

Item #21-0002

FORM 2800-14
(August 1985)

Issuing Office
Taos Field Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT

SERIAL NUMBER NMNM 120617

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
P.O. Box 909
Santa Fe, NM 87504

Receives a right to construct, operate, maintain, and terminate a Fiber Optics Line on public lands in Santa Fe County and described as follows:

New Mexico Principal Meridian, New Mexico

T. 18 N., R. 7 E.,
sec. 1, lots 1 and 2, SW1/4NE1/4NE1/4, and SE1/4NE1/4.

T. 17 N., R. 8 E.,
sec. 4, lots 3 thru 6, and SW1/4SW1/4NE1/4;
sec. 9, lots 1 thru 4;
sec. 15, lots 1 and 2, and SW1/4SW1/4;
sec. 22, SW1/4SW1/4NE1/4, SW1/4NE1/4NW1/4, E1/2NW1/4NW1/4,
N1/2SE1/4NW1/4, and SE1/4SE1/4NW1/4.

T. 18 N., R. 8 E.,
sec. 6, lots 5 and 6, SW1/4NE1/4SW1/4, and SE1/4SW1/4;
sec. 7, lots 4 and 5, W1/2SW1/4NE1/4, NE1/4NW1/4, and E1/2SE1/4NW1/4;
sec. 17, lot 1, SW1/4NW1/4NW1/4, SW1/4NW1/4, SW1/4NE1/4SW1/4, and
E1/2SE1/4SW1/4;
sec. 18, lot 1;
sec. 20, lots 1 thru 4, and E1/2SW1/4NE1/4;
sec. 28, lot 1 and SW1/4NW1/4SW1/4;
sec. 29, lots 1 thru 3;
sec. 33, lots 1 thru 5.

As shown on the attached map (Exhibit A).
 - b. The right-of-way or permit area granted herein is 10 feet wide 53,281 feet long, and contains 12.23 acres.
 - c. This instrument shall terminate December 31, 2047, 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. The renewal application, in accordance with Federal regulations found at 43 CFR 2807.22(a), must be submitted at least 120 calendar days before your grant expires.
- e. Notwithstanding the expiration of this instrument, 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 90 days, or otherwise disposed of as provided in paragraph (4) (c) or as directed by the authorized officer.
- c. The stipulations, plans, maps, or designs set forth in Exhibit(s) A and B 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.
- d. 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.
- e. 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.


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



(Signature of Holder)
BDD Board Chair

(Title)
9/6/18

(Date)



(Signature of Authorized Officer)
Field Manager Acting

(Title)
10/22/18

(Effective Date of Grant)

APPROVED TO AS FORM

DocuSigned by:



