

9/21/2011

ASDO NEPA DOCUMENT ROUTING SHEET

NEPA Document Number: **DOI-BLM-AZ-A010-2011-0020-CX**

Project Title: **DEREA Power Line Right-of-Way Amendment AZA-24945 and Fiber Optic Right-of-Way AZA-35736**

Project Lead: **Laurie Ford**

Date that any scoping meeting was conducted: **N/A**

Date that concurrent, electronic distribution for review was initiated: **August 10, 2011**

Deadline for receipt of responses: **Wednesday, August 31, 2011**

ID Team/Required Reviewers will be determined at scoping meeting or as a default the following:

- Gloria Benson, Tribal Liaison
- Diana Hawks, Recreation/Wilderness/VRM
- Laurie Ford, Lands/Realty/Minerals
- Jeff Young, Wildlife/T&E Animals
- John Herron, Cultural Resources
- Jacquilyn Roaque, Special Status Plants
- Ray Klein, GCPNM Supervisory Ranger
- Whit Bunting, Range/Vegetation/Weeds/S&G
- Richard Spotts, Environmental Coordinator
- John Sims, Supervisory Law Enforcement
- Lorraine Christian, ASFO Field Manager

Required Recipients of electronic distribution E-mails only (not reminders):

- Andi Rogers (E-mail address: arogers@azgfd.gov)
- Sarah Reif (E-mail address: sreif@azgfd.gov)
- LeAnn Skrzynski (E-mail address: lskrzynski@kaibabpaiute-nsn.gov)

(Ms. Rogers and Ms. Reif are Arizona Game and Fish Department (AGFD) habitat specialists. Ms. Skrzynski is Environmental Program Director for the Kaibab Paiute Tribe (KPT). They may review and/or forward on ASDO NEPA documents to other employees. If a Project Lead receives comments from any AGFD employee on their draft NEPA document, they should include them in the complete set/administrative record and share them with Jeff Young as the ASDO Wildlife Team Lead. Mr. Young will then recommend how these comments should be addressed. If a Project Lead receives comments from any KPT employee, they should include them in the complete set/administrative record and share them with Gloria Benson as the ASDO Native American Coordinator. Ms. Benson will then recommend how these comments should be addressed.)

Discretionary Reviewers:

N/A

DEREA Power Line Right-of-Way Amendment and Fiber Optic Right-of-Way

NEPA Document Number: DOI-BLM-AZ-A010-2011-0020-CX
Categorical Exclusion Documentation

A. Background

BLM Office: Arizona Strip Field Office

Case File No.: AZA-24945 and AZA-35736

Proposed Action Title: DERE A Power Line Right-of-Way Amendment and Fiber Optic Right-of-Way

Location of Proposed Action: The proposed actions are located within the following described area and as shown on the attached map (Attachment 1):

Gila and Salt River Meridian, Arizona

- 1) AZA-24945 – Power Line Right-of-Way Amendment
T. 41 N., R. 15 W.,
sec. 33, lot 13.
containing 0.086 acre, more or less.

- 2) AZA-35736 – Fiber Optic Right-of-Way Grant
T. 41 N., R. 12 W.,
sec. 6, lot 4.
T. 42 N., R. 12 W.,
sec. 31, lots 1 and 6, SE1/4SW1/4, N1/2SE1/4, and SW1/4SE1/4.
T. 42 N., R. 13 W.,
sec. 35, lot 1 and NE1/4SE1/4.
T. 41 N., R. 15 W.,
sec. 3, lots 3 and 4;
sec. 4, lot 1, SE1/4NE1/4, and E1/2SE1/4;
sec. 9, E1/2E1/2;
sec. 16, E1/2NE1/4, SW1/4NE1/4, and W1/2SE1/4;
sec. 21, W1/2E1/2;
sec. 28, W1/2E1/2 and SE1/4SW1/4;
sec. 33, lots 1, 7, 12, and 13.
T. 42 N., R. 15 W.,
sec. 34, SE1/4SW1/4 and S1/2SE1/4;
sec. 35, S1/2S1/2 and NE1/4SE1/4;
sec. 36, lots 3 and 4, NW1/4SW1/4.
containing 12.072 acres, more or less.

Description of Proposed Action: Dixie Escalante Rural Electric Association (DEREA) has proposed two actions pertaining to authorized power line right-of-way AZA-24945 as follows: 1) install a short underground power line from an existing pole to an existing transformer within the community of Beaver Dam and 2) obtain a separate right-of-way grant for the fiber line attached to the poles to allow for subleasing.

