

NEPA COMPLIANCE RECORD  
CATEGORICAL EXCLUSION (CX)  
Tucson Field Office

NEPA #: DOI-BLM-AZ-G020-2013-0003-CX

Serial/Case File No. AZA-26511

Proposed Action Title/Type: Renewal of existing road Right-of-Way (ROW) on east side of San Pedro RNCA Boundary.

Location of Proposed Action: NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, sec.14, T. 22 S., R. 22 E.; G&SR Meridian, Cochise County, Hereford 7.5 topo map; San Pedro RNCA

Description of Proposed Action: On September 1, 1992, a ROW for access was granted to Alan Gray. The length of the road is 2,640 feet and the width is 30 feet and 1.80 acres. On September 3, 1997, Mr. Gray filed an assignment request. All requirements of the assignment were met and the ROW was assigned to Dr. M.G. Ramirez on September 4, 1997. This ROW expired on August 31, 2012. Dr. Ramirez filed a renewal application on December 1, 2011. His application indicates a desire to continue use of the ROW as it presently exists on the ground. The access road is on the east side of the San Pedro RNCA. The ROW only allows for ingress and egress to Dr. Ramirez's private property. No upgrading or maintenance rights for the road were given. Gravel was put on the road before the grant was authorized. The proposal is to renew the ROW for 20 years with the attached standard ROW terms and conditions. The proposed action qualifies as a CX under Departmental Manual 516, 11.9, Appendix 4 E.9 that reads, "Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorization". The Safford District Office initiated EA AZ-040-02-45. A consultant did an on the ground cultural resource survey in 1977 for a range improvement project in the immediate area of the road. No archaeological, historical or paleontological remains were found. A wildlife survey was done by the wildlife staff and no T&E species were encountered. The EA was signed by the San Pedro RNCA manager on July 22, 1992. An active & authorized record search was done.. The ROW is the only lands authorization in the area. There are no active mining claims or grazing leases in the renewal area. The grant will be issued for a twenty year term with the right of renewal.

Applicant (if any): Dr. M. G. Ramirez.

PART I: PLAN CONFORMANCE REVIEW. This proposed action conforms to the following land use plan: Safford District Resource Management Plan (RMP) and Record of Decision approved September 1992 and amended July 1994. According to page 22 of the RMP, "Rights-of-Way, leases and permits will be considered on a case-by-case basis, in accordance with the decisions of the Resource Management Plan."

The proposed action has been reviewed and determined to be in conformance with this plan (43 CFR 1610.5, BLM MS 1617.3).

          /s/ Linda L. Dunlavey                         12/17/2012            
Specialist Signature                             Date



**PROGRAM CONSULTATION & COORDINATION/CX CHECKLIST  
BUREAU OF LAND MANAGEMENT  
TUCSON FIELD OFFICE**

**PART II: CATEGORICAL EXCLUSION REVIEW**

NEPA #: DOI-BLM-AZ-G020-2013-0003-CX

**ASSIGNMENT AND REVIEW**

Subactivity: L14300000 ER0000  
Case/Project No.: AZA 26511

Location (legal description): NW¼NW¼, SE¼SW¼, 1.80 acres, sec. 14, T. 22 S., R. 22 E, G&SRM, AZ  
Project Name: Renewal of Right-Of-Way Grant  
NLCS Unit: San Pedro RNCA, Tucson Field Office  
Quad Name: Hereford NE 7.5 topo map  
Project Lead Linda L. Dunlavey

Technical Review:

<b>Applies? Yes or No</b>	<b>NAME</b>	<b>EXCEPTION</b>	<b>SIGNATURE</b>	<b>DATE</b>
NO		(1) Have Significant adverse effects on public health or safety?  <i>The road ROW grant was issued in 1992 and no significant environmental effects have resulted.</i>	NEPA TEAM	12/17/2012
NO		(2) Have adverse effects on such unique geographic characteristics as historic or cultural resources, parks, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains or ecologically significant or critical areas including those listed on the Department's National Register of Natural Landmarks.  <i>No such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness 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;; and other ecologically significant or critical areas exist in the affected environment nor would any of these resources be impacted. There are no occurrences of BLM sensitive or State listed species within the project area.</i>	NEPA TEAM	12/17/2012
NO		(3) Have highly controversial environmental effects  <i>The proposed action is not controversial nor are there any unresolved conflicts concerning alternative uses of available resources.</i>	NEPA TEAM	12/17/2012
NO		(4) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.  <i>The road ROW grant was issued in 1992 and no significant environmental effects have resulted.</i>	NEPA TEAM	12/17/2012
NO		(5) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.  <i>Any additional proposals would be analyzed and a separate decision would be arrived at based on the analysis.</i>	NEPA TEAM	12/17/2012
NO		(6) Individually Insignificant, but cumulatively significant effects.  <i>The effects of the proposed grant would be limited to the existing grant..</i>	NEPA TEAM	12/17/2012

