior to the 31st day the AO has issued a letter requesting specific additional information and is awaiting response; **or** has issued the Category Determination Decision and is awaiting payment of the required fee.

(1) Running of Time. The running of the time standard for the application will be stopped when either processing fee or additional information has been requested and not yet received.

(a) Fee. Time standards resume upon receipt of the requested fee, unless additional information was also requested.

(b) Additional Information. When additional information is received the AO will have 15 days to determine whether the application is now complete or to issue another request for information.

i. No more than three requests will be made for additional information.

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ii. If the requested information is not provided in response to the 3rd request, the AO shall reject the application as incomplete. The rejection decision must cite the material/information that is lacking to make a complete application.

F. Notification. The AO will notify each applicant, and interested party identified during the pre-application and application processing stages, as to the final disposition of the application. The AO shall work closely with the applicant and interested parties to resolve, to the extent possible, any conflicts which could result in a protest or appeal of the decision.

1. Offer-to-Issue. An offer-to-issue is used to offer the ROW grant and obtain the applicant's written acceptance of the terms and conditions. The offer/grant package shall be submitted to the applicant using the level of formality the AO deems appropriate, considering the complexity of the case, the issues involved, and the existence of protests.

G. Delayed Issuance of Grant. Only in instances where it is in the public interest shall the AO delay issuing an otherwise ready to issue grant. In all other instances where a delay is requested, the AO shall deny the request, reject the application and the applicant shall be told to reapply when ready to proceed with the project.

H. LR 2000. As the application process progresses, promptly enter appropriate data into LR 2000.

I. Interstate ROW Projects.

1. Lead State Designation. The lead State designation for all interstate ROW projects is made by the Director based upon the recommendations of the States involved, the physical length of the project in each affected State, and whether any sensitive environmental or other issues are present in a State. The lead State Director may assign this lead to one of her/his immediate staff (DSD or FO/DO Manager) or to an available Project Manager (WO350).

a. Case Serial Numbers. The lead State assigns a serial number which is used for the case file and all official correspondence. Other involved States assign a serial number for entry into LR2000. The lead State serial register page must reference the non-lead State serial numbers in remarks as should the non-lead States. All financial transactions get deposited under the lead State serial number. The lead State is also responsible for the casefile and for all casefile information input to LR2000.

b. Grant Document. The ROW grant for an interstate project is issued by the lead State and contains only the Lead State serial number. Any future amendments to the grant, or decisions affecting the grant, would also be issued by the lead State.

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J. FLPMA ROW Projects Over Public Lands and Other Federal Lands. Unlike the MLA, FLPMA may not be used by the BLM to authorize ROWs over other Federal lands.

1. Forest Service. Although Title V of FLPMA also applies to the Forest Service, the two agencies may not intermingle their activities with the same project. Each agency must process the portion of the project falling within their respective jurisdiction.

K. Pre-FLPMA ROWs Crossing Lands Administered by Other Federal Agencies. Three of the laws repealed by FLPMA authorize the Secretary (BLM) to accept and/or approve ROWs over certain reserved public lands. The application of those laws to public land or lands within the National Forest System was repealed by FLPMA.

1. Act of March 3, 1891, as amended; 43 U.S.C. 946-951 grants ROWs for irrigation or drainage and maintenance of reservoirs, canals and laterals. It applies to reservations of the United States and is activated by the entity filing with the Secretary (BLM) its organizational articles and, subsequently a map of its ditch, canal, or reservoir. Regulations for such ROWs were at 43 CFR 2871 (1979).

2. Act of January 21, 1895, as amended; 43 U.S.C. 956 authorizes the Secretary to grant ROWs over public land not within any national park, forest, military or Indian reservation for tramroads, canals, or ditches. Regulations for such ROWs were at 43 CFR 2811 (1979).

3. Act of February 15, 1901, 43 U.S.C. 959 authorizes the Secretary (BLM) to grant permits for electrical, telephone, canals, ditches, reservoirs, water plants, dams, etc. to promote irrigation, mining, quarrying, cutting or manufacturing of timber or lumber, or supplying of water for domestic, public or other beneficial use. Regulations for such permits were at 43 CFR 2850 (1979).

.26 Denial or Withdrawal.

A. Denial. A decision to deny an application can be made at any time during application processing when the AO has adequate information to support such a decision.

1. Notification of Denial. The decision to deny the application shall contain the following as a minimum:

a. A full explanation of the reasons for denial (see 43 CFR 2804.26). Every effort shall be made to ensure the applicant understands the reasons for denial; and

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b. An explanation of the applicant's appeal rights. BLM Form 1842-1 shall be enclosed.

2. Amendment. An applicant may amend the ROW application. However, such action will require that the BLM start the review process over from the beginning. This would include a re-determination of the cost recovery processing category.

B. Withdrawn Application. An application may be withdrawn at any time by an applicant. Such action by the applicant must be documented in the casefile

.27 Cost Recovery Processing costs for denied or withdrawn applications are handled as follows:

A. Minor Category Applications. The processing fee is retained by the BLM.

B. Major Category Applications. The applicant remains liable for all reasonable costs necessary in processing the grant up to receipt of the written notice of withdrawal or the finality of a rejection decision on appeal and such additional costs incurred in closing out the case.

.28 FERC hydropower project. With the passage of FLPMA in 1976, a FERC hydropower project sponsor (proponent) must obtain both a license from FERC under the Federal Power Act (or an exemption from FERC licensing) **and** a FLPMA ROW grant to construct a hydropower project on public lands. The BLM is provided the opportunity for input to the FERC licensing process, and the licensing process provides baseline data for processing the BLM ROW application.

A. Cost Recovery Procedures. Cost recovery for FERC projects is divided into two phases- pre-application and post-application.

1. Pre-Application. Prior to a FERC proponent submitting an application to the BLM for a project on public lands, all BLM personnel time spent in the licensing process is coded to a specific FERC project code. The BLM provides to the FERC the costs attributed to these project codes, and the FERC recovers those costs from the proponent.

2. Post-Application. Upon receipt of a ROW application (SF-299) from a FERC proponent, all cost recovery from that point forward is done via a cost recovery category determination based on the application.