1) Right-of-way grant AZA-24945 would be amended to include a tap off an existing power pole within the community of Beaver Dam and extending an underground primary conductor approximately 188 feet to an existing transformer facility located in the Arizona Department of Transportation (ADOT) yard (right-of-way AZA-24943) and then to adjacent ADOT facilities and Mohave County facilities authorized under the Recreation and Public Purposes Act (AZA-29118). The proposed right-of-way dimensions for the amendment would be approximately 188 feet long by 20 feet wide. The line would be needed year round and a 30 year term is requested. The primary voltage of the line would be 7.2/12.5 kV. The line would cross under authorized Rio Virgin Telephone and Cable telephone and fiber optic rights-of-way AZA-23258 and AZA-33629. Installation would commence as soon as authorization is granted and locates are marked.

2) It is the Bureau of Land Management's (BLM) interim policy (IM 2001-080, dated 1/24/2001) to require a separate right-of-way grant for commercial fiber optic use and include subleasing provisions/terms and conditions subject to rent. In addition, the term of fiber optic right-of-way grants cannot exceed 10 years. A fiber optic line was installed on the power poles during power line construction and DEREA has subsequently commercially leased space on the line. This action requires a separate right-of-way grant for the fiber optic use and alters DEREA's rental exempt status and right-of-way terms and conditions in accordance with IM 2001-080. No new construction would be authorized in association with this right-of-way grant. The proposed right-of-way dimensions for the fiber optic right-of-way grant would be approximately 9.96 miles (52,588.80 feet) long by 10 feet wide.

Both right-of-way grants would be subject to all provisions of 43 CFR 2800 including the terms and conditions identified in 43 CFR 2805 and special conditions listed in Attachment 2.

B. Land Use Plan Conformance

Land Use Plan (LUP) Name: Arizona Strip Field Office Resource Management Plan

Date Approved: January 29, 2008

The proposed actions are in conformance with the applicable LUP because they are specifically provided for in the following LUP decision:

MA-LR-06 - Individual land use authorizations (ROWS, permits, leases, easements) will be evaluated on a case-by-case basis in accordance with other RMP provisions and NEPA compliance. New land use authorizations will be discouraged within avoidance areas (i.e., ACECs, lands supporting listed species, NHTs, riparian areas, and areas managed to maintain wilderness characteristics) and allowed in such areas only when no reasonable alternative exists and impacts to these sensitive resources can be mitigated. New ROWs will be routed away from high-density listed species' populations and cultural sites, and along the edges of avoidance areas. In addition, mitigation measures may include underground placement of linear ROWs along existing roads in the House Rock Valley area and special protection measures for archaeological resources (See Special Status Species and Cultural decisions).

The proposed right-of-way amendment is located within the community of Beaver Dam and is not within an avoidance area as described above and is not within high-density listed species' populations or cultural sites. The proposed fiber optic use requiring separate authorization is an existing line attached to power poles authorized by right-of-way AZA-24945. This power line parallels Mohave County Highway 91 which is partially within the Beaver Dam Slope Area of Critical Environmental Concern. No new equipment or construction is proposed. In addition, the proposed actions do not conflict with other decisions in the LUP.

C: Compliance with NEPA:

The proposed actions are categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E(12), which provides for grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed actions have been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply (Attachment 3).

I considered the low/minimum impacting nature of the proposals along with the additional special conditions identified in Attachment 2 which would not cause appreciable damage or disturbance to the public lands or resources. The proposed right-of-way amendment is in a previously disturbed area within other compatibly developed rights-of-way in the community of Beaver Dam. The proposed fiber optic right-of-way is an existing line on existing power poles with no modification/construction proposed.

D: Signature

Authorizing Official: Laurie Ford Date: 9/21/2011
for Lorraine M. Christian, Field Manager

Contact Person

For additional information concerning this CX review, contact Laurie Ford, Team Lead, Lands and Geological Sciences, BLM, Arizona Strip Field Office, 345 East Riverside Drive, St. George, Utah 84790; phone (435) 688-3271.

Attachment 1

Location Maps

**DEREA Power Line Right-of-Way Amendment AZA-24945
and Fiber Optic Right-of-Way AZA-35736**



T41N15W33 SWNE

High School

T41N15W33 SENW

County Highway 91

Mohave County Facilities

T41N15W33 NESW

ADOT Maintenance Yard

T41N15W33 SESW

BEAVER DAM

T41N15W33 NWSW

Proposed 188 ft. Underground Line

Fire Station

T41N15W33 SWSW

Attachment 1

Page 1 of 2

Beaver Dam Amendment DEREA Transmission Line Right-of-Way AZA-24945

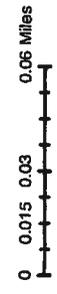


United States Department of the Interior
Bureau of Land Management
Arizona Strip Field Office

