

DECISION MEMORANDUM
NOAA Climate Monitoring Station Grant Issuance
DOI-BLM-AZ-G020-2014-0016-CX

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

Project Description

On February 3, 2014, the Department of Commerce/National Oceanic and Atmospheric Administration's U.S. Climate Reference Network (USCRN) filed an application for a grant in support of NOAA's U.S. Climate Reference Network. This grant will allow the establishment of a data collecting Climate Monitoring Station. The station is already installed and is located near the Audubon Appleton-Whittell Research Ranch. The applicant had previously acquired a permit for the station from the Audubon Society, installed the station, and consequently discovered that the site was actually on Bureau of Land Management land.

A 60 foot by 60 foot parcel of land (3,600 square feet) is being utilized for a meteorological monitoring site, part of a national network for detecting regional climate signals. The site includes three small structures: meteorological instrumentation installed on a 20 foot tall tower containing a GOES antenna and data logger; precipitation instrumentation mounted on a base; and a power system to support the station. The power system comprises of AC power.

No land grading is necessary. The land parcel should be maintained and preserved at a level indicative of the time at which it was selected for the USCRN site. Construction has been completed and was conducted in 2 phases: first phase established the site and installation of the foundations for the instrument tower, precipitation bucket, and power system. The second phase provided installation of the instruments. This site will be a continuous monitoring site.

NOAA or NOAA contractors will have access to the site for routine maintenance, repair, removal, or replacement of NOAA equipment. NOAA will access the site at least once per year for annual maintenance and calibration, and other visits as necessary. NOAA requests this agreement for 20 continuous years. This agreement can, and is expected to be renewed after this term.

The proposed action qualifies as a CX under Departmental Manual 516, 11.9, Appendix 4 E.16 that reads, "Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes."

A cultural resource compliance clearance survey was completed on June 3, 2014, which included a Class I Records search. No archaeological, historical or paleontological remains were found to exist in the area. A wildlife survey was done by the wildlife staff and no T&E species were encountered. An active & authorized record search was done. 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

Approval and Decision

Based on a review of the project described in the attached Categorical Exclusion documentation and field office staff recommendations, I have determined that the project is in conformance with the Las Cienegas Resource Management Plan and Record of Decision (approved 2003), page 16: "Bureau of Land Management will continue to consider other new land use authorizations including non-major lineal utilities on a case-by-case basis with stipulations attached to any permits or leases to ensure consistency with the plan's goals and objectives." and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed.

Administrative Review or Appeal Opportunities

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is taken, your notice of appeal must be filed at Tucson Field Office, 3201 E Universal Way, Tucson AZ 85756 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 (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) 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 Office of the Solicitor (Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Court House #404, 401 West Washington Street SPC44, Phoenix, AZ 85003-2151) (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

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:

Standards for Obtaining a Stay

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.

/s/ Karen Simms, Acting
Viola Hillman, Tucson Field Office Manager

6/24/2014
Date

Attachment: Stipulations

STIPULATIONS
AZA-036518 Grant for NOAA Climate Monitoring Station

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 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 because 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 Number AZA 036518 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 because 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.