



If you have any questions regarding the work group, the following attached directives; or oil and gas associated rights-of-way in general, please feel free to contact Division of Rights-of-Way, (WO 330), (MIB, Rm 3660), (FIS) 343-5441, or Division of Fluid Minerals Operations, (WO 630), (Premier Building, Rm 601), (FIS) 653-2129.



David C. O'Neal  
Deputy Director

**3 Attachments**

- 1 - Oil and Gas Associated Rights-of-Way Processing Procedures (8 p)
- 2 - Oil and Gas Associated Rights-of-Way Work Group (1 p)
- 3 - Information Notice to Lessees (6 p)

**Procedures for Approval of Oil and Gas Associated Rights-of-Way**

**A. General Guidance.**

1. **Authorizations.** All production facilities (as defined in 43 CFR 2800.0-5) located on a lease or unit shall be approved by an Application for Permit to Drill (APD) or Sundry Notice (SN) authorized under the lease terms.
2. **Acceptable Rights-of-Way Application.** The APD shall be accepted as a right-of-way application per BLM Manual 2801.32c. A SN shall also now be accepted as a right-of-way application document. When a Notice of Staking (NOS) is submitted, it shall be accepted as an incomplete right-of-way application which will be perfected with a subsequent APD or a separate right-of-way application, (57-299, APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS). The information provided in the surface use program submitted with the NOS, subsequent APD, or the SN shall be used in lieu of a plan of development. As with all right-of-way applications, BLM may request from the applicant/operator whatever additional information is needed for a complete NEPA analysis and decision.
3. **Facilities Requiring Right-of-Way Grants.** Upon receipt of an NOS, APD, or SN the authorized officer shall determine whether a right-of-way is needed. It is BLM policy that oil and gas facilities shall require a right-of-way for:
  - a. Facilities or portions thereof which lie outside of a lease or unit boundary;
  - b. That portion of the facility which occurs downstream from the sales (custody transfer) point, (whether on or off lease) or;
  - c. A facility (other than a production facility) or portion thereof which is owned by any party other than the lessee or designated operator. Where the owner of a facility other than the lessee or designated operator informs the authorized officer they are considered an entity of the lease holder, entitled to lease rights, the authorized officer shall:
    - (1) Require the applicant/operator to submit corporate documentation supporting their claim;
    - (2) Review, and if necessary forward the documentation and the claim to the appropriate Solicitors Office for a determination if the applicant/operator is a third party requiring a right-of-way grant.

4. Right-of-Way Stipulation. The following stipulation shall be included in all future rights-of-way which authorize facilities downstream of custody transfer, or off lease facilities that traverse lease or unit boundaries.

"Boundary adjustments in (name or number of O & G unit or lease) shall automatically amend this right-of-way to include that portion of the facility no longer contained within the above described (lease/unit). In the event of an automatic amendment to this right-of-way grant, the prior on-lease/unit conditions of approval of this facility will not be affected even though they would now apply to facilities outside of the lease/unit as a result of a boundary adjustment. Rental fees, if appropriate shall be recalculated based on the conditions of this grant and the regulations in effect at the time of an automatic amendment."

5. Cost Recovery Considerations. For all options discussed in this directive appropriate right-of-way cost recovery fee determination shall be based on the extent of the off-lease right-of-way needs. Cost recovery fees shall not be assessed for processing approvals authorized under the terms of the lease.

8. APD Requiring Associated Right-of-Way

1. NOS OPTION (see Flow chart 1)

a. On Site Redrill Inspection. The on site redrill inspection for the NOS shall examine the entire project without regard for the fact that two approval documents will be issued. At the on site inspection the applicant/operator shall be given the following material;

(1) A Form 2800-14 (RIGHT-OF-WAY/TEMPORARY USE PERMIT) containing standard terms and conditions.

(2) Any special strips used for environmental protection (as per Oil and Gas Order No. 1) including a Notice To Proceed special stipulation, made part of the 2800-14 which states:

"No surface disturbing activities shall take place on the subject right-of-way until the associated APD is approved. The holder will adhere to special stipulations in the Surface Use Program of the approved APD, relevant to any right-of-way facilities."

(3) A right-of-way cost recovery category and fee determination Form 1323-2 (RIGHT-OF-WAY COST RECOVERY CATEGORY AND FEE DETERMINATION RECORD).

b. Applicant/Operator Submissions. The applicant/operator can then submit to the authorized officer;

An APD with a completed surface use program

(2) A signed Form 2800-14 with the standard terms and conditions and any required special stipulations. This will fulfill the requirements of 43 CFR 2802.4(g) and 43 CFR 2882.3 (g) relative to written acceptance of grant terms and conditions, and eliminate the need to offer the grant prior to approval.

