



Buckman Direct Diversion Project

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Memo

DATE: March 6, 2014
TO: Buckman Direct Diversion Board
FROM: Mackie Romero, BDD Financial Manager *MR*

ITEM AND ISSUE:

Request approval of payment to the Bureau of Land Management in the amount of \$189,000.00 for right of way rental 01/01/2012-12/31/2014.

BACKGROUND AND SUMMARY:

The Buckman Direct Diversion currently has a right-of-way (ROW) grant agreement with the Bureau of Land Management for the Buckman Water Treatment Plant and the Solar Site. This agreement includes an annual rental fee of \$63,000 for use of 31.07 acres of public land. In previous years this bill was received by staff and paid through 12/31/2011. On December 18, 2013 we received a bill in the amount of \$189,000 for the period 01/01/2012 thru 12/31/2014. We immediately contacted the Taos Field Office to discuss the nature of the bill and the time frame. They were aware of the untimely billing by their office and agreed to waive any late fees that would have normally been assessed.

DISCUSSION:

Staff has reviewed our current available budget balance for this fiscal year, and concludes there is sufficient funding to pay this invoice. The annual rental fee of \$ 63,000 was also included in our FY14/15 approved budget request and will continue to be part of our annual request.

ACTION REQUESTED:

Staff recommends approval for payment to the Bureau of Land Management.

<u>Fund Source</u>	<u>Business Unit/Line Item/Description</u>	<u>Amount</u>
FY 2013/2014	7280000.562250 Land/Building Rental	\$189,000

Approved

Buckman Direct Diversion
Board Chair



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ATTACHMENTS:

BLM – Bill for Collection

BLM letter dated April 16, 2010

Right of Way Grant NMNM 107524

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT Bill for Collection		Bill Number: 2014008872 Date: 12/09/2013
Make Remittance Payable To DOI/BLM and Mail To: TAOS FIELD OFFICE 226 CRUZ ALTA RD TAOS, NM 87571 (575)758-8851		Please include bill number on all remittances.
Payor: BUCKMAN DIRECT DIVERSION BOARD PO BOX 909 RICK CARPENTER SANTA FE, NM 87504 US		

DATE	DESCRIPTION	AMOUNT
	NMNM 107524 01/01/2012 – 12/31/2014 RIGHT OF WAY RENTAL -- SANTA FE COUNTY	\$189,000.00
	BLM CONTACT: BLM OFFICE, (575)758-8851	
AMOUNT DUE THIS BILL:		\$189,000.00
DATE DUE:		12/09/2013
<ul style="list-style-type: none"> • BLM Tax ID #84-0437540 • A late payment fee of \$25 or 10% of the unpaid rental whichever is greater not to exceed \$500 per authorization will be assessed if full payment is not received in a BLM office within 15 calendar days of the Due Date per 43 CFR 2806.13(a). Pursuant to 43 CFR 2806.13(c), if BLM does not receive your rent, late payment fee, and any administrative fees within 90 calendar days after the rent was due, BLM may terminate your grant under section 2807.17 of this part and you may not remove any facility or equipment without written permission from BLM (see section 2807.19 of this part). The rent due, late payment fees, and any administrative fees remain a debt that you owe to the United States. • Payment is due immediately upon receipt of this bill; however, payment must be received no later than the due date shown above. • Interest will be assessed at the rate of 1% per year if full payment is not made. • See attached Notice of Actions in Event of Delinquency. • Payment can be made by cash, check, money order or credit card. We accept Visa, Mastercard, Discover, and American Express. If paying by phone, please call the office number listed above. • Credit card payments can only be accepted for amounts of \$49,999.99 or less. • Please return a copy of this Bill for Collection with payment. • If the above name and address is incorrect, please contact the BLM office listed above. 		