Map created on August 10, 2011

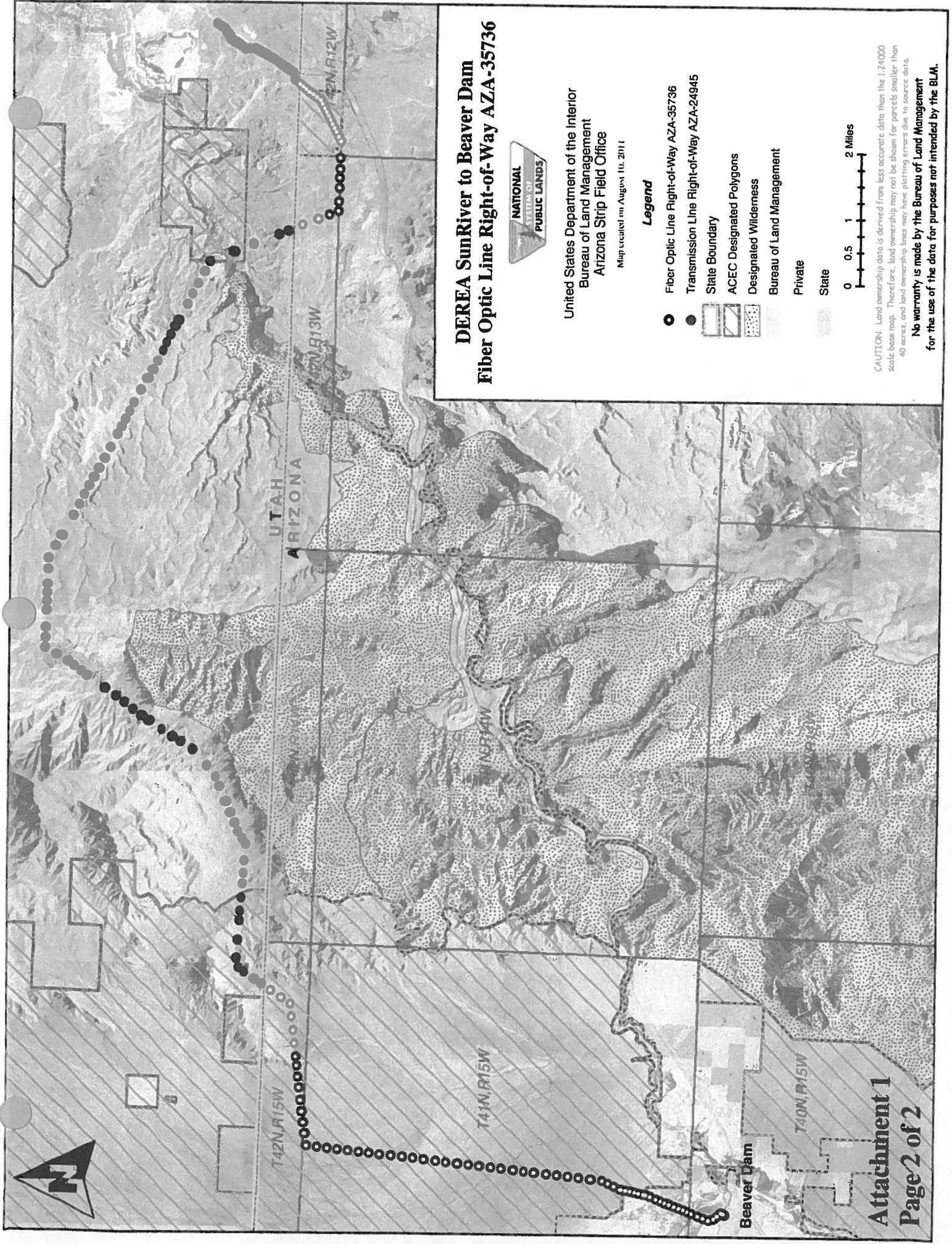
Legend

- Fiber Optic Line Right-of-Way AZA-35736
- Transmission Line Poles
- ▭ State Boundary
- ▨ ACEC Designated Polygons
- ▩ Designated Wilderness
- ▭ Bureau of Land Management
- ▭ Private
- ▭ State



CAUTION: Land ownership data is derived from less accurate data than the 1:24000 scale base map. Therefore, land ownership may not be shown for parcels smaller than 40 acres, and land ownership lines may have plotting errors due to source data.

No warranty is made by the Bureau of Land Management for the use of the data for purposes not intended by the BLM.