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.29 Allowable Uses During Application Processing. The only uses of public land by the ROW applicant allowed during application processing are those that meet the definition of “casual use”. Any other use requires a BLM authorization under appropriate authority. Studies conducted by the applicant for the purpose of assisting in a decision by the AO must also meet the criteria of casual use or be authorized in advance by the BLM.

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Pre-Application Checklist

Items to be discussed in Pre-Application conference with applicant:

A. Scope of the proposed project

1. Project type - description, plans, MLA or FLPMA, site vs. linear, etc.
2. Use - is a ROW the most appropriate authorization?
3. Size - how much public land will be required?
4. Any other Federal agency lands involved? Lead state or lead agency (FERC).
5. Project location or routing- other potential routes/locations (on or off BLM land), and other BLM offices that may be involved?
6. Duration of use
7. Does the project qualify as casual use?
8. Any off-site or ancillary facilities?

B. Compliance with Land Use Planning

1. RMP or MFP- Does proposed project conform to land use plan?
2. Special Management Area/Area of Critical Environmental Concern - does proposed project conflict with any special designation areas?
3. Activity plans that may affect application
4. Other authorized uses or mining claims that may conflict with proposal
5. Corridor considerations?

C. Potential for Controversy/ Public Meetings

D. Level of Environmental Analysis

1. CX, DNA, EA, EIS
2. Special studies required (T&E species, cultural inventories, etc.)
3. Availability of existing staff
4. Opportunities for applicant-funded studies to expedite processing, BLM requirements and standards for such studies

E. Timeframes

1. Applicant - requirements of a completed application, when work needs to start (if approved)
2. BLM - existing staff, other applications already being processed, opportunities for applicant to fund BLM's processing of application

F. Financial Considerations

1. Processing fees
2. Monitoring fees
3. Rent
4. Potential for a bonding requirement in grant
5. Applicant's financial situation -what is the cost of constructing and maintaining the proposed use?
Does the applicant have the capability?

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Pre-Application Checklist

G. Application

1. Requirements of a completed application (maps, description of project, business papers, etc.)
2. Line-by-line discussion with potential applicant of necessary information in application
3. Distribute “How to Obtain a ROW” brochure

H. Requirements of a Grant

1. Types of stipulations normally required by BLM
2. BLM’s discretion of choosing a route or site other than the one applied for
3. Possibility of denying application

I. Points of contact

1. Applicant contact (agent?)
2. If agent, extent of authority to represent applicant
3. BLM contact for application submission or other questions
4. Other agencies that may need to be involved (BLM is not a clearinghouse for these other agencies)

Illustration 2
.10D2

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Outline – Communication Site Plan of Development

1. Purpose and Need of the Facilities
 - a. what will be built
 - b. what is use
 - c. what is size
 - d. can it be housed within an existing site as a sublease
 - e. can it be constructed to allow for future expansion and permit subleasing of the facility
 - f. can it accommodate government agencies as sublessee
 - g. is this ancillary to an existing right-of-way
 - h. list alternative routes or locations
2. Right-of-way Location
 - a. legal description of the facility
 - b. maps
 - c. drawings of typical tower installation, shelters, and guy wire configuration
 - b. engineering design drawings and/or standards for roads, drainage, and power lines
3. Facility Design Factors
 - a. design factors to be considered include wind loads, type and color of structures, wiring standards, suitability of soils and geology for placement of the facility
 - b. technical data information
 - c. list temporary use areas that are needed
 - d. required associated rights-of-way, including access roads, power lines
 - e. length, width, acreage of right-of-way
 - f. compatibility with other users
 - g. potential conflicts with other communication modes (i.e., mixing high power continuous with low power intermittent operations, obstructions between microwave towers, etc.)
 - h. required associated rights-of-way including access roads, power lines, material sites
4. Additional Components
 - a. list existing components on and off public land
 - b. list possible future components on and off public land
 - c. location of equipment storage areas
5. Government Agencies Involved
 - a. Federal Communication Commission
 - b. state and local agencies
6. Construction of the Facilities
 - a. will a helicopter be required
 - 1) if so designate the flight routes on a map
 - b. will temporary access be required
 - c. will the site be fenced after construction
 - d. construction (brief description)
 - 1) major facilities (including vehicles and number of tons and loads)
 - 2) ancillary facilities (including vehicles and number of tons and loads)
 - e. work force (number of people and vehicles)
 - f. flagging or staking the right-of-way
 - e. clearing and grading

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Outline – Communication Site Plan of Development

- f. facility construction data
 - 1) description of construction process
 - g. access to and along right-of-way during construction
 - h. contingency planning
 - 1) holder contacts
 - 2) BLM contacts
 - i. safety requirements
 - j. industrial wastes and toxic substances
7. Resource Values and Environmental Concerns
- a. address at level commensurate with anticipated impacts
 - 1) location with regard to designated corridors
 - b. anticipated conflicts with resources or public health and safety
 - 1) air, noise, geologic hazards, mineral and energy resources, paleontological resources, soils, water, vegetation, wildlife, threatened and endangered species, cultural resources, visual resources, BLM projects, recreation activities, wilderness, etc.
8. Stabilization and Rehabilitation
- a. soil replacement and stabilization
 - b. disposal of vegetation removed during construction (i.e., trees, shrubs, etc.)
 - c. seeding specifications
 - d. fertilizer
 - e. limiting access to right-of-way
9. Operation and Maintenance
- a. will all-weather roads be required
 - b. will operational access to the site require a helicopter
 - a. safety
 - b. industrial wastes and toxic substances
 - c. inspection and maintenance schedules
 - d. work schedules
 - e. fire control
 - f. long term access
 - g. signs
 - h. inspections
 - i. contingency planning
10. Termination and Restoration
- a. removal of structures
 - b. obliteration of roads, building sites, antenna sites
 - c. stabilization and re-vegetation of disturbed areas

Illustration 3
.10D2

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Outline – Dam and Reservoir Plan of Development