The appropriate cost recovery fee.

c. Analysis. With this information the BLM can conduct a NEPA analysis for the entire project. This analysis may result in the identification of any additional special stipulations for either on lease or right-of-way facilities.

d. Approval. After the NEPA analysis the authorized officer shall issue one Decision Document approving or rejecting the APD and associated right-of-way. Upon completion of the NEPA and decision making process, BLM returns to the applicant/operator;

(1) An approved APD with surface use plan which may include special stipulations relevant to the right-of-way.

(2) An approved right-of-way grant complete with standard terms and conditions and the Notice to Proceed special stipulation.

2. APD OPTION. (See Flow Chart 2)

a. On-Site Pre-drill Inspection. The on-site inspection for the APD shall examine the proposal without regards for the fact that two approval documents will be issued. At the on-site inspection, the applicant/operator shall be given the materials identified in 5.1.a of this directive.

b. Applicant/Operator Submissions. The applicant/operator after the on-site inspection and before approval of the APD will be able to submit to the authorized officer;

(1) A signed Form 2800-14 with the standard terms and conditions, and the Notice To Proceed (see 5.1.(2)) special stipulation.

The appropriate cost recovery fee.

(3) Any supplemental information generated as a result of the on-site, and required by the authorized officer..

c. Analysis and Approvals. BLM shall process the combined applications concurrently. The completed Form 2800-14 signed by the applicant/operator fulfills the requirements of 43 CFR 2802.4(g) and 43 CFR 2882.3(1) relative to written acceptance of grant terms and conditions and allows the right-of-way grant and APD to be issued simultaneously.

**3. APD Option, Applicant Operator Not Present Or On-site Inspection Not Conducted.**

If the operator is not present at the on-site or if an on-site is not conducted, the authorized officer shall expeditiously notify the applicant/operator of the required cost recovery fee needed to process the right-of-way application. BLM will continue to process the APD but no work on the right-of-way application shall be done, until the appropriate cost recovery fees have been paid. After payment of the appropriate cost recovery fees BLM shall complete the NEPA analysis and decision process for the entire proposal. The grant offer, complete with all stipulations and rental determination shall be sent to the applicant/operator. A cover letter will notify the applicant/operator of the current status of the associated APD and explain that upon receipt of written acceptance of the right-of-way grant (complete with all terms and conditions) as well as resolution of all APD related issues the APD and right-of-way shall be simultaneously approved.

**C. Surface Use SN Requiring Associated Right-of-Way**

**1. Surface Use SN, Applicant/Operator Present At On-site.**

Sundry Notices requiring a right-of-way shall be processed in the same manner as the APD's described on B.2. above.

**2. Surface Use SN, Applicant/Operator Not Present At the On-Site Inspection.**

If the operator is not present, or if an on-site inspection is not conducted, the authorized officer shall expeditiously notify the applicant/operator of the required cost recovery fee needed to process the right-of-way application. After payment of the appropriate cost recovery fees BLM shall complete the NEPA analysis and decision processes for the entire proposal. The grant offer, complete with all stipulations and rental determination shall be sent to the applicant/operator. A cover letter will notify the applicant/operator of the current status of the associated SN and explain that upon receipt of written acceptance of the right-of-way grant (complete with all terms and conditions) as well as resolution of all SN related issues, the SN and right-of-way shall be simultaneously approved.

**D. APD and Surface Use SN, No Right-of-Way Required.**

APD's or surface use SN's which do not require authorization of off-lease facilities shall be processed in accordance with Onshore Oil and Gas Order No. 1. The following stipulation shall be included in all future APD and surface use SN authorizations:

"If at any time the facilities located on public lands authorized by the terms of the lease are no longer included in the lease (due to a contraction in the unit or other lease or unit boundary change) the BLM will process a change in authorization to the appropriate statute. The authorization will be subject to appropriate rental, or other financial obligation determined by the authorized officer."

**X. Unit Contraction Or Lease Boundary Changes.**

1. Future Unit Contraction or Lease Boundary Changes. Facilities originally authorized by, but no longer included in oil and gas leases, communitized or unitized areas, require appropriate right-of-way authorization. When a unit, or producing lease boundary changes (including approval and termination of a unit or communitization agreement) the BLM organizational unit responsible for authorizing the action shall notify the unit responsible for right-of-way issuance. If facilities are present which never received authorizations in any form they shall be considered under 43 CFR 2801.3 (unauthorized occupancy) or other applicable regulation.

