



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Anchorage Field Office
4700 BLM Road
Anchorage, Alaska 99507-2591
<http://www.blm.gov/ak>

Anchorage Water and Wastewater Utility Road Right-of-Way Grant Categorical Exclusion, DOI-BLM-AK-A010-2012-0009-CX

Case File, AA-093180

DECISION RECORD

Decision

It is my decision to authorize the requested right-of-way grant on BLM-managed lands for a 20-year term as described in the attached Categorical Exclusion documentation, DOI-BLM-AK-A010-2012-0009-CX.

Rationale for the Decision

The proposed action has been reviewed by Anchorage Field Office staff and appropriate terms and stipulations, as specified, will be incorporated during project implementation. Based on the attached Categorical Exclusion review, I have determined that the proposed action involves no significant impact to the human environment and no further analysis is required.

Appeal Opportunities

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 § 4. To appeal you must file a notice of appeal at the BLM Anchorage Field Office, 4700 BLM Road, Anchorage, Alaska 99507, within 30 days from receipt of this decision. The appeal must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the Anchorage Field Office as noted above. *The BLM does not accept appeals by facsimile or email.* The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR § 4.21 (58 FR 4939, January 19, 1993) for a stay 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. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards: (a) The relative harm to the parties if the stay is granted or denied, (b) The likelihood of the appellant's success on the merits, (c) The likelihood of immediate and irreparable harm if the stay is not granted, and (d) Whether the public interest favors granting the stay.

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 Office of the Solicitor (see 43 CFR § 4.413); Office of the Regional Solicitor, Alaska Region, U.S. Department of the Interior, 4230 University Drive, Suite 300, Anchorage, Alaska 99508; 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.

/s/ James M. Fincher

07/17/2012

James M. Fincher
Anchorage Field Manager

Date

Attachments

Categorical Exclusion documentation, including Terms and Stipulations of the grant, DOI-BLM-AK-A010-2012-0009-CX



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CATEGORICAL EXCLUSION (CX)

A. BACKGROUND

Project Name / Type: Anchorage Water and Wastewater Utility Road Right-of-Way Grant

NEPA Register Number: DOI-BLM-AK-A010-2012-0009-CX

Case File Number: AA-093180

Location/Legal Description: Section 7, SW¹/₄, Township 13 North, Range 2 West, Seward Meridian, Municipality and Borough of Anchorage, Alaska

Applicant (if any): Anchorage Water and Wastewater Utility

Description of Proposed Action:

Anchorage Water and Wastewater Utility (AWWU) has requested a right-of-way grant for a 20-year term on an existing road to access a water treatment facility owned and operated by AWWU on Joint Base Elmendorf – Richardson (JBER). The proposed right-of-way lies entirely within a previous right-of-way authorized by 44LD513 to the U.S. Army Corps of Engineers and serialized by BLM as A-041517. The road was constructed February 5, 1958 by the Department of Defense for military purposes.

The Bureau of Land Management (BLM) would authorize a right-of-way grant to AWWU for a 20-year term pursuant to Title V of the Federal Land Policy and Management Act (FLPMA), of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761), as amended. Right-of-way terms and stipulations are attached.

B. LAND USE PLAN CONFORMANCE

Applicable Land Use Plan: Ring of Fire Record of Decision (ROD) and Approved Resource Management Plan (RMP) (March 2008)

The proposed action is in conformance with plan because it is specifically provided for in the following planning decisions:

I. Lands and Realty, I-2n Rights-of-Way: The BLM may issue rights-of-way for a variety of uses including but not limited to: roads, water pipelines, electric lines and communication sites under the authority of Title V of FLPMA, (Approved RMP/ROD, p. 12).

C. CATEGORICAL EXCLUSION

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with United States Department of the Interior 43 CFR 46.210 or United States Department of the Interior Manual, Part 516, Chapter 11, which provides:

Realty E-12. Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.

D. EXTRAORDINARY CIRCUMSTANCES

The proposed action must be screened against the Extraordinary Circumstances found in 43 CFR § 46.215 (listed below). Any “yes” finding requires that an Environmental Assessment or Environmental Impact Statement be prepared for the Proposed Action.

EXTRAORDINARY CIRCUMSTANCES	YES/NO
1. Have significant adverse impacts on public health or safety.	No
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.	No
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].	No
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	No
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	No
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	No
7. Have significant impacts on properties listed, or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.	No
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.	No
9. Violate Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.	No
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).	No
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).	No

12. Contribute to the introduction, continued existence, or spread of weeds or non-native invasive species known to occur in the area or area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).	No
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E. SIGNATURE

The proposed action is in conformance with the applicable land use plan and is an action that can be categorically excluded. The Proposed Action does not trigger any of the Extraordinary Circumstances found in 516 FM Chapter 2, Appendix 2. I recommend that the Proposed Action be allowed and that no further environmental analysis is required.

/s/ James M. Fincher

07/17/2012

James M. Fincher
Anchorage Field Manager

Date

Attachments

Terms and Stipulations for Right of Way Grant AA-093180, AWWU Road ROW Grant

Terms and Stipulations for Right of Way Grant AA-093180
Anchorage Water and Wastewater Utility

I. General Terms: During construction, operation, maintenance, and termination of the project you must:

(a) Comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and state laws and regulations applicable to the authorized use;

(b) Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area;

(c) Not discriminate against any employee or applicant for employment during any phase of the project because of race, creed, color, sex, or national origin. You must also require subcontractors to not discriminate;

(d) Pay monitoring fees and rent (if applicable) as described in 43 CFR §2805.16 and 43 CFR 2806 ;

(e) If BLM requires, obtain, and/or certify that you have obtained, a surety bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property in connection with your use and occupancy of the right-of-way, including terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. BLM may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant;

(f) Assume full liability if third parties are injured or damages occur to property on or near the right-of-way as specified in 43 CFR §2807.12;

(1) Comply with project-specific terms, conditions, and stipulations, including requirements to:

(2) Restore, revegetate, and curtail erosion or conduct any other rehabilitation measure BLM determines necessary;

(3) Ensure that activities in connection with the grant comply with air and water quality standards or related facility siting standards contained in applicable Federal or state law or regulations;

(4) Control or prevent damage to:

(g) Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat;

(ii) Public and private property; and

(iii) Public health and safety;

(5) Protect the interests of individuals living in the general area who rely on the area for subsistence uses as that term is used in Title VIII of Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111 *et seq.*);

(6) When the state standards are more stringent than Federal standards, comply with state standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way; and

(h) Immediately notify all Federal, state, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify BLM at the same time, and send BLM a copy of any written notification you prepared;

(i) Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant;

(j) Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 *et seq.*, when you receive, assign, renew, amend, or terminate your grant;

(k) Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to BLM's satisfaction and to the satisfaction of any other Federal, state, tribal, or local agency having jurisdiction over the land, resource, or hazardous material;

(l) Comply with all liability and indemnification provisions and stipulations in the grant;

II. Stipulations:

A. Non-Hazardous Solid Waste (trash/refuse) will be back hauled from the area and disposed in an approved waste disposal site;

B. All operations shall be conducted in such a manner as to avoid damage or disturbance to any prehistoric or historic sites or modern camp sites. The Archaeological Resource Protection Act prohibits the excavation, removal, damage, or disturbance of any archaeological resource located on public lands. Violation of this law could result in the imposition of both civil and criminal penalties of the violator. Should any historic or prehistoric site be located during the course of operations under this Right of Way Grant, the applicant shall immediately cease activities and notify the BLM authorized officer

C. The United States shall retain all rights stated in 43 CFR 2805.15.