DEREA SunRiver to Beaver Dam Fiber Optic Line Right-of-Way AZA-35736



United States Department of the Interior
Bureau of Land Management
Arizona Strip Field Office

Map created on August 16, 2011

Legend

- Fiber Optic Line Right-of-Way AZA-35736
- Transmission Line Right-of-Way AZA-24945
- State Boundary
- ACEC Designated Polygons
- Designated Wilderness
- Bureau of Land Management
- Private
- State



CAUTION: Land ownership data is derived from less accurate data than the 1:24,000 scale base map. Therefore, land ownership may not be shown for parcels smaller than 40 acres, and land ownership lines may have plotting errors due to source data.
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Attachment 2

Special Conditions DEREA Power Line Right-of-Way Amendment AZA-24945 and Fiber Optic Right-of-Way AZA-35736

AZA-24945 - Power Line Right-of-Way Amendment

The proposed right-of-way amendment would be subject to all applicable Terms and Conditions, Conservation Measures, provisions, etc. of the existing Right-of-Way Grant AZA-24945 which would be modified as follows:

1. Terms and Conditions

- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit A – Location Map, dated August 14, 2008; Exhibit B – Plan of Development, dated May 22, 2009; Exhibit C – Conservation Measures (RMP), dated May 22, 2009; Exhibit D – Reclamation and Monitoring Plan, dated May 8, 2009; and Exhibit E – Conservation Measures, Reasonable and Prudent Measures with Terms and Conditions, Conservation Recommendations, and Reclamation Plan from the Biological Opinion, AESO/SE 22410-2009-F-0023, dated May 21, 2009; attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. The holder shall construct, operate, maintain, and terminate the facilities, improvements, and structures within this right-of-way in strict conformity with the Plan of Development (Exhibit B), Conservation Measures (Exhibit C), Reclamation and Monitoring Plan (Exhibit D), and Biological Opinion provisions (Exhibit E). Any relocation, additional construction, or use that is not in accord with the approved Plan of Development, Conservation Measures, Reclamation and Monitoring Plan, and Biological Opinion, shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all Exhibits, shall be made available on the right-of-way area during construction, operation, and termination to the authorized officer. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.
- f. Failure of the holder to comply with applicable law or any provision of this right-of-way grant shall constitute grounds for suspension or termination thereof.
- g. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

- h. The holder of this right-of-way grant 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.
- i. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
- j. The holder shall amend the right-of-way grant at any time additional land, equipment, and/or new uses are proposed which are beyond the scope of the existing authorization.
- k. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, 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 authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall contact the appropriate Bureau cadastral survey office for instructions to restore the disturbed monuments and references. 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.
- l. In the event that the public land underlying the right-of-way encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the right-of-way or the land underlying the right-of-way is not being reserved to the United States in the patent/deed and/or the right-of-way is not within a right-of-way corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at Title 43 Code of Federal Regulations part 2800, including any rights to have the holder apply to the Bureau of Land Management for amendments, modifications, or assignments and for the Bureau of Land Management to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable state and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the right-of-way shall be considered a civil matter between the patentee/grantee and the right-of-way holder.
- m. Construction-related traffic shall be restricted to routes approved by the authorized officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the authorized officer.
- n. Construction holes left open over night shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.
- o. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment. "Waste" also includes the creation of micro-trash such as bottle caps, pull tabs, broken glass, cigarette butts, small plastic, etc. No micro-trash shall be left at construction sites and trash receptacles used at construction sites shall be wildlife proof.

- p. At no time shall vehicle or equipment fluids be dumped on public lands. All accidental spills must be reported to the Bureau of Land Management and be cleaned up immediately, using best available practices and requirements of the law. All spills of federally or state listed hazardous materials which exceed the reportable quantities shall be promptly reported to the appropriate state agency and the Arizona Strip Field Office.
- q. The holder of Right-of-Way AZA-24945 agrees to fully indemnify or hold harmless the United States against any liability, damage, or claims 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, 42 U.S.C. 6901, et seq.) on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
- r. Any surface or sub-surface archaeological, historical, or paleontological remains not covered in the Cultural Resource Project Record discovered during use, new construction, or additions shall be left intact; all work in the area shall stop immediately and the authorized officer shall be notified immediately. Resumption of work shall be allowed upon clearance by the authorized officer in consultation with the archaeologist.
- s. If in connection with use, any human remains, funerary objects, sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P. L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder shall stop use in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. The holder shall continue to protect the immediate area of the discovery until notified by the authorized officer that use may resume.
- t. There is potential for the spread of noxious and invasive weeds from equipment contaminated with weed seed and/or biomass. To reduce this potential, the Bureau of Land Management requires the following measures be taken: a) The holder will thoroughly power wash and remove all vegetative material and soil before transporting equipment to the work site to help minimize the threat of spreading noxious and invasive weeds. This includes trucks, trailers, and all other machinery. b) The holder is responsible for the eradication of noxious weeds within the right-of-way area throughout the term of the right-of-way. c) The holder is responsible for consultation with the authorized officer and local authorities for implementing acceptable weed treatment methods. Any use of chemical treatments will be made using only chemicals approved in the *Final Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement* (June 2007b), by a state certified applicator who will abide by all safety and application guidelines as listed on the product label and Material Data Safety Sheet. d) Any reclamation efforts requiring seeding will be done with certified, weed-free native seed.
- u. Use of herbicides shall comply with the applicable Federal and state laws. Herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of herbicides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, weed(s) to be controlled, method of application, location of storage and mixing areas, method of cleansing and disposing of containers, and any other information deemed necessary by the authorized officer. Emergency use of herbicides shall be approved in writing by the authorized officer prior to such use.