This Bill was generated by the automated BLM Collections and Billings System and is a paper representation of a portion of the official electronic record contained therein.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Taos Field Office
226 Cruz Alta Road
Taos, New Mexico 87571-5983
www.blm.gov/nm



In Reply Refer To:

2800 (F0200)
NMNM107524-03

CERTIFIED MAIL 7009 2250 0002 7848 0792
RETURN RECEIPT REQUESTED

Your Reference:
Right-of-way Application

April 16, 2010

Mr. Rick Carpenter, Project Manager
Buckman Direct Diversion Board
City of Santa Fe
801 San Mateo
Santa Fe, NM 87502

Dear Mr. Carpenter:

The Bureau of Land Management (BLM), Taos Field Office previously sent you two copies of an unsigned right-of-way (ROW) grant (BLM Form 2800-14) for your proposed solar project facility, serial number NM-123784. After further review of your application and the authorized water treatment plant ROW grant, our office made a determination to amend the Buckman Water Treatment Plant (WTP) ROW grant (NM-107524) to include the solar site. We have therefore closed serial number NM-123784. The solar facility will be assigned serial number NM-107524-03.

Rent for use of public lands must be paid in advance of use and prior to initial construction. For the first partial year from April 16, 2010 to September 22, 2010, your rent for only the solar site is estimated to be \$3,483.00. Since the rent is estimated to be greater than \$100 per year, you may pay rent annually or at multi-year intervals of your choice. You may also pay for the entire term of the grant. Also, as part of the ROW amendment, we have enclosed mitigation measures in the form of "Special Stipulations" for your review and signature. Please sign and date both copies, keep one for your records, and return one copy to the address shown above along with the pro-rated rental payment of \$3,483.00. Absent any other unresolved issues, upon our receipt of the signed document and the rental payment, we will issue you a notice to proceed.

Your new annual rental will be \$63,000 which incorporates rental for the use of 31.07 acres of public land for both the water treatment plant and solar site. Previously, you paid advance rental for the WTP up to September 22, 2010. The BLM will bill you later for rental from September

2010 to December 2010 for both the WTP and solar site. Refer to the attachment on Rental Calculations for all rental fees.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.


Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions, please contact Sarah Naranjo, Realty Specialist, at (505) 954-2200.

Sincerely,



Sam DesGeorges
Field Manager

Enclosures
Right-of-Way Grant NM-107524-03
BLM Form 1842-1
Rental calculations

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER NMNM 107524

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
2. Nature of Interest:
 - a. By this instrument, the holder:

Buckman Direct Diversion Board
PO Box 909
Santa Fe, NM 87504

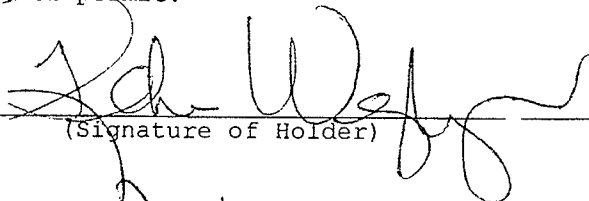
receives a right to construct, operate, maintain, and terminate a(n) water treatment plant located in:

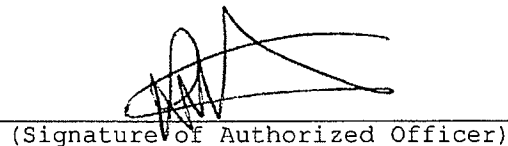
T. 17 N., R. 8 E., NMPM
Sec. 22: within NW $\frac{1}{4}$ NE $\frac{1}{4}$.
 - b. The right-of-way or permit area granted herein is N/A feet wide by N/A feet long, and contains N/A acres, more or less. If a site type facility, the facility contains 22.6 acres.
 - c. This instrument shall terminate on December 31, 2037,
30 years from its effective date unless; prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
 - d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
 - e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.
3. Rental:

For and in consideration of the rights granted, the holder agrees 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.
4. Terms and Conditions:

- a. This grant or permit 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 180 days, or otherwise disposed of as provided in paragraph (4) (d) or as directed by the authorized officer.
- c. Each grant issued 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 or permit 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(s) A, dated 8/22/08 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. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. 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.
- g.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.


(Signature of Holder)


(Signature of Authorized Officer)

Bond Chair
(Title)

Project Manager
(Title)

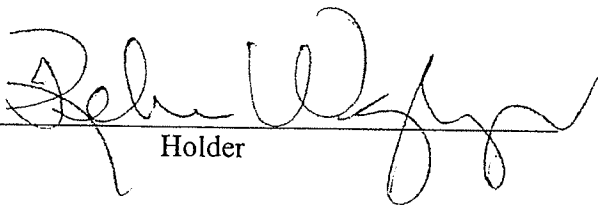
6/5/08
(Date)

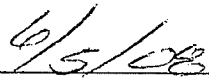
8/22/08
(Effective Date of Grant)

EXHIBIT A
SPECIAL STIPULATIONS
NM-107524

1. No construction activities are permitted until the Buckman Direct Diversion Plan of Development has been reviewed and approved and the holder has been issued a Notice to Proceed. Holder will follow the Buckman Direct Diversion Plan of Development in completing their project.
2. Additional stipulations will be issued with Notice to Proceed.