The authorized officer shall examine the BLM records to determine if the information on file pertaining to the subject facilities is sufficient to meet the requirements of the appropriate right-of-way authorization.

If the records on file do not meet the requirements of the appropriate right-of-way authorization, the authorized officer shall require the operator to submit the required information before the facilities are authorized by a right-of-way grant. Normally project descriptions, maps, and specification provided by the operator in the APD or SN will be sufficient to issue a right-of-way grant. Unless there is a known significant environmental hazard or a threat to public health and safety, new stipulations will not be added to the right-of-way grant. However, it may be appropriate to negotiate with operators in this process for changes to existing facilities, such as road closures or burial of pipelines, where such changes would be in the best interests of all parties.

The right-of-way grant shall contain the standard terms, conditions and stipulations found on 2800-14 and any relevant special stipulations derived from the original APD or SN.

Consultation with the operator should occur if a search of BLM records does not provide necessary information to determine the original conditions of approval for these facilities. The stipulation relevant to facilities that traverse lease or unit boundaries located at A-4 of this directive shall also be included in the right-of-way grant.

This action is a change in authorization, not a new approval; therefore, additional NEPA analysis, and decision documents are not required. Cost recovery fees are not appropriate. Rentals are effective from the date of conversion. Unit approval could result in previously issued rights-of-way now being covered under lease authority. For this case the operator may either relinquish the right-of-way and convert the authorization to a lease authorization under a Sundry Notice, or continue to use the existing right-of-way.

2. Past Unit Contraction and Lease Boundary Changes. The BLM is faced with a number of situations where facilities located on public lands originally authorized by oil and gas lease terms are no longer included in the lease or unit because of lease boundary changes, or unit contractions. These facilities may presently be without formal authorization by BLM.

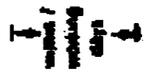
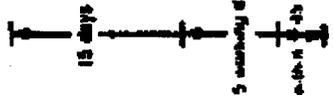
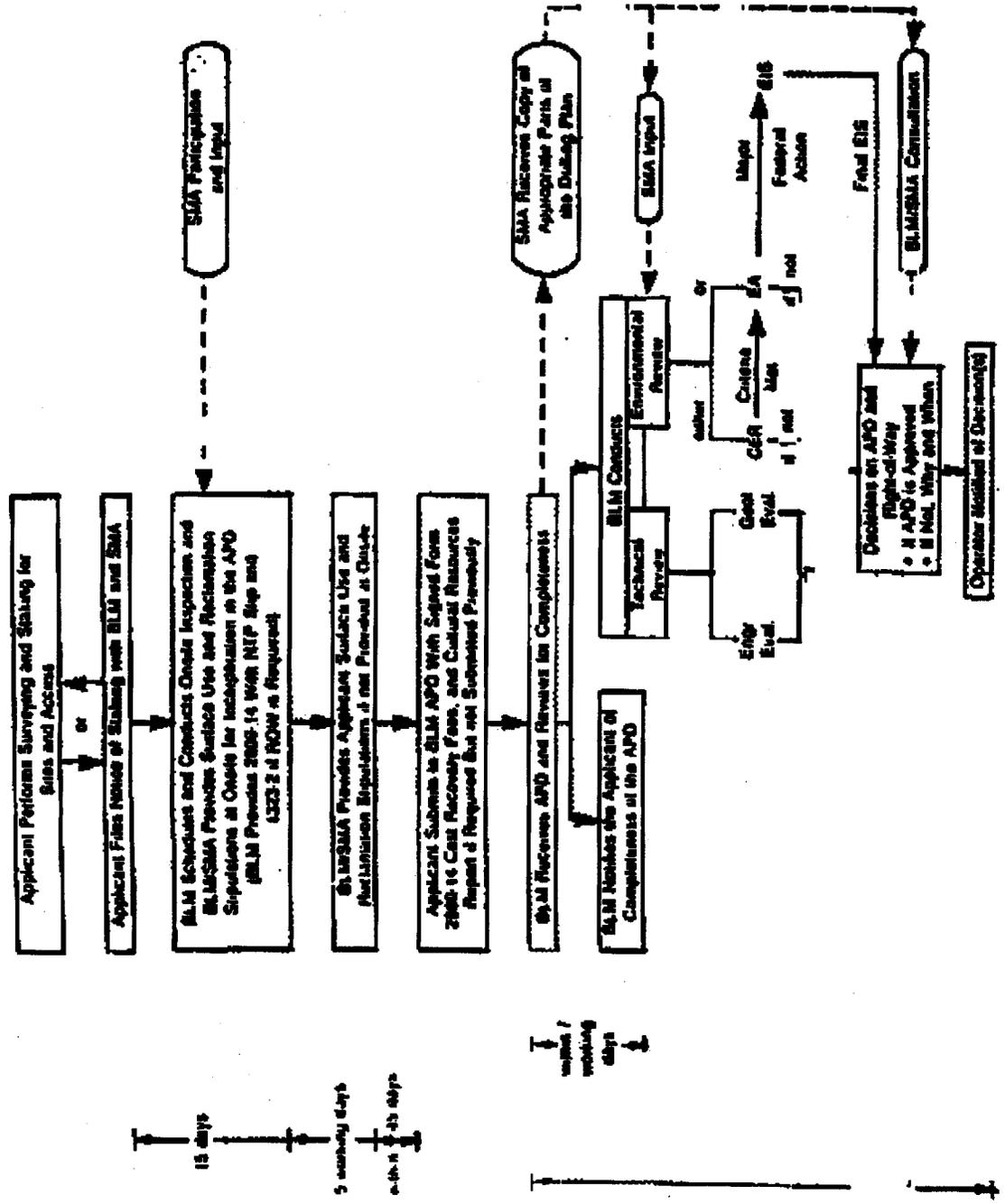
Operators known to have such facilities should initiate proceedings to change authorizations to an appropriate right-of-way grant. The operators should be encouraged to file for the changes in authorization on a lease, unit, or system basis wherever possible. When the operators notify the authorized officer of facilities or BLM identifies the facilities itself, the guidance provide in E-1 of this directive shall be followed.