- v. Within 60 days of construction completion, the holder shall submit to the authorized officer, as-built drawings, including Geographic Information System (GIS) data, incorporating all design modifications, field changes, and corrections or deviations during construction for all constructed facilities and access to those facilities. Geospatial data shall be submitted as ArcView datasets (i.e., shapefiles or feature class), ArcInfo coverages, or as ArcView compatible data files (e.g., AutoCAD export .dwg files). All AutoCAD files must include the projection information and/or spatial (datum) reference to allow import into a spatially referenced GIS format. The preferred spatial reference for AutoCAD .dwg files is UTM Zone 12. GIS data shall be submitted electronically using the 1983 Geographic Coordinate System (NAD 83 datum). If the holder is unable to send the data by email, the holder shall submit the data on compact disk(s) to the authorized officer, BLM, Arizona Strip Field Office, 345 East Riverside Drive, St. George, Utah 84790. If for any reason the location or orientation of the geographic feature associated with the project changes, the holder is asked to submit updated GIS data to the authorized officer within 30 days of the change.
- w. Within 60 days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
- x. All unnecessary roads shall be reclaimed and closed immediately upon termination of the project. Recontouring all cut slopes to approximately the original contour shall be required. Reclaimed roads shall be barricaded or signed to protect them until reclamation is achieved. All existing roads that require upgrading shall be reclaimed to their original dimensions upon completion of the project. Exceptions must be approved in writing by the authorized officer.

2. Conservation Measures for Mojave Desert Tortoise (RMP 2008)

DT-1. Minimize or eliminate effects to desert tortoise from authorized projects¹.

DT-1.A. For each authorized project¹, BLM will designate a field contact representative (FCR) who will be responsible for overseeing compliance with these conservation measures and for coordination on compliance with the USFWS. The FCR will be a qualified biologist approved by BLM, and will have the authority and the responsibility to halt all project activities that are in compliance with these conservation measures. These individuals will have a copy of these conservation measures while on the work site.

DT-1.B. To the extent possible, project features will be located in previously-disturbed areas or outside of desert tortoise habitat.

DT-1.C. To the extent possible, project activities will be scheduled when tortoises are inactive (October 15 through March 15). The following project activities will only be authorized between October 15 through March 15: surface disturbance associated with mineral leasing; organized, non-speed vehicular events; construction and non-emergency maintenance activities in rights-of-ways; and non-emergency maintenance of existing roads.

¹ "Project" means any surface-disturbing activities proposed that may cause disturbance of desert tortoise habitat and/or death or injury of a desert tortoise, with the exception of grazing by livestock and activities associated with fire suppression.

DT-1.D. Pre-construction surveys will be conducted to locate desert tortoises that may be injured or killed as a result of proposed activities. Projects will be altered or tortoises in harm's way will be relocated to avoid lethal take of tortoises in project areas. Prior to any surface-disturbing activities associated with "projects," work sites will be surveyed for desert tortoises by a qualified biologist approved by BLM. Areas of new disturbance will be surveyed with 100-percent coverage.

DT-1.D.1. Between October 15 and March 15 any new disturbance will be preceded by 100-percent surveys conducted within one week of the proposed activities. During surveys, occupied desert tortoise burrows in or within 40 feet of areas to be disturbed will be excavated using hand tools under the supervision of an authorized biologist. Tortoises discovered in burrows will be relocated. Burrows will then be collapsed or blocked to prevent entry by tortoises. Desert tortoises and any desert tortoise eggs found in areas to be disturbed will be relocated in accordance with conservation measure DT-1.D.4. All handling of desert tortoises and their eggs will be in accordance with conservation measure DT-1.D.4.

DT-1.D.2. For project activities occurring during the desert tortoise active season (March 15 through October 15), surveys will be conducted within 24 hours of initiation of surface-disturbing activities. For surface-disturbing activities conducted from March 15 to October 15 in desert tortoise habitat, construction and operation activities will be monitored by a qualified desert tortoise biologist approved by BLM. The biologist will be present during all activities in which encounters with tortoises may occur. The biologist will watch for tortoises wandering into construction areas, check under vehicles, check at least three times per day any excavations that might trap tortoises, and conduct other activities necessary to ensure that death or injury of tortoises is minimized.