08549756CB63494

Nancy R. Long BDDB Counsel

1/7/2021

Date

ATTEST



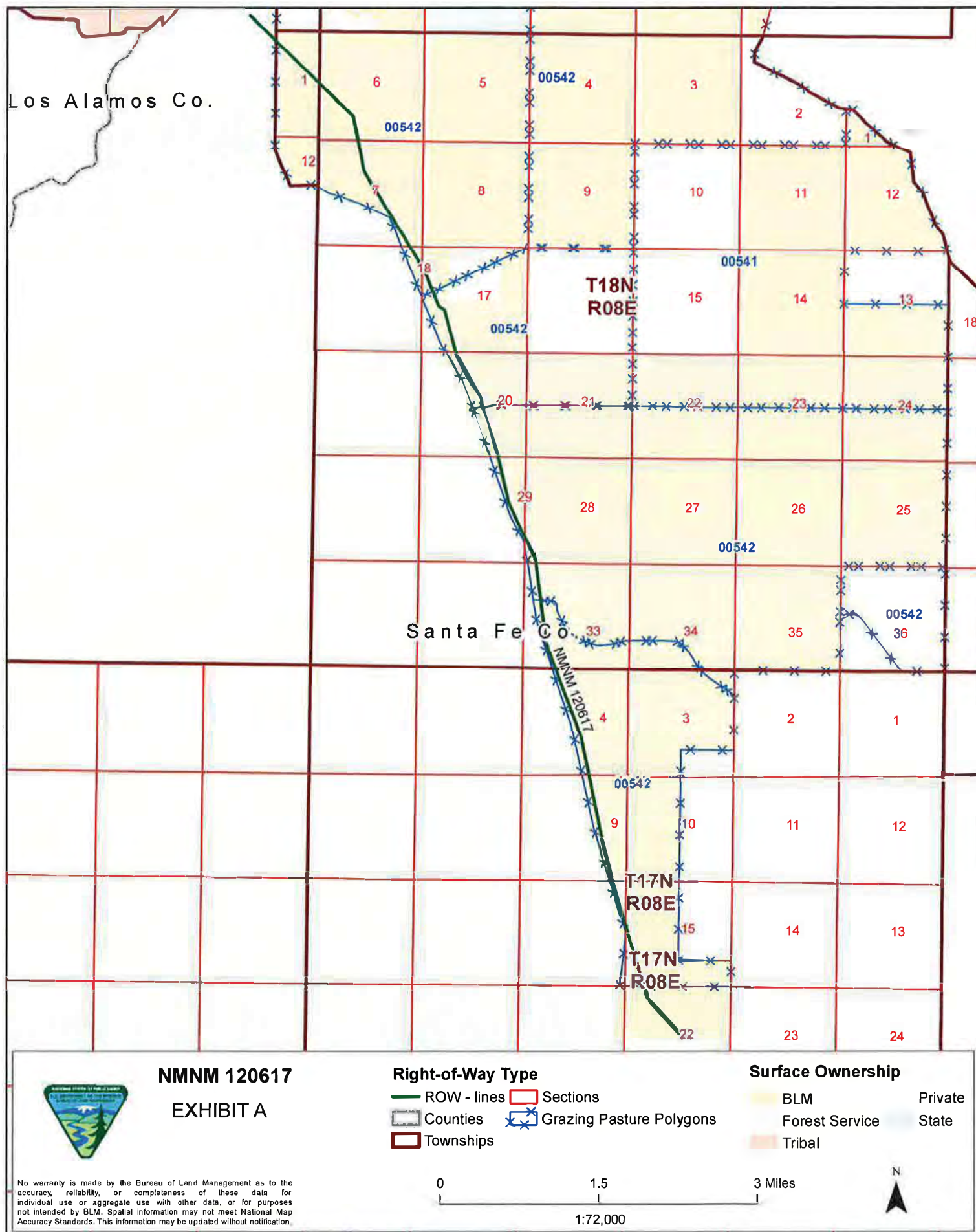
Kristine Mihelcic (Jan 13, 2021 11:13 MST)

XIV

Kristine Mihelcic, COSF City Clerk

Jan 13, 2021

Date





**BUREAU OF LAND MANAGEMENT
TAOS FIELD OFFICE
EXHIBIT B**

**GENERAL PROJECT DESIGN FEATURES/GUIDE STIPULATIONS
FOR RIGHTS-OF-WAY AND OTHER LAND USE AUTHORIZATIONS**

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1. REALTY

- a) The Holder shall construct, operate, and maintain the facilities, improvements, and structures within the authorized area in strict conformity with the guide stipulations, plan of development and the terms and conditions of the authorization. Any relocation, additional construction, or use that is not in accord with the guide stipulations, shall not be initiated without the prior written approval of the Bureau of Land Management (BLM) Authorized Officer. A copy of the complete authorization, including all stipulations, shall be made available on the authorized area during construction, operation, and termination to the Authorized Officer. Noncompliance with the above will be grounds for immediate temporary suspension of activities if the noncompliance constitutes a threat to public health and safety or the environment.
- b) All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven applicable engineering practices, codes, specifications, and standards.

