

**Categorical Exclusion Documentation Format for Actions Other Than
Hazardous Fuels and Fire Rehabilitation Actions**

**ACT Contracting LLC
Assignment of Right-Of-Way (ROW)
DOI-BLM-AZ-P010-2012-003- CX**

A. Background

BLM Office: Hassayampa Field Office (HFO)

Lease/Serial/Case File No.: AZA-28179

Proposed Action Title/Type: ROW Assignment

Applicant: ACT Contracting LLC

Project Code: LLAZPO10000 1430 ER

Location of Proposed Action:

T. 10 N., R. 6 W., G&SR Meridian, Yavapai County, Arizona
Section 23, Lots 18 & 19.

USGS Congress 1969 7.5 Minute Series Quadrangle, Topographic Map, Arizona – Yavapai County. The subject land is located approximately 15 miles north of Wickenburg off Old Congress Mine Road. See enclosed EXHIBIT A, AZA-28179 Driving Directions, and Exhibit B, AZA-28179 Visual Map.

Description of Proposed Action:

The applicant requests the assignment of a 30-year road ROW (AZA-28179) for access to his private property (also see AZA-34369). No new construction is necessary. The applicant would only be allowed general road maintenance, as stipulated in the original grant, and be required to comply with any additional mitigation measures stipulated by Bureau of Land Management (BLM) resource specialists (see Attachment 2 and 3). The pre-existing ROW, known as Ghost Town Road, is 2,600 feet in length and 40 feet in width. The total amount of public land involved is approximately 2.390 acres.

B. Land Use Plan Conformance

Land Use Plan (LUP) Name: Bradshaw Harquahala Resource Management Plan

Date Approved/Amended: 4/22/2010

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

Land Use Authorization LR-24, “Continue to issue land use authorizations (right-of-way, leases, permits, easements) on a case-by-case basis and in accordance with resource management prescriptions in this land use plan.”

C: Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with BLM NEPA Handbook H-1790-1, Appendix 4 or 516 Departmental Manual (DM) 11.9:

Categorical Exclusions E. Realty (9), “Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.”

A categorical exclusion (CX) is appropriate as there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in H-1790-1, Appendix 5 or 516 DM 2, Appendix 2 apply.

[NOTE: Appropriate staff should determine exception, comment, and initial for concurrence. If exceptions apply to the action or project, and existing NEPA documentation does not address it (i.e., Part III) then further NEPA analysis is required. Attachment 1 (BLM Categorical Exclusions: Extraordinary Circumstances), enclosed, is a checklist of each extraordinary circumstance and corresponding staff concurrence].

D. Signature

Review: We have determined that the proposal is in accordance with CX criteria and that it would not involve any significant environmental effects (see Attachment 1). Therefore, it is categorically excluded from further environmental review.

Prepared by: _____ /S/ Hillary Conner
Hillary Conner
Realty Specialist

Reviewed by: _____ /S/ Jim Andersen
Jim Andersen
Lead Realty Specialist

Reviewed by: _____ /S/ Leah Baker
Leah Baker
Planning & Environmental Coordinator

BLM Categorical Exclusions: Extraordinary Circumstances¹
Attachment 1

CRITERIA	<u>Comment (Y/N)</u>	<u>Staff Initial</u>
1. Have significant impacts on public health and safety?	<u>NO</u>	<u>TB, HC</u>
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study 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 (Executive Order 13186); and other ecologically significant or critical areas?	<u>NO</u>	<u>TB, CC, CM, HC</u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	<u>NO</u>	<u>TB, CC, CM, HC</u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	<u>NO</u>	<u>TB, CC, CM, HC</u>
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	<u>NO</u>	<u>TB, CC, CM, HC</u>
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	<u>NO</u>	<u>CC, CM, HC</u>
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?	<u>NO</u>	<u>CM, HC</u>
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?	<u>NO</u>	<u>CC, HC</u>
9. 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)?	<u>NO</u>	<u>CM, HC</u>
10. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	<u>NO</u>	<u>CM, HC</u>

11. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)? NO HC
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the 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 TB, CC, HC

¹ If an action has any of these impacts, you must conduct NEPA analysis.

Persons/Agencies Consulted:

- ❖ BLM, Field Office Resource Specialists - Wildlife Biologist Codey Carter (CC), Archeologist Chris McLaughlin (CM), Recreation Specialist Tom Bickauskas (TB), Realty Specialist Hillary Conner (HC).