Facilities identified on public lands without formal authorization after January 1, 1993, will be considered unauthorized use and subject to trespass action.

**NOTICE OF STAKING OPTION -  
FLOW CHART 1**

**NOS Option  
FLOW CHART 1**

Time Frame





**Oil and Gas Associated Rights-of-Way Work Group**

<u>Member</u>	<u>Office</u>	<u>Background</u>
Chris Voelker, Chairman	Wyoming State Office	Deputy State Director
Carry Bauer	Rock Springs District	Fluid Minerals
Glen Carpenter	Bakersfield District	Area Manager
Sie Ling Chiang	Washington Office 630	Fluid Minerals
Karl Fridberg	Utah State Office	Records Management
Dave Harper	Rock Springs District	Rights-of-Way
John Hodgins	Colorado State Office	Rights-of-Way
Larry Koch	Montana State Office	Rights-of-Way
Paul Kruger	Montana State Office	Fluid Minerals
Armando Lopez	Rawl District Office	Fluid Minerals
Ron Montagna	Washington Office 330	Rights-of-Way
Greg Schoop	Craig District Office	Fluid Minerals

## INFORMATION NOTICE TO LESSEES

### PROCEDURES FOR CONCURRENT PROCESSING OF APPLICATIONS FOR TO DRILL, SUNDRY NOTICES, AND RELATED RIGHTS-OF-WAY

#### BACKGROUND

In order to provide improved coordination and expedite processing of the subject authorizations, the Bureau of Land Management has recently completed a comprehensive review of its policies and operating procedures. As a result of the review, current policies have been clarified and changed where necessary to improve the coordinated issuance of Mineral Leasing Act (MLA) and Federal Land Policy and Management Act (FLPMA) authorizations.

Lessees and operators should be aware of the following procedures:

#### GENERAL

All production facilities (as defined in 43 CFR 2800.0-5) located on a lease or unit will be approved by an Application for Permit to Drill (APD) or Sundry Notice (SN) authorized pursuant to lease terms. Production facilities on lease (or unit) will not be authorized by right-of-way to third parties. The APD will be accepted as a right-of-way application. A SN will also be accepted as a right-of-way application document. When a Notice of Staking (NOS) is submitted it will be accepted as an incomplete right-of-way application which will be perfected by a subsequent APD or a separate right-of-way application, as appropriate, (SF-299, APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS). The information provided in the surface use program submitted with the NOS and the subsequent APD, or the SN will be used in lieu of a plan of development. As with all right-of-way applications, BLM may request from the applicant/operator whatever additional information is needed for a complete NEPA analysis and decision.