- c) The Holder shall submit a plan of development that describes in detail the construction, operation, maintenance, and termination of the authorized area and its associated improvements and/or facilities. The plan shall include drawings in sufficient detail to enable a complete evaluation of all proposed structures, facilities, and landscaping to ensure compliance with the requirements of the grant and to ensure visual compatibility with the site. These drawings shall be the construction documents and must show dimensions, materials, finishes, etc., to demonstrate compliance with all requirements. The plan will be reviewed and, if appropriate, modified and approved by the Authorized Officer, to ensure conformance with the National Environmental Policy Act (NEPA) document prepared for the project. Such design features and/or mitigations measures are necessary to protect cultural and natural resources. An approved plan of development shall be made a part of the authorization.
- d) The Holder shall designate a representative(s) who has the authority to act upon and implement instructions from the Authorized Officer. The Holder's representative shall be available for communication with the Authorized Officer within a reasonable time when construction or other surface disturbing activities are underway.
- e) The Holder shall contact the Authorized Officer at least 2 weeks prior to the anticipated start of construction or any surface disturbing activities. A preconstruction (pre-work) conference with the Holder prior to the Holder's commencing work and/or surface disturbing activities on the authorized area is required. The Holder and/or his representative shall attend this conference. The Holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the authorization, shall also attend this conference to review the stipulations of the grant including the plan(s) of development.
- f) The Holder shall not initiate any construction or other surface disturbing activities on the authorized area without the prior written approval of the Authorized Officer. Such approval shall be a written notice to proceed issued by the Authorized Officer. Any notice to proceed shall authorize construction or use only as therein expressly stated and only for the particular location or use therein described.
- g) The Authorized Officer may suspend or terminate in whole, or in part, any notice to proceed which has been issued when, in his or her judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect public health and safety or to protect the environment.
- h) The Holder shall mark work limits and control points along with work layout marking. Work layout marking shall include the centerline and/or the exterior boundaries of the authorized area with a stake and/or at industry standard intervals. The intervals may be varied at the time of staking at the discretion of the Authorized Officer. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the Holder. The survey station numbers will be marked on the boundary

stakes and/or laths at the entrance to and the exit from public land. The Holder shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed and approved by the Authorized Officer. The stakes and/or laths will then be removed at the direction of the Authorized Officer.

- i) The Holder shall place slope stakes, culvert location and grade stakes, and other construction control stakes as deemed necessary by the Authorized Officer to ensure construction in accordance with the plan of development. If stakes are disturbed or removed, they shall be reset before proceeding with construction.
- j) Specific sites as previously identified by the Authorized Officer (e.g. archeological sites, areas with threatened and endangered species, or fragile watersheds) where construction equipment and vehicles shall not be allowed shall be clearly marked onsite by the Holder before construction or surface disturbing activities begin. The Holder shall be responsible for ensuring that construction personnel are well-trained to recognize these markers and understand the equipment movement restrictions involved.
- k) The Holder shall conduct all construction, operation, maintenance, and termination activities within the authorized area.
- l) The Holder shall post as directed by the Authorized Officer, the BLM serial number assigned to this authorization.
- m) The Holder shall protect all survey monuments found within the authorized area. Survey monuments include, but are not limited to, General Land Office and BLM 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 BLM monuments or references are obliterated during operations, the Holder shall secure the services of a registered land surveyor or a BLM cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the *Manual of Surveying Instructions for the Survey of the Public Lands in the United States*, latest edition. The Holder shall record such survey in the appropriate county and send a copy to the Authorized Officer. If the BLM cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the Holder shall be responsible for the survey cost.
- n) Prior to any ground disturbing activity, the Holder will obtain any required Federal, state, or local government, and private landowner express written permission(s). This includes but is not limited to authorizations, permits, easements, and licenses. The Holder must provide copies of these permissions to the BLM prior to final issuance of the land use authorization.