DT-1.D.3. Only biologists authorized and permitted by the USFWS and AGFD will handle desert tortoises. Additional biologists can be authorized if BLM submits the name(s) of the proposed authorized biologist(s) to the USFWS for review and approval at least 15 days prior to the onset of activities that can result in a take. Minimum requirements for authorized biologists include attending the Desert Tortoise Council's training course for handling desert tortoises and/or training by an authorized biologist. Authorized biologists must have all valid state and federal permits.

DT-1.D.4. The authorized biologist will maintain a record of all desert tortoises encountered during project activities. This information will include for each desert tortoise:

1. The locations and dates of observation
2. General condition and health, including injuries and state of healing and whether animals voided their bladders
3. Location moved from and location moved to
4. Diagnostic markings (i.e. identification numbers of marked lateral scutes)

Desert tortoises that are handled will be marked for future identification. An identification number (using the acrylic paint/epoxy technique) will be placed on the 4th costal scute (USFWS 1992). No notching of scutes or replacement of fluids with a syringe is authorized.

DT-1.E. If a tortoise or clutch of tortoise eggs is found in a project area, to the extent practicable activities will be modified to avoid injuring or harming it. If activities cannot be modified, the tortoise/clutch will be moved from harm's way by an the authorized biologist the minimum distance possible within appropriate habitat to ensure its safety from death, injury, or collection associated with the project or other activities. The authorized biologist will have some discretion to ensure that survival of each relocated desert tortoise/clutch is likely. Desert tortoises/clutches

will not be translocated to lands outside the administration of the Federal government without the written permission of the landowner. Handling procedures for desert tortoises and their eggs will adhere to protocols outlined in Desert Tortoise Council (1994 with 1996 revisions).

DT-1.F. Areas of new construction or disturbance will be flagged or marked on the ground prior to construction. All construction workers will strictly limit their activities and vehicles to areas that have been marked. Construction personnel will be trained to recognize markers and understand the equipment movement restrictions involved.

DT-1.G. A desert tortoise education program will be presented to all project personnel that may encounter tortoises: such as employees, inspectors, supervisors, contractors, and subcontractors; prior to initiation of activities that may result in disturbance of desert tortoise habitat or death or injury of desert tortoises. The education program will include discussions of the following:

1. legal protection of the desert tortoise and sensitivity of the species to human activities;
2. a brief discussion of desert tortoise distribution and ecology;
3. the terms and conditions of applicable biological opinions;
4. project features designed to reduce adverse effects to desert tortoises and their habitat, and to promote the species' long-term survival;
5. protocols during encounters with desert tortoises and associated reporting requirements; and
6. the definition of take and penalties for violations of Federal and State laws.

DT-1.H. During the tortoise active season (March 15 through October 15), project features that might trap or entangle desert tortoises such as open trenches, pits, open pipes, etc will be covered or modified to prevent entrapment.

DT-1.I. Long-term or permanent project sites in which continued encounters with desert tortoises are expected, such as construction of schools under an R&PP lease, roads, power plants, office buildings, and other permanent or long-term projects will be enclosed with desert tortoise barrier fencing to prevent tortoises from wandering onto the project site where they may be subject to collection, death, or injury. Barrier fencing should consist of wire mesh with a maximum mesh size of 1-inch (horizontal) by 2-inch (vertical) fastened securely to posts. The wire mesh will extend at least 18 inches above the ground and preferably 12 inches below the surface of the ground. Where burial is not possible, the lower 12 inches will be folded outward, away from the enclosed site, and fastened to the ground so as to prevent tortoise entry. Any gates or gaps in the fence will be constructed and operated to prevent desert tortoise entry (such as installing "tortoise guards" similar to cattle guards, and/or keeping gates closed). Specific measures for tortoise-proofing gates and gaps will be addressed project by project. Once fence construction is complete, all tortoises within the fence will be relocated outside the fence in accordance with conservation measure DT-1.D.4. If more than 20 tortoises be relocated from any one area enclosed by a fence, the BLM will contact the USFWS in regard to disposition of the animals. After the area within the fence has been cleared of tortoises, construction and operation activities may occur within the fence without the presence and monitoring of a biologist (see conservation measure DT-1.D.).

DT-1.J. Temporary fencing, such as snow fencing, chain link, and other suitable materials will be used in designated areas as determined by the Bureau to reduce encounters with tortoises from March 15 to October 15 on short-term projects, such as construction of power lines, burial of fiber optic cables, etc, where encounters with tortoises are likely.

DT-1.K. Blading of work areas will be minimized to the extent possible. Disturbance to shrubs will be avoided if possible. If shrubs cannot be avoided during equipment operation or vehicle use, wherever possible they will be crushed rather than excavated or bladed.

DT-1.L. Project vehicle use will be limited to designated routes (existing routes prior to designation) to the extent possible.