Applies?	NAME	EXCEPTION	SIGNATURE	DATE
NO		(7) Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.  <i>No such properties are known to exist that could be impacted by the proposed action</i>	NEPA TEAM	12/17/2012
NO		(8) Have adverse effects on species listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.  <i>No listed species or species proposed to be listed are found within the affected environment for the proposed action. Stipulations shall be required in order to protect species and habitat.</i>	NEPA TEAM	12/17/2012
NO		(9) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.  <i>No laws or requirements imposed for the protection of the environment would be violated</i>	NEPA TEAM	12/17/2012
NO		(10) Have a disproportionately high and adverse effect on low income or minority populations.  <i>The effects to the population as a whole resulting from the proposed action would be the same.</i>	NEPA TEAM	12/17/2012
NO		(11) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners.  <i>No limitations to access sacred or any other sites would result from the proposed action</i>	NEPA TEAM	12/17/2012
NO		(12) Contribute to the introduction, continuation existence, or spread of noxious weeds or non-native invasive species.  <i>A term and condition of the grant is to require all vegetative matter and soil be removed from all equipment prior to mobilizing on site</i>	NEPA TEAM	12/17/2012

Final Review:

Unit Manager/Supervisor: /s/ Karen Simms Date: 12/18/2012  
Assistant Field Manager

Environmental Coordinator: /s/ Amy Markstein for Jim Mahoney Date: 12/18/2012  
Planning and Environmental Coordinator

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9: E(9) Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. It has been reviewed to determine if any of the exceptions described in 516 DM 2, Appendix 2, apply.

The action does not have significant adverse effects on public health and safety nor does the action adversely affect such unique geographic characteristics as historic or cultural resources, parks, recreation, or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks. The action does not have highly controversial environmental effects nor have highly uncertain environmental effects or involve unique or unknown environmental risk nor does it adversely affect a species listed or proposed to be listed on the list of endangered or threatened species. It does not establish a precedent for future action or represent a decision in principle about a future consideration with significant environmental effects or related to other actions with individually insignificant but cumulatively significant environmental effects. The proposed action does not adversely affect properties listed or eligible for listing in the National Register of Historic Places or threaten to violate a Federal, State, local or tribal law or requirements imposed for the protection of the environment or which require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands) or the Fish and Wildlife Coordination Act.

**Mitigation Measures/Stipulations:**

See attached stipulations.

**Part III: DECISION.** I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed action does not conflict with major land-use-plans and will not have any major adverse impacts on other resources. Therefore, it does not represent an exception, and is categorically excluded from further environmental review. It is my decision to implement the project, as described, with the mitigation measures attached.

Authorized Official: /s/ Karen Simms for Brian Bellew Date: 12/8/2012

## STIPULATIONS

### AZA-26511 Road ROW for M.G. Ramirez

1. All valid rights existing on the date of the original right-of-way grant will be recognized and complied with.
2. The holder shall comply with all State and Federal laws applicable to the authorized use and such additional State and Federal laws, along with the implementing regulations, that may be enacted and issued during the term of the grant.
3. The right-of-way grant herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Secretary to be necessary, without liability or expense to the United States, so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the United States.
4. The right-of-way reserves to the Secretary of the Interior, or lawful delegates, the right to grant additional rights-of-way, leases, or easements for compatible uses over, under, within or adjacent to the lands involved in this grant.
5. The holder shall fully indemnify or hold harmless the United States for any liability, for damage, or claims arising in connection with the holder's use and occupancy of the right-of-way.
6. All activities directly or indirectly associated with construction, operation and maintenance shall be conducted within the limits of the approved right-of-way. This right-of-way does not allow for any surface disturbing activities outside the right-of-way area.
7. Use of pesticides shall comply with the applicable Federal and State laws. 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 material 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 such use.
8. 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 right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

9. The holder of Right-of-Way No. AZA 26511 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 right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third party.
10. The holder shall notify the authorized officer prior to commencement of emergency maintenance outside the right-of-way to discuss repair and construction activities.
11. Should any archaeological resource or vertebrate fossils be discovered during implementation of the right-of-way, all surface disturbing activities in the area of discovery shall cease. The archaeologist will evaluate the discovery and provide recommendations to the Authorized Officer. Surface disturbing activities shall not resume until permission is obtained from the Authorized Officer.
12. If in connection with operations under this authorization, any human remains or funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (NAGPRA) (P.L. 101-601; Stat. 3048; 25 U.S.C. 3001) are discovered, the permittee shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the Authorized Officer of the discovery. The permittee shall continue to protect the immediate area of the discovery until notified by the Authorized Officer that operations may resume.
13. Any modification to the right-of-way initiated by the holder may require the submission of an environmental assessment, cultural resource survey and biological evaluation to the BLM's authorized officer.
14. Any vehicles and equipment that are brought in from outside the area will be power-washed, including the undercarriage, prior to entering the right-of-way and afterwards before moving vehicle and equipment onto any other public lands, to prevent the introduction and spread of noxious weeds and/or invasive species.
15. The operator shall be held responsible if noxious weeds become established within the areas of operations. Weed control shall be required on the disturbed land where noxious weeds exist, which includes any access roads and associated power line corridor, and adjacent land affected by the establishment of weeds as a result of this action. The operator shall consult with the authorized officer for acceptable weed control methods, which include following U.S. Environmental Protection Agency (EPA) and BLM requirements and policies.
16. The holder will maintain the roads in a good and safe condition and also do mitigation for erosion control and dust mitigation.