- o) Construction and/or maintenance related traffic shall be restricted to routes approved by the Authorized Officer. New roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the Authorized Officer. Authorized roads used by the Holder shall be rehabilitated or maintained as directed by the Authorized Officer.
- p) Except authorizations expressly for a road, after construction of the facility is completed, the Holder shall not use the authorized area as a road for purposes other than routine maintenance as determined necessary by the Authorized Officer in consultation with the Holder.
- q) The Holder shall permit free and unrestricted public access to and upon the authorized area for all lawful purposes except for those specific areas designated as restricted by the Authorized Officer to protect the public, wildlife, livestock, or facilities constructed within the authorized area.
- r) In the event that the public land underlying the authorized area encompassed in this authorization, or a portion thereof, is conveyed out of Federal ownership and administration of the authorization or the land underlying the authorized area is not being reserved to the United States in the patent/deed and/or the authorized area is not within a corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the authorization, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the Holder apply to the BLM for amendments, modifications, or assignments and for the BLM 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 authorization, 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 authorization shall be considered a civil matter between the patentee/grantee and the authorization Holder.
- s) The Holder of this authorization 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.
- t) The Holder will reclaim disturbed areas in accordance with these stipulations, which establish guidelines to be used during reclamation, when necessary on lands administered by the BLM.
- u) Prior to termination of the authorization, the Holder shall contact the Authorized Officer to arrange a joint inspection of the authorized area. 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, re-contouring, top-soiling, or seeding. The Authorized Officer must approve the plan in writing prior to the Holder's commencement of any termination activities.

- v) The United States, its officers and employees shall be held harmless from and indemnified against any damage, injury, or liability resulting from the operation, maintenance, or termination of this authorization; including but not limited to any liability which the United States may have as owner of the land which is the subject of the authorization.
- w) The Holder shall within 30 days following completion of the facility, submit proof of construction. Said proof shall include "as built" drawings of site construction, location of building, tower, roads, utility lines, and an "as built" drawing of the building showing all changes from the approved design. Final approval and occupancy will not be allowed until these drawings are approved by the Authorized Officer. At the discretion of the Authorized Officer, "as built" drawings may be required to be certified by a Professional Engineer, registered in the State of New Mexico, that the facilities have been constructed in conformance with approved designs.
- x) The Holder shall inform the BLM of any changes to their authorization; all information required in the SF-299 application and 2920-1 permit must be updated throughout the term of the authorization. Changes include actions, but are not limited to: change in use, name change, assignment, address change, ownership, and any data entry required in the SF-299, including supplemental documents.
- y) If the authorization is renewable, a new application must be received (BLM date-stamped) within 120 days before the authorization expiration date in order to retain the existing authorization serial case number. If the authorization is renewable and an application is received after the 120-day requirement as noted above, the authorization will be adjudicated under a new serial case number.

2. AIR

- a) The Holder shall meet all Federal, State of New Mexico, and local emission standards for air quality.
- b) The Holder shall meet all Federal, State of New Mexico, and local standards for necessary dust control measures as approved by the Authorized Officer.
- c) The Holder shall implement dust abatement measures as needed to prevent fugitive dust from vehicular traffic, equipment operations, or wind events. The BLM may direct the operator to change the level and type of treatment (watering or application of various dust agents, surfactants, and road surfacing material) if dust abatement measures are observed to be insufficient to prevent fugitive dust.

3. CULTURAL

Any cultural resource (historic or prehistoric site or object) discovered by the Holder, or any person working on his or her behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The Holder shall suspend all operations within 100 feet of such

discovery until written authorization to proceed is issued by the Authorized Officer. In addition, the area of discovery will be covered, stabilized, or otherwise protected from damage. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the Authorized Officer after consulting with the Holder.

4. **WASTE/HAZMAT**

- a) The authorized area 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.
- b) All waste disposal sites on public land must be approved in writing by the Authorized Officer in advance of use.
- c) The Holder shall immediately clean, isolate in appropriate containers and dispose of at approved waste receiving facilities any soil, water or materials contaminated by fuels, lubricants, hydraulic fluids, engine fluids or other hazardous and potentially hazardous materials or petroleum products.
- d) The Holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the Holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the authorized area or on facilities authorized under this authorization. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
- e) The Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the authorized area unless the release or threatened release is wholly unrelated to the authorization Holder's activity on the authorized area. This agreement applies without regard to whether a release is caused by the Holder, its agent, or unrelated third parties.