1. Purpose and Need for the Facility
 - a. what will be built
 - b. identify the uses(s) of the dam and reservoir, such as fisheries, recreation, irrigation, stock water, wildlife, flood control, industrial or domestic water supply, hydropower, stream flow regulation, etc.
 - c. state the period of uses and the functional life of the structure
 - d. describe the size of the facility, i.e., the dam dimensions, reservoir surface area, permanent storage capacity, flood storage capacity, related facilities, etc.
 - e. is this ancillary to an existing right-of-way
 - f. list any alternative locations
2. Right-of-way Location
 - a. legal description
 - b. maps and drawing
3. Facility Design Factors
 - a. must be designed by a Federal Agency professional or a professional engineer licensed by the appropriate state authorities; design criteria are based on State and Federal standards
 - b. maps showing the location and detailed engineering plans and specifications; these should show the location of the structure and outlet works, the high water line, current location of streams and rivers, ancillary facilities, section corner ties, legal description, and acreage by land status
 - c. design must include special mitigation facilities/requirements such as fish ladders, controlled discharge, minimum flow requirements; it must also include emergency spillway and outlet works, design frequency storm, area capacity curves/charts, hydropower potential, planned recreation facilities, e.g. boat ramps, parking lots
 - d. list any temporary use areas that will be needed
4. Additional Components of the Right-of-way
 - a. state water rights involved
 - b. dam safety standards
 - 1) hazard rating and emergency action plan
 - c. temporary and permanent access roads
 - d. power lines
 - e. irrigation ditches
 - f. availability of the reservoir for public recreation purposes
 - g. list any existing components on and off public land
 - h. list possible future components on and off public land
 - i. location of equipment storage areas
5. Site Selection
 - a. water quality monitoring
 - b. hydrological data such as rainfall, stream flow, sedimentation
 - c. major geologic and soil features, including sand and gravel deposits, clay sources, siltation, soil susceptibility to piping or settling
 - d. alternate locations available
 - e. seismic considerations
 - f. downstream developments and land use
 - g. water quality

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Outline – Dam and Reservoir Plan of Development

- h. all known water rights
 - i. access and whether it exists or needs to be developed
 - j. a description of what will be inundated
6. Government Agencies Involved
- a. other Federal offices that are involved
 - b. state and local agencies that are involved
7. Construction of the Facilities
- a. construction (brief description)
 - 1) major facilities (including vehicles and number of tons and loads)
 - 2) ancillary facilities (including vehicles and number of tons and loads)
 - b. work force (number of people and vehicles)
 - c. flagging or staking the right-of-way
 - d. clearing and grading
 - e. facility construction data
 - 1) description of construction process
 - f. access to and along right-of-way during construction
 - g. contingency planning
 - 1) holder contacts
 - 2) BLM contacts
 - h. safety requirements
 - i. industrial wastes and toxic substances
8. Resource Values and Environmental Concerns
- a. address at level commensurate with anticipated impacts
 - b. anticipated conflicts with resources or public health and safety
 - 1) air, noise, geologic hazards, mineral and energy resources, paleontological resources, soils, water, vegetation, wildlife, threatened and endangered species, cultural resources, visual resources, BLM projects, recreation activities, wilderness, etc.
9. Stabilization and Rehabilitation
- a. soil replacement and stabilization
 - b. disposal of vegetation removed during construction (i.e., trees, shrubs, etc.)
 - c. seeding specifications
 - d. fertilizer
 - e. limiting access to right-of-way
10. Operation and Maintenance
- a. safety
 - b. industrial wastes and toxic substances
 - c. inspection and maintenance schedules
 - d. work schedules
 - e. fire control
 - f. long term access
 - g. signs

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Outline – Dam and Reservoir Plan of Development

- h. inspections
 - i. contingency planning
11. Termination and Restoration
- a. hazard analysis and liability
 - b. design changes
 - c. removal of structures
 - d. obliteration of the roads and earthwork
 - e. stabilization and re-vegetation of the disturbed area

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Outline – Pipeline Plan of Development

1. Purpose and Need
 - a. what will be constructed
 - b. commodity to be transported and for what purpose
 - c. is the pipeline for a gathering system, trunk line, or distribution line
 - d. will it be surface or subsurface
 - e. length and width of the right-of-way and the area needed for related facilities
 - f. is this ancillary to an existing right-of-way
 - g. list alternative routes or locations
2. Right-of-way location
 - a. legal description
 - b. site specific engineering surveys for critical areas (note: in addition to normal centerline survey)
 - c. maps and drawings showing river crossings
 - d. acre calculation of the right-of-way by land status
3. Facility Design Factors
 - a. pipeline pressure standards
 - 1) pipe wall thickness and pounds per square inch (psi) rating
 - b. toxicity of pipeline product
 - c. anticipated operating temperatures
 - d. depth of the pipeline
 - e. permanent width or size
 - f. temporary areas needed
4. Additional Components of the Right-of-way
 - a. connection to an existing Right-of-way
 - 1) existing components on or off public land
 - 2) possible future components
 - b. location of pumping and/or compressor stations
 - c. need for sand and gravel and where will it be obtained
 - d. location of equipment storage areas
5. Government Agencies Involved
 - a. FERC, USFWS
 - b. copy of FERC Sec. 7c Application, if applicable
 - c. state and local agencies that may be involved
6. Construction of the Facilities
 - a. construction (brief description)
 - 1) major facilities (including vehicles and number of tons and loads)
 - 2) ancillary facilities (including vehicles and number of tons and loads)
 - b. work force (number of people and vehicles)
 - c. flagging or staking the right-of-way
 - d. clearing and grading
 - e. facility construction data
 - 1) description of construction process
 - f. access to, and along, right-of-way during construction

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Outline – Pipeline Plan of Development

