

# H-2740-1 - Recreation and Public Purposes

1. Explanation of Material Transmitted: This release updates the Recreation and Public Purposes Handbook by incorporating the guidance in WO Instruction Memorandums 94-65 and 94-141, by adding an additional appendix to illustrate a landfill transfer audit for a new site, and updates the Handbook on landfill management requirements of 40 CFR 258.

2. Reports Required: None.

3. Material Superseded: The material superseded by this release is listed under "REMOVE" below. No other directives are Superseded.

4. Filing Instructions: File as directed below.

REMOVE: INSERT:

TC-1 (Rel. 2-275) TC-1

TC-2 (Rel. 2-275) TC-2

TC-3 (Rel. 2-275) TC-3

TC-4 (Rel. 2-275) TC-4

VII-1 (Rel. 2-274) VII-1

X-1 (Rel. 2-277) X-1

X-2 (Rel. 2-277) X-2

X-3 (Rel. 2-275) X-3

X-4 (Rel. 2-275) X-4

X-5 (Rel. 2-275) X-5

X-6 (Rel. 2-275) X-6

X-7 (Rel. 2-277) X-7

X-8 (Rel. 2-277) X-8

X-9 (Rel. 2-277) X-9

Illustration 2 (Rel. 2-274) Illustration 2

Illustration 30 (Rel. 2-275) Illustration 30

Illustration 31 (Rel. 2-275) Illustration 31 Illustration 32 (Rel. 2-275) Illustration 32

Illustration 33 (Rel. 2-275) Illustration 33

Illustration 34 (Rel. 2-275) Illustration 34

Illustration 35 (Rel. 2-274) Illustration 35

Illustration 36 (Rel. 2-275) Illustration 36

Illustration 37 (Rel. 2-275) Illustration 37

None Illustration 40

None Illustration 41

None Illustration 42

Appendix 2 (Rel. 2-277) Appendix 2

Appendix 3, Page 1 (Rel. 2-275) Appendix 3, Page 1

Appendix 3, Page 2 (Rel. 2-275) Appendix 3, Page 2

None Appendix 6

(Total: pages) (Total: pages)

Assistant Director, Land and

Renewable Resources

TC-1

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Table of Contents

#### Page

Chapter I. <u>Preapplication Consultation</u> .....	I-1	A. Discussion of Proposal .....	I-1
B. Discussion Topics .....	I-1		
C. Disclosure of Information .....	I-2		
D. Other Information Requirements .....	I-2		
1. Information Collection .....	I-2		
2. Need for Separate Authorization .....	I-2		
E. Preapplication Review of BLM Land Use Records .....	I-2		
Chapter II. <u>Land Classification</u> .....	II-1	A. Land Suitability Determination .....	II-1
B. Other Agency Jurisdiction .....	II-1		

C. Notice of Realty Action .....	II-1
D. Segregation .....	II-2
1. Bureau Motion Classification .....	II-2
2. Effect of Classification and Segregation .....	II-2
3. Effect of Lease .....	II-2
4. Effect of Patent.....	II-2
5. Termination .....	II-2
Chapter III. <u>Applications for Lands</u> .....	III-1
A. Case Processing .....	III-1
Chapter IV. <u>Minerals, Forest Products, and Grazing Permit or</u>	
<u>Lease Cancellations</u> .....	IV-1
A. Minerals .....	IV-1
B. Forest Products.....	IV-1
1. Long-Term Leases .....	IV-1
2. Lease with Option to Purchase .....	IV-1
3. Patents .....	IV-1
4. Special Situations .....	IV-1
C. Grazing Permit or Lease Cancellations .....	IV-2
1. Leases .....	IV-2
2. Patents .....	IV-2
Chapter V. <u>Price</u> .....	V-1
A. Leases.....	V-1
1. Government Entities .....	V-1
a. Recreation Purposes .....	V-1
b. Special Pricing Program .....	V-1
c. Regular Pricing Program .....	V-1
2. Nonprofit Associations, Organizations,	
Foundations, and Corporations .....	V-1
B. Conveyances .....	V-2
1. Government Entities .....	V-2
a. Recreation and Historic Monument Purposes ..	V-2

b. Special Pricing Program .....	V-2
c. Regular Pricing Program .....	V-3
2. Nonprofit Associations, Organizations, Foundations, and Corporations .....	V-3
C. Exceptions .....	V-3