- f) The Holder shall properly report the occurrence of any spills associated with project construction and operation, and shall report and respond to spills of potential contaminants, such as gasoline, diesel, motor oils, solvents, chemicals, toxic and corrosive substances, etc., which may be a threat to public health or the environment. A Spill Prevention Control and Countermeasure Plan, as required for compliance with the Act, shall ensure minimal impact of on-site petroleum storage.

5. LIVESTOCK

- a) The Holder shall minimize disturbance to existing fences and other improvements on public land. The Holder is required to promptly repair impacted improvements to at least their former state. The Holder shall contact the owner of any improvements prior to disturbing them. When necessary to pass through a fence line, the fence shall be braced on both sides of the passageway prior to cutting of the fence. No permanent gates shall be allowed unless approved by the Authorized Officer. If livestock are present in the area, ensure no cattle pass while gate is constructed.
- b) Fences, gates, and brace panels shall be constructed to appropriate BLM standards and/or specifications as determined by the Authorized Officer.
- c) When construction activity in connection with the authorization breaks or destroys a natural barrier used for livestock control, the gap, thus opened, shall be fenced to prevent the drift of livestock. The subject natural barrier shall be identified by the Authorized Officer and fenced by the Holder as per instruction of the Authorized Officer.

6. MINERALS

- a) Use of native minerals materials is allowed within the authorized area on land administered by the BLM. Mineral materials shall not be removed from the authorized area without the Holder obtaining the appropriate mineral materials permit.
- b) All off-site borrow areas must be approved in writing by the Authorized Officer in advance of excavation.
- c) Excess excavated, unsuitable, or slide materials shall be disposed of as directed by the Authorized Officer. Appropriate mineral materials authorization shall be obtained prior to disposal.

7. PALEONTOLOGY

The Holder shall immediately notify the BLM Authorized Officer of any paleontological resources discovered as a result of operation under this authorization. The Holder shall suspend all activities in the vicinity of such discovery until notified to proceed by the Authorized Officer and shall protect the discovery from damage or looting. The Holder may not be required to suspend all operations if activities can be adjusted to avoid further impacts to a discovered locality or be continued elsewhere. The Authorized Officer will evaluate, or

will have evaluated, such discoveries as soon as possible, but not later than 10 working days after being notified. Appropriate measures to mitigate adverse effects to significant paleontological resources will be determined by the Authorized Officer after consulting with the Holder. Within 10 days, the Holder will be allowed to continue construction through the site, or will be given the choice of either (1) following the Authorized Officer's instructions for stabilizing the fossil resource in place and avoiding further disturbance to the fossil resource, or (2) following the Authorized Officer's instructions for mitigating impacts to the fossil resource prior to continuing construction through the project area.

8. SAFETY

- a) Construction excavations, holes and trenches in roadways or in areas where pedestrians or vehicular traffic is present will be flagged, plated, or appropriately marked as required.
- b) The Holder shall provide for the safety of the public entering the authorized area. This includes, but is not limited to, barricades for open trenches, flagmen/flagwomen with communication systems for single-lane roads without visible turnouts, and attached gates for blasting operations.
- c) The Holder shall maintain the authorized area in a safe, usable condition, as directed by the Authorized Officer.
- d) During conditions of extreme fire danger, operations shall be limited or suspended in specific areas, or additional measures may be required by the Authorized Officer.

9. SOILS

- a) Erosion issues shall be repaired as discovered, as directed by the Authorized Officer.
- b) No activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3 inches deep, the soil shall be deemed too wet to support construction equipment.
- c) The Holder shall be responsible for the prevention and control of soil erosion, storm water runoff, stabilization, and re-vegetation on BLM-administered land covered by this authorization, and land adjacent thereto, where such erosion has resulted from construction or maintenance of this project.
- d) If diversion of water from the authorized area will result in accelerated erosion in undisturbed areas, water bars shall not be constructed. Furthermore, if the authorized area has a side slope approximately one-third or more of the slope along the length of the authorized area, water bars may not be constructed. Exceptions to spacing intervals will be upon approval of the Authorized Officer.