- g. engineering drawings and specifications for site-specific problems relating to surface use or special mitigation
 - h. diagrams, drawings, and cross sections to help visualize the scope of the project
 - i. special equipment that will be utilized
 - j. contingency planning
 - 1) holder contacts
 - 2) BLM contacts
 - k. safety requirements
 - l. industrial wastes and toxic substances
7. Resource Values and Environmental Concerns
- a. address at level commensurate with anticipated impacts
 - 1) location with regard to existing corridors
 - b. anticipated conflicts with resources or public health and safety
 - 1) air, noise, geologic hazards, mineral and energy resources, paleontological resources, soils, water, vegetation, wildlife, threatened and endangered species, cultural resources, visual resources, BLM projects, recreation activities, wilderness, etc.
8. Stabilization and Rehabilitation
- a. soil replacement and stabilization
 - b. disposal of vegetation removed during construction (i.e., trees, shrubs, etc.)
 - c. seeding specifications
 - d. fertilizer
 - e. limiting access to the right-of-way
 - f. will roads built during construction be reclaimed
9. Operation and Maintenance
- a. will new or expanded access be needed for operation and maintenance
 - b. will there be hydrostatic testing and subsequent release of water and what is the anticipated volume
 - c. will removal and/or addition of pipe and/or pumps be required as part of pipeline maintenance
 - d. will all maintenance activities be confined within the right-of-way
 - e. safety
 - f. will industrial wastes and toxic substances be generated or stored on right-of-way
 - g. inspection and maintenance schedules
 - 1) will these be conducted on-the-ground and/or by aircraft
 - 2) if by aircraft, will the aircraft require landing strips and/or heliports
 - h. work schedules
 - i. fire control
 - j. contingency planning
10. Termination and Restoration
- a. removal of structures
 - b. will pipe be removed or cleaned and left in ground
 - c. obliteration of roads
 - d. stabilization and re-vegetation of disturbed areas

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Outline – Powerline Plan of Development

1. Purpose and Need for the Facility
 - a. what will be built
 - b. what is use
 - c. what is the voltage
 - d. will the power line be overhead or buried
 - e. what is the origin destination and routing
 - f. identify the major users along the route (i.e., mines, cities, agricultural projects, etc.)
 - g. is the power line for distribution or transmission purposes
 - h. is this ancillary to an existing right-of-way
 - i. if not located within designated corridor, provide alternative routes
2. Right-of-way Location
 - a. legal description
 - b. site specific engineering surveys for critical areas (in addition to normal centerline surveys)
 - c. maps and drawings
 - d. length, width, acreage
3. Facility Design Factors
 - a. minimum and maximum engineering standards, i.e.
 - 1) type and height of structures and cross-arm configuration, if applicable
 - 2) structural materials
 - 3) diagram of the structures with the dimensions designated on the diagram
 - b. clearance requirements with respect to temperature, wind, voltage, span, and structure heights
 - c. length of right-of-way and permanent width
 - d. temporary use areas needed
4. Additional Components
 - a. existing components on and off public land
 - b. possible future components on and off public land
 - c. location of substations
 - d. permanent and temporary access
 - e. communication facilities needed to operate the facility
 - f. location of equipment storage areas
5. Government Agencies Involved
 - a. other Federal offices, i.e. DOE
 - b. state and local agencies
6. Construction of the Facilities
 - a. construction (brief description)
 - 1) major facilities (including vehicles and number of tons and loads)
 - 2) ancillary facilities (including vehicles and number of tons and loads)
 - b. work force (number of people and vehicles)
 - c. flagging or staking the right-of-way
 - d. clearing and grading
 - e. facility construction data
 - 1) description of construction process
 - f. access to, and along, right-of-way during construction

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Outline – Powerline Plan of Development

- g. will helicopters be used for stringing conductors and framing towers
 - 1) if so, map designating the flight path if it does not follow the right-of-way
 - h. what is the location and size of framing pads and turn-around pads
 - i. access to the framing pads
 - j. contingency planning
 - 1) holder contacts
 - 2) BLM contacts
 - k. safety requirements
 - l. industrial wastes and toxic substances
7. Resource Values and Environmental Concerns
- a. address at level commensurate with anticipated impacts
 - 1) location with regard to existing corridors
 - b. anticipated conflicts with resources or public health and safety
 - 1) air, noise, geologic hazards, mineral and energy resources, paleontological resources, soils, water, vegetation, wildlife, threatened and endangered species, cultural resources, visual resources, BLM projects, recreation activities, wilderness, etc.
8. Stabilization and Rehabilitation
- a. soil replacement and stabilization
 - b. disposal of vegetation removed during construction (i.e., trees, shrubs, etc.)
 - c. seeding specifications
 - d. fertilizer
 - e. limiting access to the right-of-way
 - f. will roads built for access during construction be reclaimed
9. Operation and Maintenance
- a. safety
 - b. industrial wastes and toxic substances
 - c. inspection and maintenance schedules
 - d. work schedules
 - e. fire control
 - f. long term access
 - g. signs
 - h. inspections
 - 1) will these be conducted by ground and/or aircraft
 - 2) if by aircraft, will the aircraft require landing strips and/or heliports
 - i. contingency planning
10. Termination and Restoration
- a. removal of structures
 - b. obliteration of roads, tower pads, etc.
 - c. stabilization and re-vegetation of disturbed areas

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Outline – Road Plan of Development

1. Purpose and Need for the Facility
 - a. what will be built
 - b. what is use
 - c. what is size
 - d. does the proposal involve new construction, reconstruction, or improvement of an existing road
 - e. is the use temporary or permanent
 - f. is this ancillary to an existing right-of-way
 - g. type and volume of traffic that is anticipated
 - h. season of use
 - i. origination and destination of the road
 - j. alternative routes or locations, if proposed road not within a designated corridor
2. Right-of-way Location
 - a. legal description
 - b. maps tied to section corners and drawings
 - c. road cross sections, and plans and profiles
3. Facility Design Factors
 - a. minimum and maximum engineering standards
 - 1) construction standards of the road
 - 2) maximum grade and pitch of the road
 - 3) requirements and location of drainage ditches, culverts, bridges, and low-water crossings
 - 4) if the road will be surfaced, what surfacing material will be used
 - 5) length and width of road
 - 6) cut and fill diagrams
 - b. detailed engineering plans and specifications for major structures
 - 1) major culverts, bridges, retaining walls
 - c. temporary use areas needed
4. Additional Components
 - a. existing components on and off public land
 - b. possible future components on and off public land
 - c. is there a need for sand and gravel supplies from public land
 - d. location of equipment storage areas
5. Government Agencies Involved
 - a. are Corps of Engineers Section 404 permits needed
 - b. are State or local permits, easements, or dedications needed
6. Construction of facilities
 - a. construction (brief description)
 - 1) major facilities (including vehicles and number of tons and loads)
 - 2) ancillary facilities (including vehicles and number of tons and loads)
 - 3) methods of construction and types of equipment to be used on the road right-of-way

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Outline – Road Plan of Development