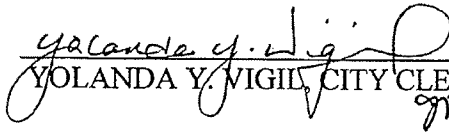
The authorized officer for this project is Francina Martinez, Realty Specialist.

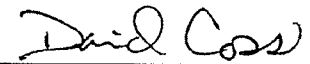

Holder


Date

CITY OF SANTA FE:

ATTEST:


YOLANDA Y. NIGIL, CITY CLERK


DAVID COSS, MAYOR

DATE: 8/19/08

APPROVED AS TO FORM:


FRANK D. KATZ, CITY ATTORNEY

APPROVED:


KATHRYN RAVELING, FINANCE DIRECTOR
David N. Millican

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER NMNM 10752401

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
2. Nature of Interest:
 - a. By this instrument, the holder:

Buckman Direct Diversion Board
PO Box 909
Santa Fe, NM 87504

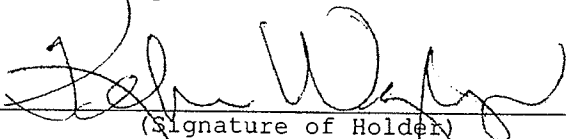
receives a right to construct, operate, maintain, and terminate a(n) temporary use area at the water treatment plant located in:

T. 17 N., R. 8 E., NMPM
Sec. 22: within NW~~1~~NE~~4~~.
 - b. The right-of-way or permit area granted herein is 130 feet wide by 1,000 feet long and 150 feet wide by 1,120 feet long, and contains 6.84 acres, more or less. If a site type facility, the facility contains N/A acres.
 - c. This instrument shall terminate on _____,
3 years from its effective date unless; prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
 - d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
 - e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.
3. Rental:

For and in consideration of the rights granted, the holder agrees 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.
4. Terms and Conditions:

- a. This grant or permit 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 **180** days, or otherwise disposed of as provided in paragraph (4) (d) or as directed by the authorized officer.
- c. Each grant issued 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 or permit 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(s) A, dated 8/9/08 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. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. 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.
- g.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.


(Signature of Holder)

Board Chair
(Title)

8/5/08
(Date)


(Signature of Authorized Officer)

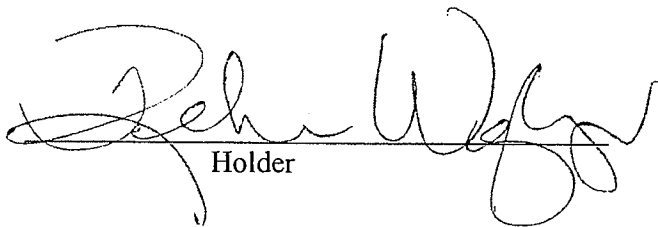
Project Manager
(Title)

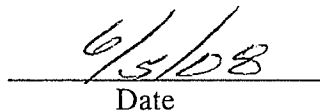
8/22/08
(Effective Date of Grant)

EXHIBIT A
SPECIAL STIPULATIONS
NM-10752401

1. No construction activities are permitted until the Buckman Direct Diversion Plan of Development has been reviewed and approved and the holder has been issued a Notice to Proceed. Holder will follow the Buckman Direct Diversion Plan of Development in completing their project.
2. Additional stipulations will be issued with Notice to Proceed.

The authorized officer for this project is Francina Martinez, Realty Specialist.


Holder


Date

CITY OF SANTA FE:

ATTEST:

David Coss
DAVID COSS, MAYOR

DATE: 8/19/08

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK
YVL

APPROVED AS TO FORM:

Frank D. Katz
FRANK D. KATZ, CITY ATTORNEY

APPROVED:

David N. Millican
KATHRYN RAVELING, FINANCE DIRECTOR
David N. Millican