- e) The Holder shall re-contour disturbed areas, or designated sections of the authorized area by grading to restore the sites to approximately the original contour of the ground, as determined by the Authorized Officer.
- f) The Holder shall, as directed by the Authorized Officer, rectify backfill settling in the authorized area.
- g) When sufficiently abundant, overburden and topsoil will be stockpiled (within the authorized area) during construction for use during reclamation. Prior to seeding, the topsoil will be re-deposited (shaped and contoured) to resemble surrounding topography. Ripping or plowing compacted soils may be necessary in some areas and will be addressed on a case-by-case basis, as directed by the Authorized Officer.
- h) The Holder shall uniformly spread topsoil over all unoccupied disturbed areas (outside the ditch line, fence line, or work area). Spreading shall not be done while the ground or topsoil is frozen or wet.
- i) The Holder shall restore drainages, to the greatest extent possible, to the original bank concentration, stream-bottom width and channel gradient.
- j) The Holder shall construct, maintain, repair, or replace, erosion control measures (water bars, etc.), barriers, and sedimentation control devices as necessary to ensure optimum function, as directed by the Authorized Officer.

10. VEGETATION

- a) The Holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.
- b) The Holder shall, as determined and directed by the Authorized Officer, seed all disturbed areas, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the Authorized Officer upon evaluation.
 - i. Seed-bed preparation shall be performed to provide a hospitable environment for germinating seed by breaking up impermeable soil layers that have formed and increasing void spaces for air and water. Ground shall be roughed-up prior to seeding, by raking, harrowing or other methods, especially those areas that are compacted during project construction.
 - ii. Seeding shall be accomplished in June or July to coincide with the "rainy" season to achieve optimum results. Seed will be planted a quarter to half inch deep using a disc type or similar rangeland drill sufficient to accommodate variations in seed sizes, or if broadcast, the rates should be doubled. If broadcasted, seed shall be broadcast with a "cyclone" hand seeder or similar broadcast seeder to facilitate an

even spread. After seed is broadcast, ground shall be raked or dragged, to help bury it and improve soil contact and provide texture.

- iii. Mulching is required on all seeding projects to prevent loss of moisture and seed to wind. Mulch shall be free of weeds and weed seed. Rotten or molded hay is not acceptable as mulch. Mulching shall be accomplished using one of these following methods:
 - Weed free straw (2 tons/ac.; kg/ha)
 - Wood residues (sawdust, wood chips, bark (2 tons/ac.; kg/ha)
 - Hydro-mulching (1,500 lbs./ac.; kg/ha)
 - Composted manure (5 tons/ac.; kg/ha)
 - Excelsior blanket
 - Straw jute
- iv. Straw mulch is not recommended if livestock potentially have access to the area. Livestock should be temporarily fenced-out of any seeded area (as determined necessary by the Authorized Officer). Livestock use will reduce possibility of successful re-vegetation. Probability of successful seeding will be increased if fencing remains until reclamation is stable and plants have grown well enough to withstand grazing. Any or all fencing requirement will be determined by the Authorized Officer.
- v. Mulch shall be applied on the surface within 1 day following seeding. A soil-stabilant shall be applied as an overspray after seed and mulch are in place. This tack should be at a sufficient rate so as to prevent mulch from moving due to wind. The following site identifies certified weed-free mulch providers: <http://aces.nmsu.edu/ces/seedcert/certified-weed-free-fora.html>. Site-specific seed mix will be reviewed and approved by the Authorized Officer.
- vi. Any seed used on public land shall not contain noxious weed seed and must meet certified seed quality. The seed procured for use on public land will meet the Federal Seed Act criteria. All seed to be applied on public land must have a valid seed test, within 1 year of the acceptance date, from a seed analysis lab by a registered seed analyst (Association of Official Seed Analysts). The seed lab results shall show no more than 0.5 percent by weight of other weed seeds. The seed lot shall contain no noxious, prohibited, or restricted weed seeds according to state seed laws in the respective state(s). Copies of the seed lab test results, including purity and germination (viability) rate, must be forwarded to the appropriate BLM office prior to seed application. If the seed does not meet the BLM and State/Federal standards for noxious weed seed content or other crop seed allowances, it shall not be applied to public land.
- vii. Stabilization will occur after a minimum of two full summer growing seasons after planting.