- b. work force (number of people and vehicles)
 - c. flagging or staking of the right-of-way
 - d. clearing and grading
 - e. facility construction data
 - 1) description of construction process
 - f. access to and along right-of-way during construction
 - g. contingency planning
 - 1) holder contacts
 - 2) BLM contacts
 - h. safety requirements
 - i. industrial wastes and toxic substances
 - j. seasonal restrictions on various activities
7. Resource Values and Environmental Concerns
- a. address at level commensurate with anticipated impacts
 - 1) location with regard to existing corridors
 - b. anticipated conflicts with resources or public health and safety
 - 1) air, noise, geologic hazards, mineral and energy resources, paleontological resources, soils, water, vegetation, wildlife, threatened and endangered species, cultural resources, visual resources, BLM projects, recreation activities, wilderness, etc.
8. Stabilization and Rehabilitation
- a. soil replacement and stabilization
 - b. disposal of vegetation removed during construction (i.e., trees, shrubs, etc.)
 - c. seeding specifications
 - d. fertilizer
 - e. limiting access to right-of-way
9. Operation and Maintenance
- a. minimum maintenance and maintenance schedule
 - b. placement of control, warning, and directional traffic signs
 - c. maintenance of special needs such as snow removal, seasonal closure, and controlled access
 - d. safety
 - e. industrial wastes and toxic substances
 - f. inspection and maintenance schedules
 - g. work schedules
 - h. fire control
 - i. inspections
 - j. contingency planning
10. Termination and Restoration
- a. determine if the road will be totally obliterated
 - b. what structures will be left in place or removed
 - c. stabilization and re-vegetation of disturbed area

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Outline – Wind Farm Plan of Development

1. Purpose and Need of the Facilities
 - a. what will be built
 - b. what is use
 - c. what is size
 - d. can it be constructed to allow for future expansion
 - e. list alternative routes or locations
2. Right-of-way Location, Maps, and Drawings
 - a. drawings of typical tower installation, shelters, and guy wire configurations
 - b. maps
 - c. engineering design drawings and/or standards for roads, drainage, and power line
 - d. legal description of the facility
3. Facility Design Factors
 - a. design factors to be considered include wind loads, type and color of structures, wiring standards, suitability of soils and geology for placement of the facility
 - b. technical data information
 - c. list temporary use areas that are needed
 - d. required associated rights-of-way, including access roads, power lines, material sites
4. Additional Components
 - a. list existing components on and off public land
 - b. list possible future components on and off public land
 - c. location of equipment storage areas
5. Government Agencies Involved
 - a. FERC
 - b. state and local agencies
6. Construction of the Facilities
 - a. if a helicopter will be required, designate the flight routes on a map
 - b. will temporary access be required
 - c. will the site be fenced after construction
 - d. construction (brief description)
 - 1) major facilities (including vehicles and number of tons and loads)
 - 2) ancillary facilities (including vehicles and number of tons and loads)
 - e. work force (number of people and vehicles)
 - f. flagging or staking the right-of-way
 - e. clearing and grading
 - f. facility construction data
 - 1) description of construction process
 - g. access to, and along, right-of-way during construction
 - h. contingency planning
 - 1) holder contacts
 - 2) BLM contacts
 - i. safety requirements

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Outline – Wind Farm Plan of Development

- j. industrial wastes and toxic substances
 - l. concrete volume and specifications
7. Resource Values and Environmental Concerns
- a. address at level commensurate with anticipated impacts
 - (1) location with regard to existing corridors
 - b. anticipated conflicts with resources or public health and safety
 - 1) air, noise, geologic hazards, mineral and energy resources, paleontological resources, soils, water, vegetation, wildlife, threatened and endangered species, cultural resources, visual resources, BLM projects, recreation activities, wilderness, etc.
8. Stabilization and Rehabilitation
- a. soil replacement and stabilization
 - b. disposal of vegetation removed during construction (i.e., trees, shrubs, etc.)
 - c. seeding specifications
 - d. fertilizer
 - e. limiting access to right-of-way
9. Operation and Maintenance
- a. will all-weather roads be required
 - b. will operational access to the site require a helicopter
 - a. safety
 - b. industrial wastes and toxic substances
 - c. inspection and maintenance schedules
 - d. work schedules
 - e. fire control
 - f. long term access
 - g. signs
 - h. inspections
 - i. contingency planning
10. Termination and Restoration
- a. removal of structures
 - b. obliteration of roads, tower sites
 - c. stabilization and re-vegetation of disturbed areas

2804 – APPLYING FOR FLPMA GRANTS

Outline – Solar Power Generation Plan of Development

1. Purpose and Need of the Facilities
 - a. what will be built
 - b. what is use
 - c. what is size
 - d. can it be constructed to allow for future expansion
 - e. list alternative routes or locations
2. Right-of-way Location, Maps, and Drawings
 - a. drawings of typical solar collector layout and installation, thermal power conversion facilities, substations, transmission /distribution lines, and location of interconnect
 - b. maps with footprint of solar plant
 - c. engineering design drawings and/or standards for roads, drainage, and power line
 - d. legal description of the facility
3. Facility Design Factors
 - a. design factors to be considered include wind loads, type and color of structures, wiring standards, suitability of soils and geology for placement of the facility
 - b. technical data information
 - (1) assumed solar insolation
 - (2) plan for solar insolation testing and data collection
 - (3) solar field aperture area
 - (4) hours of storage, if applicable
 - (5) projected net capacity at design conditions and specify design conditions
 - (6) projected annual electrical energy production
 - (7) required transmission or distribution lines and access
 - (8) water requirement, source(s), water rights
 - (9) discuss consideration of dry cooling for CSP
 - (10) natural gas requirements, if applicable
 - c. list temporary use areas that are needed
 - d. required associated rights-of-way, including access roads, power lines, material sites
 - e. phasing of plant development
 - f. commitments for Equipment Acquisition
4. Additional Components
 - a. list existing components on and off public land
 - b. list possible future components on and off public land
 - c. location of equipment storage areas
 - d. PPA in place or plan to acquire PPA
 - e. Financial Capability
5. Government Agencies Involved
 - a. FERC
 - b. state and local agencies
6. Construction of the Facilities
 - a. describe site preparation for installation (horizontal construction for berms, reduced slope, etc.)
 - b. will temporary access be required
 - c. will the site be fenced after construction

