



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Spokane District Office
Border Field Office
1103 N. Fancher Road
Spokane Valley, Washington 99212-1275

IN REPLY REFER TO:

WAOR 61081
281001 (ORW030)

February 19, 2016

CERTIFIED MAIL - Return Receipt No. 7014 1200 0001 0176 4143

DECISION

Edward Jordan :
1121 Collingwood Road : Right-of-Way Grant WAOR 61081
Alexandria, VA 22308-1727 :

Right-of-Way Grant WAOR 61081 Renewed
Rental Determined
Monitoring Fee Determined

I have reviewed the documentation for this proposal (DOI-BLM-ORWA-W030-2016-0006), and have determined that authorizing a right-of-way for this use would be categorically excluded from NEPA. Under authority of Title V of the Federal Land Policy and Management Act of 1976, a new right-of-way grant will be issued to Edward Jordan renewing the authorization of road access on public land in Stevens County, Washington. The road access and maintenance granted herein is 30 feet wide, 590 feet long and contains .41 acres.

Enclosed is a copy of your executed right-of-way (ROW) grant, serial number WAOR 61081, which allows the authorized use of road access on public land. The right-of-way grant was approved by the Bureau of Land Management on February 19, 2016.

The advance rent for the ROW was determined to be \$188.20 for a 10 year period of the grant to December 31, 2025, \$20.81 for 2014 back rent, and \$21.21 for 2015 back rent, for a rent total of \$230.22. The monitoring fee for the ROW was determined to be Category 1, resulting in a fee of \$122.00 for a total amount of \$ 352.22. Both of these amounts have been received and a receipt is enclosed.

The issuance of this right-of-way grant may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 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 proof 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 about this decision or the enclosed right-of-way grant, please contact Heidi Lee Honner, Realty Specialist at (509) 536-1216.

Sincerely,

/s/ Lindsey Babcock
Lindsey Babcock
Field Manager
Border Field Office

3 Enclosures
1 - Right-of-way grant, map, and stipulations
2 - Form 1842-1
3 - Receipt

January 22, 2016

Exhibit B
Right-of-Way Renewal WAOR 61081
Edward Jordan Road Access
Stipulations

By accepting a grant, you agree to comply with and be bound by the following terms and conditions. During construction, operation, maintenance, and termination of the project you must:

1. This grant is subject to the provisions, limitations, and conditions of Title V, P. L. 94-579, Act of October 21, 1976, 90 Stat. 2776.
2. Holder shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).
3. Unless Holder chooses to pay the full amount of rent in advance for the term of the grant, rent shall be paid in advance for a period of ten (10) years, subject to the Bureau of Land Management's (BLM) right to reappraise and collect additional fair market value rental when warranted.
4. The drivable surface of the road shall not exceed 30 feet in width.
5. Vegetation removal shall be limited to area required for the road prism.
6. The Authorized Officer, or his representative, may at any time inspect the onsite construction, maintenance, and operation of Holder's project. Officials of State and other Federal agencies may also inspect such activities if necessary to the performance of official duties relating to the project. The right to inspect includes the right to use private roads belonging to Holder in order to reach the site.
7. Holder shall remove and dispose of all construction, operation, or maintenance-generated waste in a manner consistent with federal, State, and local laws. Waste means all discarded matter, including, but not limited to human waste, trash, garbage, refuse, containers, unused products, and equipment.
8. Rebuild and repair roads, fences, and established trails destroyed or damaged by the project and or use by row holder.
9. Not discriminate against any employee or applicant for employment during any phase of the project because of race, creed, color, sex, or national origin. You must also require subcontractors to not discriminate.