Specialist Comments for the Assignment of Road ROW AZA-28179
Attachment 2

Codey Carter, Wildlife Biologist:

“Since the road is existing, there should be little or no impact to wildlife species or habitat due to reassigning the right of way permit. There is no T&E species habitat in the area. This road is located within the broad classification of category III desert tortoise habitat. The desert tortoise is a candidate for the endangered species list, but this action should have little or no impact on desert tortoise or its habitat.”
10/11/2011

Chris McLaughlin, Archeologist:

“I, Chris McLaughlin, in review of the above-noted Proposed Action, have the following comments:

I received a project initiation sheet from Hillary Conner for a assignment of authorized right of way to complete access to the applicant’s private property (ACT Contracting LLC – Gordon Acri). In performing a Class I records review of AZSITE and BLM records and maps, I find that the entire project area was previously surveyed. There are no previously recorded sites that have been recommended as eligible for the National Register. Additionally, the road used to access the site does not appear to be historic in nature.

If the following stipulations are applied, the authorization of this right-of-way would have no impact on cultural resources.

Recommendations:

Clearance Recommended with the Following Stipulations

Standard Stipulations

Any cultural and/or palenontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the Bureau of Land Management authorized officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values.”
11/17/2011

Tom Bikauskas, Recreation Planner:

“Regarding travel management and recreation. Access to primitive roads that tie into this road on BLM land should be maintained. Access to BLM lands for recreation, hunting or other allowable uses is permitted and should not be blocked by the creation of wind rows or deep drainage ditches.” 9/30/2011

Hillary Conner, Realty Specialist:

“The road right-of-way is pre-existing therefore, it will not have any new effects on other rights-of-ways in the area. Authorization of the assignment is advised as long as the terms and conditions of the original grant, in addition to any other specialist recommended mitigation measures and compliance with all existing/future laws and regulations, are incorporated into the new grant.” 9/27/2011

BLM Mitigation Measures/Other Remarks for AZA-28179

Attachment 3

1. All terms and conditions of the original grant continue to apply.
2. All applicable regulations in accordance with 43 Code of Federal Regulation (CFR) 2800.
3. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the holder or any person working on the holders behalf, on public or federal land shall be immediately reported to the Authorized Officer (AO). The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the AO. An evaluation of the discovery will be made the AO to determine the appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of the evaluation and any decision as to the proper mitigation measures will be made by the AO after consulting with the holder.
4. The holder shall protect all survey monuments found within the ROW. Survey monuments include, but are not limited to, General Land Office (GLO) and Bureau of Land Management (BLM) Cadastral Survey Corners, reference corners, witness points, United States (U.S.) Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the AO and the respective installing authority if known. Where GLO or BLM ROW monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the AO. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
5. The holder shall inform the AO within 48 hours of any accidents on federal lands that require reporting to the Department of Transportation as required by 49 CFR Part 195.
6. The holder shall comply with all State and Federal laws applicable to the authorized use and such additional State and Federal laws, along with the impending regulations, that may be enacted and issued during the term of the grant.
7. The holder shall not use BLM managed land that is within, adjacent to, or outside the ROW for the long-term storage of any materials, equipment, or vehicles during any construction, operation, maintenance, and/or termination activities associated with the ROW.
8. Holder shall maintain the ROW in a safe, usable condition, as directed by the AO.
9. The holder shall operate and maintain any improvements, within this ROW, in strict conformity with that which has been approved by this grant. Any relocation, additional construction, or use that is not in accord with the approved grant, shall not be initiated without the prior written approval of the AO.
10. The ROW reserves to the Secretary of the Interior, or lawful delegates, the right to grant additional ROW, leases, or easements on BLM land for compatible uses over, under, within or adjacent to the lands involved in this grant.

11. The holder shall not prevent the public from accessing or utilizing Ghost Town Road (see Exhibit B entitled AZA-28179 Visual Map).
12. No vegetative material, debris or refuse shall be disposed of either within the ROW or on any other federal land. Instead, the holder shall dispose of any vegetative material, debris and/or refuse at legal off-site locations.
13. The holder of this ROW or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
14. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the ROW or on facilities authorized under this ROW grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the AO concurrent with the filing of the reports to the involved Federal agency or State government.
15. The holder shall comply with all Federal, State, and local regulations whether or not specifically mentioned within this grant.
16. The holder shall fully indemnify or hold harmless the U.S. for any liability, for damage, or claims arising in connection with the holder's use and occupancy of the ROW.
17. The holder agrees to indemnify the U.S. against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et. seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et. seq.) on the ROW, unless the release or threatened release is wholly unrelated to the ROW holder's activity on the ROW. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
18. This ROW may be renewed. If renewed, the ROW will be subject to regulations existing at the time of renewal, and such other terms and conditions deemed necessary to protect the public interest.
19. Upon expiration of the ROW or upon abandonment, whichever comes first, the holder will restore the lands to their natural grade and condition so far as it is practicable and/or to the satisfaction of the AO.
20. Prior to termination of the ROW, the holder shall contact the AO to arrange a pre-termination conference. This conference will be held to review the termination provisions of the grant.