Upon receipt of an NOS, APD, or SN the authorized officer shall determine whether a right-of-way is needed. It is BLM policy that oil and gas facilities will require a right-of-way for:

- a. Facilities or portions thereof which lie outside of a lease or unit boundary;
- b. That portion of the facility which occurs downstream from the sales (custody transfer) point, (whether on or off lease) or;
- c. A facility (other than a production facility) or portion thereof which is owned by any party other than the lessee or designated operator. Where the owner of a facility other than the lessee or designated operator informs the authorized officer they are considered an entity of the lease holder, entitled to lease rights, the authorized officer will:

1. Request the applicant to submit corporate documentation supporting the claim.
2. Review and, if necessary, forward the documentation and the claim to the appropriate Solicitors Office for a determination whether the applicant is an entity of the lease holder entitled to lease authorization, or a third party requiring a right-of-way grant.

The following stipulation will be included in all future rights-of-way which authorize facilities downstream of the custody transfer, or off lease facilities that traverse lease or unit boundaries.

"Boundary adjustments in (name or number of O & G unit or lease) will automatically amend this right-of-way to include that portion of the facility no longer contained within the above described (lease/unit). In the event of an automatic amendment to this right-of-way grant, the prior on lease/unit conditions of approval of this facility will not be affected even though they would now apply to facilities outside of the lease/unit as a result of a boundary adjustment. Rental fees, if appropriate will be recalculated based on the conditions of this grant and the regulations in effect at the time of an automatic amendment."

Appropriate right-of-way cost recovery fee determinations will be based on the extent of the off lease right-of-way needs. Cost recovery fees will not be assessed for processing applications to be authorized under lease terms.

Procedures to be followed will depend on the type of facility applied for and the application method used as follows:

**NOS OPTION:**

The on-site predrill inspection for the NOS will examine the entire project without regard for the fact that two approval documents will be issued.

At the on-site predrill inspection the applicant/holder will be given the following material;

1. A Form 2800-14 (RIGHT-OF-WAY/TEMPORARY USE PERMIT) containing standard terms and conditions.
2. Any special stipulations used for environmental protection (as per Oil and Gas Order No. 1) including a Notice To Proceed special stipulation, made part of the 2800-14 which states:

"No surface disturbing activities shall take place on the subject right-of-way until the associated APD is approved. The holder will adhere to special stipulations in the Surface Use Program of the approved APD, relevant to any right-of-way facilities."

3. A right-of-way cost recovery category and fee determination Form 1323-2 (RIGHT-OF-WAY COST RECOVERY CATEGORY AND FEE DETERMINATION RECORD).

The applicant/operator can then submit to the BLM:

1. An APD with a completed surface program
2. A signed Form 2800-14 with the standard terms and conditions and any required special stipulations. This will fulfill the requirements of 43 CFR 2802.4(g) and 43 CFR 2802.3 (g) relative to written acceptance of grant terms and conditions, and eliminate the need to offer the grant prior to approval.
- (3) The appropriate cost recovery fee.

With this information the BLM can conduct a NEPA analysis for the entire project. This analysis may result in the identification of any additional special stipulations for either on lease or right-of-way facilities.

After the NEPA analysis the authorized officer will issue one Decision Document approving or rejecting the APD and associated right-of-way.

Upon completion of the NEPA and decision making process, BLM will return to the applicant/holder the following:

1. An approved APD with surface use plan which may include special stipulations relevant to the right-of-way.
2. An approved right-of-way grant complete with standard terms and conditions and the Notice to Proceed special stipulation requiring issuance of the approved APD prior to commencement of construction.

**APD OPTION, when an on-site predrill inspection is conducted:**

The on-site predrill inspection for the APD will evaluate and process the proposal without regard for the fact that two approval documents will be issued. A Form 2800-14 containing standard terms and conditions and the Notice to Proceed special stipulations will be given to the applicant/operator at the on-site predrill inspection conducted for the APD. Any special stipulations needed for environmental protection will be developed and discussed with the applicant/operator at that time.

During the on-site predrill inspection, BLM will make a cost recovery category and fee determination to cover off lease facilities to be authorized by right-of-way grant. The applicant will be furnished the determination at the on-site predrill inspection, this decision serves as the official notification of cost recovery determination.

The applicant/operator should submit the signed Form 2800-14 with stipulations along with cost recovery fees and supplemental information required as a result of the on-site predrill inspection.

BLM will process the combined applications concurrently. The completed Form 2800-14 signed by the applicant/operator will fulfill the requirements of 43 CFR 2802.4(g) and 43 CFR 2882.3(1) relative to written acceptance of grant terms and conditions and allows the right-of-way grant and APD to be issued simultaneously.