10. Assume full liability if third parties are injured or damages occur to property on or near the right-of-way (see 43 CFR Sec. 2807.12 of this part).
11. Restore, re-vegetate, and curtail erosion or conduct any other rehabilitation measure BLM determines necessary.
12. Ensure that you operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant.
13. Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant.
14. Immediately notify all Federal, State, Tribal and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify BLM at the same time, and send BLM a copy of any written notification you prepared.
15. Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to BLM's satisfaction and to the satisfaction of any other Federal, State, Tribal, or local agency having jurisdiction over the land, resource, or hazardous material.
16. Holder shall comply with Toxic Substances Control Act of 1976, as amended, (15 U.S.C. 2601 et seq (1982)), regarding any toxic substances that are used, generated, or stored on the right-of-way or in facilities authorized by this grant (40 CFR 702-799, especially see polychlorinated biphenyls, 40 CFR 761). Any release (leaks, spills, etc.) of toxic substances in excess of the reportable quantity established by 40 CFR 117, shall be reported as required by the Comprehensive Environmental Response, Compensation, and Liability Act, section 102b. A copy of any report required or requested by any federal or state agency as a result of a reportable release of toxic substances shall be furnished concurrently to the Authorized Officer.
17. Holder agrees to indemnify the United States against any liability arising from the release or threatened release of any hazardous substance or hazardous waste (as defined in Comprehensive Environmental Response Compensation & Liability Act of 1980, 42 U.S.C. 9601, et seq., or the Resource Conservation & 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 Holder's activity on the right-of-way). This agreement applies to releases caused by Holder, its agents, or unrelated third parties.
18. The Authorized Officer (AO) may order revocation or suspension of this grant, after notice and hearing, upon a final administrative finding of a violation of any term or condition of this grant, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance

with applicable State or Federal air or water quality standard or implementation plan: Provided, That such violation occurred on public lands covered by this grant and occurred in connection with the exercise of rights and privileges granted by it: Provided further, That the AO shall terminate any such suspension no later than the date upon which he determines the cause of said violation has been rectified: Provided further, That the AO may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect health of safety or the environment: Provided further, That where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail.

19. Holder shall apply for amendment of this right-of-way grant at any time additional land, equipment, and/or new uses are proposed which are beyond the scope of the rights herein granted.
20. Non-use of this right-of-way for five (5) consecutive years shall be deemed abandonment, and the grant shall be terminated.
21. You are required to contact the Authorized officer in the event of a name change or address change.
22. Upon termination of the grant, whether by default, abandonment, or the running of the term, Holder shall remove its personal property or improvements of any kind and restore the land to its original condition, within six months. Improvements not removed shall be considered abandoned and disposed of accordingly. Holder shall remain liable for costs of removal and/or restoration of the land.
23. Cultural Values

If cultural and/or paleontological resources are discovered during operations, activity in the vicinity of the cultural resource will cease and a BLM representative will be notified immediately to assess the significance of the resource. Pursuant to 43 C.F.R. 10.4 the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, the project leader/operator/permittee/etc. must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures that are made by the authorized officer (BLM).

The project leader/operator/permittee/etc. is responsible for informing all persons associated with this project that they will be subject to prosecution for knowingly disturbing Native American Indian shrines, historic and prehistoric archaeology sites, or for collecting artifacts of any kind, including historic items and/or arrowheads from

January 22, 2016

Federal lands pursuant to the 1906 American Antiquities Act (P.L. 59-209; 34 Stat. 225; 16 U.S.C. 432, 433), the Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 721; 16 U.S.C. 470ee as amended), and/or other federal laws.

24. Weeds

The Holder shall be responsible for weed control of all invasive/noxious weed species within the right-of-way. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods, and shall comply with the following:

Use of pesticides shall comply with all applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses within limitations imposed by the Secretary of the Interior. Prior to the use of the pesticides, the Holder shall obtain from the Authorized Officer, written approval of a Pesticide Use Proposal Plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, locations of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer.

Applicator(s) of chemicals used must have completed the pesticide certification training and have a current up to date Certified Pesticide Applicator's License.

Pesticide Application Records for the areas and acres treated must be submitted to the BLM Border Field Office each year. This includes the following:

- Brand or Product name
- EPA registration number
- Total amount applied (use rate #A.I./acre)
- Date of application
- Location of application
- Size of area treated
- Method of treatment (air/ground)
- Name of applicator
- Certification number
- Amount of surfactants or dyes used in spraying operation

The record information must be recorded no later than 14 days following the pesticide application and must be maintained for ten years.