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Outline – Solar Power Generation Plan of Development

- d. construction (brief description)
 - 1) major facilities (including vehicles and number of tons and loads)
 - 2) ancillary facilities (including vehicles and number of tons and loads)
 - e. work force (number of people and vehicles)
 - f. flagging or staking the right-of-way
 - e. clearing and grading
 - f. facility construction data
 - 1) description of construction process
 - g. access to, and along, right-of-way during construction
 - h. contingency planning
 - 1) holder contacts
 - 2) BLM contacts
 - i. safety requirements
 - j. industrial wastes and toxic substances
 - l. concrete volume and specifications
7. Resource Values and Environmental Concerns
- a. address at level commensurate with anticipated impacts
 - (1) location with regard to existing corridors
 - b. anticipated conflicts with resources or public health and safety
 - (1) air, noise, geologic hazards, mineral and energy resources, paleontological resources, soils, water, vegetation, wildlife, threatened and endangered species, cultural resources, visual resources, BLM projects, recreation activities, wilderness, etc.
8. Stabilization and Rehabilitation
- a. soil replacement and stabilization
 - b. disposal of vegetation removed during construction (i.e., trees, shrubs, etc.)
 - c. seeding specifications
 - d. fertilizer
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 - f. long term access
 - g. signs
 - h. inspections
 - i. contingency planning
10. Termination and Restoration
- a. removal of structures
 - b. obliteration of roads, plant equipment and facilities
 - c. stabilization and re-vegetation of disturbed areas

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SF-299 Application for Transportation and Utility Systems and Facilities on Federal
Lands

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Sample - Processing and Monitoring Fee Schedule

Calendar Year 2007 Cost Recovery Processing and Monitoring Fee Schedule for FLPMA and MLA Rights-of-Way Actions

Processing and Monitoring Category	Federal Work Hours Involved	Processing and Monitoring fee per application as of January 1, 2007. To be adjusted annually for changes in the IPD-GDP.
1. Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours are $>1 \leq 8$.	\$104
2. Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours are $> 8 \leq 24$.	\$368
3. Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours are $> 24 \leq 36$.	\$691
4. Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours are $> 36 \leq 50$.	\$990
5. Master agreements.	Varies.	As specified in the agreement.
6. Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours are > 50 .	Full reasonable costs (FLPMA) Full actual costs (MLA)

Illustration 12
.14B1

2804 – APPLYING FOR FLPMA GRANTS

Sample Category 6 Decisions

2810 (XX-410)
ORO-23456

CERTIFIED MAIL –
RETURN RECEIPT REQUESTED

DECISION

Joe Smith Excavation Co.	:	
Attn. Jane Altoe	:	Road Right-of-Way Application
6808 Burnham Ave.	:	Serial No. ORO-23456
Rocky Point, OR 11011	:	
	:	

Processing Category Determined

Recently, you filed an application with this office for constructing a new road on Bureau of Land Management (BLM) property located in Section 25, Township 18 South, Range 5 East, Willamette Meridian.

We have assigned serial number ORO-23456 to this action. Please refer to this number in all future correspondence relating to this project.

According to Federal regulations contained in 43 CFR 2804.14, BLM is required to be reimbursed for the costs incurred in processing a right-of-way application. Based on a preliminary review by the Ashland Resource Area Interdisciplinary Team and other BLM personnel, we have determined that the appropriate processing category for your application is Category 6. When the estimated time to process an application exceeds 50 hours, the “category” is by definition, a Category 6. BLM is obligated to collect “full reasonable costs” for a Category 6 action.

With this understanding, we request that you notify this office within 30 days in writing that you want this office to continue with application processing knowing that you will be responsible for payment of the “full reasonable costs” as determined by the BLM. Your application will be rejected if we do not receive this written notification from you within 30 days.

Once we have received this additional information, we will proceed with the development of a preliminary work plan and financial plan. These plans will become part of a formal Cost Reimbursement Agreement between you and BLM upon acceptance by both parties. Your financial obligation begins with your acceptance of the Cost Reimbursement Agreement.

If we decide to issue the grant, you will be assessed a monitoring fee based on the estimated number of hours needed to monitor your activities as allowed under the grant. You will also be charged rent for use of the public land involved, based on the calculated acreage and utilizing the appropriate Linear Rental Schedule.

For more information regarding BLM’s right-of-way regulations and cost recovery fees, please refer to the following website:

<http://www.blm.gov/nhp/what/lands/realty/rowcr/>

2804 – APPLYING FOR FLPMA GRANTS

Sample Category 6 Decisions

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 regulations 43 CFR 2801.10 or 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 regarding your right-of-way application or the fees connected with it, please contact Joe Hoppe at (541) 618-2310.

Sincerely,

John Gerritsma
Field Manager
Ashland Resource Area

1 Attachment:
1 - Form 1842-1 (1 pp)

cc:
Dan Boyden

112:Hoppe:2310:cs:

2804 – APPLYING FOR FLPMA GRANTS

Sample Category 6 Decisions

OFFICE LETTERHEAD

AZA – 12345 (012)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

Mr. Jack Developer	:	
1234 Anystreet	:	Right-of-Way
Anytown, AZ 00000	:	Application AZA-12345

COST RECOVERY CATEGORY

Right-of-way application AZA-12345 for a [*describe facility*] was filed on [*date*].

Upon review of the proposal and resource information available within this Office, I have determined that it will take this Office [in excess of 50] [*actual estimated number*] work-hours to process this application. This places your application in category 6 and requires that the Bureau recover the full reasonable costs of processing the application. The method and procedures for the payment of these costs will be covered in a required cost recovery agreement (an outline of such an agreement is enclosed). You should review the regulations at 43 CFR 2804.14 through 2804.24 as to cost recovery.

Please contact this office to arrange for a meeting to discuss your application in detail, develop tentative work plans, estimated costs and the development of the cost recovery agreement. No action to process your application will be undertaken until the cost recovery agreement is in effect.

Should you not wish to proceed with this application, please inform us at your earliest convenience?

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.