DT-1.M. At no time will vehicle or equipment fluids be dumped on public lands. All accidental spills must be reported to BLM and cleaned up immediately, using the best available practices according to the requirements of the law. All spills of federally or State-listed hazardous materials that exceed reportable quantities will be promptly reported to the appropriate State agency and the BLM.

DT-1.N. Vehicles associated with Bureau-authorized projects traveling on unpaved roads in desert tortoise habitat will not exceed speed limits established by the Bureau as necessary to protect desert tortoises. These speed limits will generally not exceed 40 mph even on the best-unpaved roads but may be much less than this on some roads.

DT-1.O. New paved roads and highways in desert tortoise habitat or major reconstruction or modifications of existing paved roads through desert tortoise habitat will be fenced with desert tortoise barrier fencing (see DT-1.I. and J.). Culverts, to allow safe passage of tortoises, will be constructed approximately every mile of new or reconstructed paved road (culverts can also serve the more typical purpose of conducting water under roads). The culvert diameter needed to encourage tortoise use is correlated with culvert length, but generally short culverts of large diameter are most likely to be used. The floor of the culvert will be covered with dirt and maintenance should be performed as necessary to maintain an open corridor for tortoise movement. Culvert design will be coordinated with and approved by the USFWS.

DT-1.P. Unleashed dogs will be prohibited in project areas.

DT-1.Q. Temporary access routes created during project construction will be modified as necessary to prevent further use. Closure of access routes can be achieved by ripping, barricading, posting the route as closed, and/or seeding and planting with native plants.

DT-1.R. To reduce attraction of potential desert tortoise predators, project sites in desert tortoise habitat will be maintained in a sanitary condition at all times; waste materials at those sites will be placed in covered receptacles and disposed of promptly at an appropriate waste disposal site. "Waste" refers to all discarded matter, including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment. All reasonable effort will also be taken to reduce or eliminate water sources associated with project activities that might attract ravens and other predators.

DT-1.S. After completion of the project, trenches, pits, and other features in which tortoises can be entrapped or entangled, will be filled in, covered, or otherwise modified so they are no longer a hazard to desert tortoises.

DT-1.T. After project completion, measures will be taken to facilitate restoration. Restoration techniques will be tailored to the characteristics of the site and the nature of project impacts. Techniques may include removal of equipment and debris, recontouring, and seeding, planting, transplanting of cacti and yuccas, etc. Only native plant species, preferably from a source on or near the project area, will be used in restoration.

3. Conservation Measures for California Condor (RMP 2008)

CC-2. Management Guidance for Projects Constructed or Implemented by BLM Employees or Contractors Within the 10(j) Area AND For All BLM-Authorized Actions, Regardless of Proponent, Outside the 10(j) Area on the Arizona Strip.

CC-2.B. Where California Condors visit a worksite while activities are underway, the on-site supervisor will notify the BLM wildlife team lead or condor biologist. Project workers and supervisors will be instructed to avoid interaction with condors. Project activities will be modified, relocated, or delayed if those activities have adverse affects on condors. Operations will cease until the bird leaves on its own or until techniques are employed by permitted personnel that results in the individual condor leaving the area.

CC-2.C. Where condor nesting activity is known within 0.5 miles of activities that include operation of heavy machinery, BLM will direct the operator to cease equipment use during the active nesting season (February 1- November 30), or as long as the nest is viable. Where feasible and consistent with NEPA, BLM may relocate operations to a site greater than 0.5 miles from the condor nest site.

CC-2.D. Where condors occur within 1.0 miles of activities that include blasting, BLM will require that blasting be postponed until the condors leave the area or are hazed away by personnel permitted to haze condors. Where condor nesting activity is known within 1.0 miles of the project area, BLM will cease blasting during the active nesting season (February 1- November 30), or as long as the nest is viable. These dates may be modified based on the most current information regarding condor nesting.

CC-3. Management Guidance for All BLM-Authorized Actions, Regardless of Proponent or location Within the Arizona Strip I/O.

CC-3.A. The project site will be cleaned up at the end of each day the work is being conducted (e.g., trash removed, scrap materials picked up) to minimize the likelihood of condors visiting the site. BLM staff may conduct site visits to the area to ensure adequate clean-up measures are taken.

CC-3.B. For projects where potential exists for leakage or spill of hazardous materials, a spill plan will be developed and implemented to prevent water contamination and potential poisoning of condors. The plan will include provisions for immediate clean up of any hazardous substance, and will define how each hazardous substance will be treated in case of leakage or spill. The plan will be reviewed by the BLM condor lead biologist to ensure condors are adequately addressed.

CC-3.C BLM will implement the protective measures for California Condors that are contained in the March 2004 "Recommended Protection Measures for Pesticide Applications in The Southwest Region of the USFWS."

CC-3.D. Use of non-lead ammunition is strongly encouraged for activities involving the discharge of firearms.