11. VISUAL

- a) All above-ground structures not subject to safety requirements shall be color treated by the Holder to blend in with the natural color of the landscape, as directed by the Authorized Officer. The color treatment used shall be a color which simulates *Standard Environmental Colors* designated by the Rocky Mountain Five-State Interagency Committee.
- b) No signs or advertising devices shall be placed on the premises or on adjacent public land except those posted by or at the direction of the Authorized Officer.

12. WATER

- a) The Holder is prohibited from discharging oil or other pollutants into or upon the navigable waters of the United States, adjoining shorelines, or the waters of the contiguous zone in violation of Section 311 of the Clean Water Act as amended, 33 U.S.C. 1321, and the regulations issued thereunder, or applicable laws of the State(s) of [user entry] and regulations issued thereunder. The Holder shall give immediate notice of any such discharge to the Authorized Officer and such other Federal and State officials as are required by law to be given such notice.
- b) The Holder shall comply with the construction practices and mitigating measures established by 33 CFR 323.4, which sets forth the parameters of the "nationwide permit" required by Section 404 of the Clean Water Act. If the proposed action exceeds the parameters of the nationwide permit, the Holder shall obtain an individual permit from the appropriate office of the Army Corps of Engineers and provide the Authorized Officer with a copy of the same. Failure to comply with this requirement shall be cause for suspension or termination of this authorization.
- c) The Holder shall construct water diversions on all disturbed areas to the spacing and cross sections specified by the Authorized Officer. Water diversions are to be constructed to: (1) simulate the imaginary contour lines of the slope (ideally with a grade of 1 or 2 percent); (2) drain away from the disturbed area; and (3) begin and end in vegetation or rock whenever possible. Water diversions typically will consist of water bars constructed at the following spacing intervals:

PERCENT SLOPE	SPACING INTERVAL
Less than 1%	400 feet
1-5%	300 feet
5-15%	200 feet
15-25%	100 feet
More than 25%	50 feet

13. WEEDS

- a) The Holder shall be responsible for weed control on disturbed areas within the limits of the site. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods, which include following the Environmental Protection Act and BLM requirements and policy.
- b) Power or high-pressure clean all equipment of all mud, dirt, and plants immediately prior to moving into the project area. Any gravel or fill to be used must come from weed-free sources. Inspect gravel pits and fill sources to identify weed-free sources. No soil spoil that could potentially contain noxious weed seeds shall be transported out of the area where it is created.
- c) The Holder shall be responsible for conducting a survey for and control of noxious weeds along the route proposed for construction. If during construction, noxious weeds are identified that were not originally encountered during the survey, the project applicant shall avoid driving vehicles and equipment through or over the infested area. If avoidance measures cannot be taken within the area originally cleared, construction shall cease and the Authorized Officer shall be contacted.
- d) Any use of herbicides/pesticides shall comply with the applicable Federal and State laws. Herbicides/pesticides 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 pesticides, the Holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of materials to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer. Emergency use of pesticides shall be approved in writing by the Authorized Officer prior to use.

14. WILDLIFE

- a) Construction holes left open overnight 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.
- b) Screen caps or covers shall be install on any open-top vertical pipes less than 12 inches in diameter, to reduce wildlife mortality resulting from entrapment.
- c) If the Holder's construction or maintenance activities occur during the migratory bird nesting season (March 1 through September 15), the project area will be inspected for nests by a qualified biologist. Established stick nests will always be identified and avoided; stick nest locations shall be provided to the Authorized Officer.
- d) If during construction wildlife species (such as reptiles, amphibians, or small mammals) are encountered, they would be avoided or allowed to move out of the way.

15. SPECIAL STATUS PLANTS

For construction and maintenance activities on authorizations that are in and adjacent to occupied habitat for special status plants (endangered, threatened, BLM sensitive), the project area will be inspected by a qualified botanist prior to beginning work. Special status plants will be identified and avoided, or the Authorized Officer will be contacted if this is not possible. Special status plant observations will be provided to the Authorized Officer.