2804 – APPLYING FOR FLPMA GRANTS

Sample Category 6 Decisions

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- (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 Richard Egan, Realty Specialist, at (480) 555-0123.

James Jones
Field Manager

Enclosures
Cost Recovery Agreement Outline
BLM Form 1842-1

Illustration 13

2804 – APPLYING FOR FLPMA GRANTS

Project/Subproject Number Assignment and Information Form 1310-20

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

PROJECT/SUBPROJECT NUMBER ASSIGNMENT AND INFORMATION FORM

SEE INSTRUCTIONS ON NEXT PAGE				
<input type="checkbox"/> For Real Property and Software Project, Route to BC-653 <input type="checkbox"/> For All Other Projects, Route to BC-612				
1. Submission: <input type="checkbox"/> Original <input type="checkbox"/> Revision	2. Program(s) Subactivity) _____	3. Project Number: _____	4. Subproject Number: _____	5. Real Property Number (if needed): R _____
6. Case File Number:	7. Submission Date: ___/___/___	8. Project Name: _____ Subproject Name: _____		9. Land Purchase? <input type="checkbox"/> Yes <input type="checkbox"/> No
10. Description of Project: SEE "ATTACHMENT 1" FOR BRIEF DESCRIPTION OF FIRE AND ANTICIPATED EMERGENCY STABILIZATION PROJECT.				
11. Applicant/Vendor's Name: _____ Applicant's Address: _____ _____ Applicant's Phone Number: _____				
12. Organization Code of Lead Office: _____ 13. Organization Codes of Other Offices Charging to the Project/Subproject: _____ _____ _____ _____				
14a. Estimated Start Date: ___/___/___	14b. Estimated Completion Date: ___ /___/___	15. Estimated Project Total Cost: \$	16. Estimated Subproject Total Cost: \$	
17. Project Manager's Name: _____ Project Manager's Phone Number: _____ Project Manager's Organization Code: _____ Field Office Contact: _____ Field Office Phone Number: _____				
TRUST FUND PROJECTS (Program 7122) MAY BE AUTHORIZED AN INDIRECT COST RATE OTHER THAN THE ANNUAL PREVAILING RATE				

18. Exception Indirect Cost Rate: _____% 19. Under the authority of:

 20. Approving Officer's Name (Print):

 21. Approving Officer's Signature:

 22. Title: _____ Date: ___ / ___ / ___

FOR NATIONAL BUSINESS CENTER BC-612 USE ONLY

23. Tables: IWPT PROJ FPCA PROJEDIT
 24. Vendor Number: _____
 25. Agreement Number: _____
 26. RA Document Number: _____
 27. Input by: _____ Date: ___ / ___ / ___

28 Retained by: requesting Office, State/Washington Office Budget

INSTRUCTIONS

Ensure that proper routing is checked before beginning form.

1. Indicate with a Check Mark if this is a first submission or a revision.
2. Identify the program(s)/subactivity(s) for this project.
3. List the Project Number assigned.
4. List the Subproject Number assigned.
5. To be assigned by Real Property (BC-653) if project is estimated to be a capitalized real property site.
6. Number assigned to the case file.
7. List the date this request was submitted.
8. Identify the name of the project/subproject.
9. Indicate with a Check Mark whether or not land is being purchased for this project. Two 1310-20 forms must be submitted when land is being purchased, one for the land and one for construction, using the same project number for both.
10. Briefly describe nature/scope of project.
11. List the name, address and phone number of the applicant/vendor involved in the project.
12. Identify the organization code of the office having lead responsibilities for this project/subproject.
13. Identify the other organizations which will be allowed to charge costs to this project/subproject.
- 14a. List the estimated start date for this project/subproject.
- 14b. List the estimated completion date for this project/subproject.
15. List the estimated total cost for this project.
16. List the estimated total cost for this subproject.
17. List the Project Manager's name, telephone number, and organization code.
18. Enter the approved exception indirect cost rate.
19. Enter property authority.
20. Print the approving official's name. (The State Director)
21. Signature of approving official.
22. Title of approving official and the date signed.
23. For Business Center Accounting use.
24. For Business Center Accounting use.
25. For Business Center Accounting use.
26. For Business Center Accounting use.
27. For Business Center Accounting use.

2804- APPLYING FOR FLPMA GRANTS

Case Processing Checklist

Serial No.: _____ Applicant: _____
 Date Filed: _____ Legal Description: _____
 Length of ROW: _____
 Width of ROW: _____ Acres: _____
 Type of Facility: _____
 Authority: FLPMA MLA

A. Preliminary Adjudication

<u>ACTION</u>	<u>DATE</u>	<u>REMARKS</u>
1. Pre-apln meeting documented	_____	_____
2. Check Apln for date stamp	_____	_____
3. Determine BLM/FO jurisdiction	_____	_____
4. Check MT plats & other records for		
a. withdrawals (FERC, etc.)	_____	_____
b. other R/Ws	_____	_____
c. county roads	_____	_____
d. mining claims	_____	_____
e. other authorized uses (i.e. grazing, etc.)	_____	_____
5. Conformance with Land Use Plan	_____	_____
6. Serialize Apln/assemble case file (put serial number on Apln, maps, all attachments)	_____	_____
7. Enter case into LR2000	_____	_____
8. Determine if Apln (SF-299) is complete		
a. Project Description/POD	_____	_____
b. Adequate maps/legal description	_____	_____
c. Corporate Papers	_____	_____
d. Agent's Authorization	_____	_____
e. Signature	_____	_____
<u>Communication Site</u>		
a. FCC license required?	_____	_____
b. Subsequent user agreement?	_____	_____
c. Notify SO Communications Specialist	_____	_____
<u>Water ROWs</u>		
a. Water Permit or Water Right submitted	_____	_____
b. For reservoirs, Reservoir Permit from State	_____	_____
<u>2880 Pipelines</u>		
a. Common carrier stipulations submitted	_____	_____
<u>Federal Aid Highways</u>		
a. Statement of Determination & NEPA from FHWA	_____	_____
b. Track 4-month time limit	_____	_____
9. a. If Apln complete, go to step 10		
b. If Apln incomplete, request additional info w/n 30 calendar days (A/C 104)	_____	_____
c. Requested info received (A/C 103)	_____	_____
10. Determine Processing Cost Recovery Fee Category	_____	_____