AZA-35736 – Fiber Optic Right-of-Way

Because the fiber optic line proposed for separate right-of-way authorization is attached to power poles authorized by power line right-of-way AZA-24924, it would also be subject to all applicable Terms and Conditions, Conservation Measures, provisions, etc. of the existing Right-of-Way Grant AZA-24945 which would remain unchanged as listed above. In addition, in accordance with BLM's interim fiber optic policy, IM 2001-080, dated 1/24/2001, the following terms and conditions would apply:

1. Subleasing or space/equipment to additional telecommunication providers would be allowed without further approval from the Bureau of Land Management. Subleasing includes any change in ownership of any portion of the project, or the subleasing of space to additional telecommunication service providers. These additional telecommunication providers would not be required to obtain a

separate grant for their use. No additional rent would be assessed to the right-of-way holder for the additional sublease owner(s) or telecommunication provider(s) within the project or facility. The holder would be liable and responsible for compliance with all terms/conditions of the grant, including compliance with the terms/conditions by any additional user.

2. The holder would notify the Bureau of Land Management authorized officer of any change in the future ownership status of the fiber optic project, or the subleasing to separate telecommunication service providers.
3. For and in consideration of the rights granted, the holder would agree to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices. Electric or telephone facilities constructed in whole or in part, or eligible for financing, under the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) would be exempt from payment of rental (43 CFR 2806.14(d)). Rent-exempt holders who lease/sell excess capacity for commercial purposes to other telecommunication service providers that are not exempt from rent by statute or regulation, would lose their exemption for that portion of the fiber optic project being sold or leased for the commercial purposes. Given this exception, rent would be determined in accordance with the existing linear schedule found at 43 CFR 2803.1-2(c).

Attachment 3

Extraordinary Circumstances Review and Checklist DEREA Power Line Right-of-Way Amendment AZA-24945 and Fiber Optic Right-of-Way AZA-35736

IMPORTANT: Appropriate staff should review the circumstances listed below, and comment for concurrence. Rationale supporting the concurrence should be included where appropriate.

EXTRAORDINARY CIRCUMSTANCES Does the proposed action...	YES/NO & RATIONALE (If Appropriate)	STAFF
1. Have significant impacts on public health and safety?	No	LFord
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?	No	DHawks JHerron JYoung
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	No	LFord
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	No	LFord
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	No	LFord
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	No	LFord
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	JHerron
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	JYoung JRoague
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	No	JYoung GBenson
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?	No	LFord
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	GBenson
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	WBunting

Decision Memorandum

**DEREA Power Line Right-of-Way Amendment AZA-24945
and Fiber Optic Right-of-Way AZA-35736
DOI-BLM-AZ-A010-2011-0020-CX**

U.S. Department of the Interior
Bureau of Land Management
Arizona Strip Field Office

Approval and Decision

Based on a review of the project described in the attached Categorical Exclusion documentation and field office staff recommendations, I have determined that the projects are in conformance with the Arizona Strip Field Office Resource Management Plan (approved January 29, 2008) and are categorically excluded from further environmental analysis. It is my decision to approve the actions as proposed with the special conditions identified in Attachment 2 of the CX.

Administrative Review or 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, Part 4 and the attached Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Arizona Strip Field Office, 345 East Riverside Drive, St. George, Utah 84790 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

In accordance with 43 CFR 2801.10(b), this decision remains in effect pending appeal unless a stay is granted. If you wish to file a petition pursuant to regulations at 43 CFR 2801.10 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. 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 Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Court House #404, 401 West Washington Street SPC44, Phoenix, AZ 85003-2151 (see 43 CFR 4.413) at the same time the original documents are filed in 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 regulations, 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.

Laurie Ford

Ford Lorraine M. Christian, Field Manager

9/21/2011

Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you.

AND

2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

- 1. NOTICE OF APPEAL.....** A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
- 2. WHERE TO FILE** Field Manager, Arizona Strip Field Office
Bureau of Land Management
345 East Riverside Drive
St. George, Utah 84790
- NOTICE OF APPEAL.....**
- WITH COPY TO SOLICITOR..** Office of the Field Solicitor
Sandra Day O'Connor US Courthouse, Suite 404
401 West Washington Street, SPC-44
Phoenix, Arizona 85003-2151
- 3. STATEMENT OF REASONS** Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).
- WITH COPY TO SOLICITOR.....** Office of the Field Solicitor
Sandra Day O'Connor US Courthouse, Suite 404
401 West Washington Street, SPC-44
Phoenix, Arizona 85003-2151
- 4. ADVERSE PARTIES.....** Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
- 5. PROOF OF SERVICE.....** Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(e)).
- 6. REQUEST FOR STAY.....** Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). 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 (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 regulations, 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.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ----- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)