**APD OPTION** when on-site predrill inspection is not conducted or operator does not attend on-site

If the operator is not present at the on-site predrill inspection or if an on-site predrill inspection is not conducted, the authorized officer will expeditiously notify the applicant/operator of the required cost recovery fee needed to process the right-of-way application. BLM will continue to process the APD but no work on the right-of-way application will be done, until the appropriate cost recovery fees have been paid. After payment of the appropriate cost recovery fees BLM will complete the NEPA analysis and decision process for the entire proposal. The grant offer, complete with all stipulations and rental determination will be sent to the applicant/operator. A cover letter will notify the applicant/operator of the current status of the associated APD and explain that upon receipt of written acceptance of the right-of-way grant (complete with all terms and conditions) as well as resolution of all APD related issues, the APD and right-of-way will be simultaneously approved.

#### **SURFACE USE SUNDRY NOTICE**

Sundry Notices received in lieu of SF 299 will be processed in the same manner as the APD's described above.

#### **APD AND SURFACE USE SN, No Right-of-Way Required:**

APD's or surface use SN's which do not require authorization of off lease facilities will be processed in accordance with Onshore Oil and Gas Order No. 1. The following stipulation will be included in all future APD and surface use SN authorizations:

"If at any time the facilities located on public lands authorized by the terms of the lease are no longer included in the lease (due to a contraction in the unit or other lease or unit boundary change) the BLM will process a change in authorization to the appropriate statute. The authorization will be subject to appropriate rental, or other financial obligation determined by the authorized officer."

#### **UNIT CONTRACTION OR LEASE BOUNDARY CHANGES**

Facilities originally authorized by, but no longer included in oil and gas leases, committed or unitized areas, require appropriate right-of-way authorization. When a unit, or producing lease boundary changes (including approval and termination of a unit or communitization agreement) the BLM organizational unit responsible for authorizing the action will notify the authorized officer responsible for right-of-way issuance. If facilities are present which never received authorizations in any form they will be considered under 43 CFR 2801.3 (unauthorized occupancy) or other applicable regulation.

The authorized officer shall examine the BLM records to determine if the information on file pertaining to the subject facilities is sufficient to meet the requirements of the appropriate right-of-way authorization.

If the records on file do not meet the requirements of the appropriate right-of-way authorization, the operator must submit the required information before the facilities are authorized by a right-of-way grant. Normally project descriptions, maps, and specifications provided by the operator in the APD or SN will be sufficient to issue a right-of-way grant. Unless there is a known significant environmental hazard or a threat to public health and safety, new stipulations will not be added to the right-of-way grant. However, it may be appropriate to negotiate with operators in this process for changes to existing facilities, such as road closures or burial of pipelines, where such changes would be in the best interests of all parties.

The right-of-way grant will contain the standard terms, conditions and stipulations found on 2800-14 and any relevant special stipulations derived from the original APD or SN.

Consultation with the operator should occur if a search of BLM records does not provide necessary information to determine the original conditions of approval for these facilities. The stipulation relevant to facilities that traverse lease or unit boundaries located on page (A3-1, each State Office will insert the page number which is appropriate for its distribution) of this Information Notice will also be included in the right-of-way grant.

Since this action is a change in authorization, not a new approval, additional NEPA analysis, and decision documents will not be required, nor will cost recovery fees be charged. Rentals are effective from the date of conversion. Unit approval could result in previously issued rights-of-way now being covered under lease authority. For this case the operator has the option of relinquishment of the right-of-way and conversion of the right-of-way authorization to lease authorization via Sundry Notice.

#### **PAST UNIT CONTRACTION AND LEASE BOUNDARY CHANGES**

Operators are faced with a number of situations where facilities located on public lands originally authorized by oil and gas lease terms are no longer included in the lease or unit because of lease boundary changes, or unit contractions. These facilities may presently exist without valid formal authorization.

Operators known to have such facilities should initiate proceedings to change authorizations to an appropriate right-of-way grant. The operators are encouraged to file for the changes in authorization on a lease, unit, or system basis wherever possible. When the operators notify the authorized officer of facilities or BLM identifies the facilities itself, the guidance provided on page (A3-3, each State Office will insert the page number which is appropriate for its distribution) of this Information Notice will be followed.

Facilities identified on public lands without formal authorization after January 1, 1993, will be considered unauthorized use and subject to trespass action.