

DECISION MEMORANDUM
City of Nogales; Water Pipeline Right-of-Way Renewal
DOI-BLM-AZ-G020-2015-0019-CX

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

Project Description

On August 7, 2015, the City of Nogales Engineering Department filed an application for the renewal of the Right-of-Way (ROW) AZA-017001. Access to the applicant's water pipeline has been granted on a previous ROW grant, which expired on November 29, 2011.

On November 29, 1981, a ROW for a 16 inch diameter water pipeline was granted to the City of Nogales, Arizona. The length of the 16 inch diameter pipeline is 669 feet and the width is 20 feet and approximately 0.31 acres. The City of Nogales filed a ROW renewal application on August 7, 2015. The city's application indicates a desire to continue use of the ROW as it presently exists on the ground. The pipeline is approximately 2 miles northwest of the town of Nogales, under Interstate Highway 19 at the Mariposa Road Exit. The ROW allows for physical and legal access over public land to private land for an existing water pipeline. This water pipeline crosses public land to provide water to the Nogales High School and surrounding community. This segment of the pipeline is connected to the pipeline that lies adjacent, on the High School's R&PP Lease (#02-95-0011).

The grant is for a 16" diameter water pipeline across the following public lands:

Gila and Salt River Meridian, Arizona

T. 24 S., R. 14 E.,

sec. 6, lot 16.

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 Phoenix District Office initiated NEPA compliance document EA# AZ-020-01-271, which was completed in 1981. The University of Arizona did an on the ground cultural resource survey in 1976 in the immediate area of the Right-of-Way location. No resources were found. A cultural resource compliance clearance survey was completed again on August 18, 2015, which included a Class I Records Search. Nothing of significance was gleaned from this review. A wildlife survey was done by the wildlife staff and no T&E species were encountered. The EA was signed by the Phoenix Area Manager on August 27, 1981. An active & authorized record search was done. There are no active mining claims. The area is not located within a grazing allotment. Stipulations regarding cultural resources and maintenance of the pipeline are included with the renewal of this the Right-of-Way.

The grant will be issued for a 30 year term with the right of renewal. This ROW is authorized under Title V of FLPMA.

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 Phoenix Resource Management Plan (RMP), Page 14: " Land use authorizations (rights-of-way, leases, permits, easements) would continue to be issued on a case-by-case basis." (approved September 29, 1989) and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed with the attached stipulations.

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, which can be found at the Tucson Field Office. 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/ Dan Moore – acting for
Karen Simms, Acting Field Office Manager

9/4/2015
Date

Attachments:

Form 1842-1

Stipulations