2804- APPLYING FOR FLPMA GRANTS

Case Processing Checklist

11. Send Processing Fee Category Determination Decision
(request fee, acknowledge receipt of Apln, provide customer service standards, appeal info, etc.) _____
12. Receipt Processing fee on CBS Form _____
13. Apln complete and Apln fee received? Start 60-day clock w/ Apln Complete (A/C 110) _____
14. Determine if can process Apln w/n 60 calendar days. If cannot, send letter to applicant (A/C 182) stating why and when (A/C 183) BLM expects to complete processing _____
15. MLA: Pipeline >24"? Send first notification to WO _____
16. Send notification letters to other users as necessary _____
17. Coordinate with other agencies as necessary _____
18. Conformance with County Planning? _____
19. Initiate Cultural Resources Clearance Request _____
20. Initiate T & E Species Clearance Request _____

B. Project Analysis

1. Conduct field examination(s) _____
2. Assign # / enter on Environmental Document Register _____
3. Document NEPA Compliance (DNA/CX/EA/EIS?) _____
4. Determine necessity for public meeting/newspaper notice _____
5. Circulate NEPA document for ID Team review _____
6. Newspaper notice prepared & published _____
7. Memo to AO recommending bond, if necessary _____
8. Bond concurrence memo signed by AO _____
9. Stipulations prepared _____
10. NEPA Document signed _____
11. Decision Record prepared & signed _____
12. Complete Environmental Document Register _____
13. Determine Monitoring Fee Category _____
14. For site ROWs, request appraisal _____

C. Final Adjudication

1. REAEligible _____
2. Determine rent _____
3. Prepare grant (MLA Pipe>24": second WO notification) _____
4. Offer-to-Issue Letter with unsigned grant, map & stipulations attached (request rent, monitoring fee, bond) _____
5. When signed grant is returned, fill in dates, etc. _____
6. Monitoring Fee and Rent received _____
7. Bond received / examined / accepted _____
8. Receipt fees on CBS Form _____
9. Have grant signed and dated by FM/AO _____
10. Send/give one original grant with: "ROW Granted/ Monitoring Fee Determined/Rent Determined/Bond Accepted" Decision Letter to holder _____
11. Copy of grant & map to Title Records for plat notation _____

2804- APPLYING FOR FLPMA GRANTS

Case Processing Checklist

12. Verify LR2000 contains minimum data requirements: _____
- a. Application Received (124)..... _____
 - b. Cost Recov (Proc) Det (840-845)... _____
 - c. Cost Recov (Proc) Recd (971) _____
 - d. Customer Service (110 and/or 182) _____
 - e. Cost Recov (Mon) Det (878-883).... _____
 - f. Cost Recov (Mon) Recd (065)..... _____
 - g. Rental Received (111)..... _____
 - h. ROW granted (307)..... _____
 - i. Acres _____
 - j. ROW Lngth. in ft. (502)..... _____
 - k. ROW Lngth. in mi. (503)..... _____
 - l. ROW Width in ft. (504) _____
 - m. ROW diameter of pipe (505)..... _____
 - n. ROW power line voltage (506)..... _____
 - o. Compliance - (853) _____
 - Construction and Utilization
 - FLPMA - 5 yrs /MLA 2 yrs _____
 - Inspection/Review
 - FLPMA - 20 yrs & 10 yrs _____
 - MLA - 10 yrs & 10 yrs..... _____
 - p. Next Bill Date (097) _____
 - q. Expiration (763) _____
 - r. Post Auth Apln Recd (153)..... _____
 - s. Auth Amended/Modified (304)..... _____

2804- APPLYING FOR FLPMA GRANTS

Customer Service Flow Chart
[Insert chart]

Illustration 16
.25E1a

2804 – APPLYING FOR FLPMA GRANTS

Sample – 29th Day Letter

AZA-123456 (032)

Mr. David French
1808 N. Third St.
Anytown, AZ 44444

Dear Mr. French:

On January 12, 2005, BLM received your application to construct a water pipeline across public land. In reviewing your application, we identified several deficiencies and notified you of the additional information we needed to process your application. In response to our request of January 30, 2005, you provided us with the additional information and the appropriate cost recovery processing fees on **February 24, 2005**. We determined that your application was complete as of that date.

BLM's goal for your type of right-of-way application is to reach a decision within 60 calendar days of receipt of a complete application, including the appropriate cost recovery fees. If an application cannot be processed within that 60-day period, BLM is required to inform you of that fact prior to the 30th calendar day and tell you when you may expect a final decision on your application.

[As discussed in the pre-application meeting, the proposed route of your pipeline involves public land which is identified as suitable habitat for the Yuma Clapper Rail. The protocol established by U.S. Fish and Wildlife Service (USFWS) for conducting surveys to determine whether a proposed project would affect the species requires that field surveys be conducted between April 15 and May 31.]

[As discussed in the pre-application meeting, your application involves public land within the Butler Creek drainage. This drainage has been identified as potential habitat for Munz's onion, an endangered plant species which cannot be identified during winter months. We expect to be able to begin field surveys for this endangered plant in May if the weather cooperates.]

[As discussed in the pre-application meeting, snow cover at the propose location of your pipeline will prevent surveys from being conducted to determine if there are potential impacts to cultural resources. Your archaeological contractor should be able to begin field surveys for cultural resources in early May, weather permitting.]

[As discussed in the pre-application meeting, the proposed route of your pipeline traverses an area of traditional cultural importance to a local Indian tribe, requiring government-to-government consultation. As the tribal council meets once every 60 days, we will not be able to initiate consultations until May. From past experience with this tribe, we would expect to conclude our consultations by June 30 unless unforeseen issues arise. Subsequent consultation with the State Historic Preservation Officer will require another 45 days.]

March 21, 2005

Application complete. 60 day processing time begins. Notification must be sent before 30th calendar day

Rationale for delay Example

Rationale for delay Example

Rationale for delay Example

Rationale for delay Example

We anticipate a final decision on your application by _____. If unforeseen circumstances arise that will extend that date, we will immediately notify you in writing. Should you have any questions, please contact Rollie White, Realty Specialist, at (602) 555-0435.

Sincerely,

Miranda James
Field Manager