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

TC-2

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

Chapter VI. <u>Lease Terms and Conditions</u> .....	VI-1
A. Commitments .....	VI-1
1. Nondiscrimination.....	VI-1
2. Development and Management Plans.....	VI-1
3. Use Charges.....	VI-1
B. Lease Periods .....	VI-1
C. Terms and Conditions .....	VI-1
1. Standard Terms and Conditions.....	VI-2
2. Other Provisions.....	VI-2
D. Lease Renewals .....	VI-3
E. Exercise of Purchase Option .....	VI-3
F. Lease Relinquishment/Termination .....	VI-3
G. Landfill Lease Renewals .....	VI-3
H. Assignments or Change of Use .....	VI-3
<u>Chapter VII. Patent Provisions</u> .....	VII-1
A. <u>Commitments</u> .....	VII-1
B. <u>Provisions Applicable to All Patents</u> .....	VII-1
C. <u>1988 Amendment Act Patents</u> .....	VII-1

D. <a href="#">Other Provisions</a> .....	VII-1
Chapter VIII. <a href="#">Compliance</a> .....	VIII-1
A. Noncompliance Leading to Lease Termination or Reversion of Title .....	VIII-1
1. Leases .....	VIII-1
2. Patents .....	VIII-1
B. Noncompliance Involving Discrimination .....	VIII-1
C. Frequency .....	VIII-1
D. Report .....	VIII-2
1. Content .....	VIII-2
2. Action Recommendations .....	VIII-2
a. Grant in Compliance .....	VIII-2
b. Grant Not in Compliance .....	VIII-2
E. Compliance Check Procedures .....	VIII-2
1. Leases .....	VIII-3
2. Patents .....	VIII-5
F. Title Evidence .....	VIII-7
1. Governmental Entities and Federal Instrumentalities .....	VIII-7
2. Nonprofit Association, Organizations, Foundations and Corporations .....	VIII-7
G. Consideration of Use and Improvements .....	VIII-7
1. Removal of Improvements .....	VIII-7
2. Other Alternatives .....	VIII-8
H. Patentee Record .....	VIII-8
1. Use of Record .....	VIII-8
I. Status of Lands Upon Reversion .....	VIII-8

Chapter IX. Applications for Transfer or Change of Use ..... IX-1

A. Transfer of Title or Assignment of Lease ..... IX-1

B. Change of Use ..... IX-1

C. Processing ..... IX-1

1. Serial Number ..... IX-1

2. Acreage Limitations ..... IX-1

3. Value Adjustment ..... IX-1

4. Call for Payment ..... IX-2

D. Conveyance Documents ..... IX-2

1. Approval of Transfer or Change of Use..... IX-2

2. Certificate of Approval of Transfer or Change

of Use ..... IX-2

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

TC-3

H-2740-1 - RECREATION AND PUBLIC PURPOSES

[Chapter X. Sanitary Landfills](#) ..... X-1

A. [Policy](#) ..... X-1

1. [Landfills](#) ..... X-1

2. [Other Uses](#) ..... X-1

B. [New Disposal Sites](#) ..... X-1

1. [Preapplication Consultation](#) ..... X-1

2. [Application Procedures](#) ..... X-2

3. [Investigative Report - Cost Recovery](#) ..... X-2

4. [Report Requirements](#) ..... X-2

5. [State Certification](#) ..... X-3

6. [Plan of Development](#) ..... X-3

7. <a href="#">State Permit</a> .....	X-3
8. <a href="#">Application Processing</a> .....	X-3
9. <a href="#">Records Management</a> .....	X-3
10. <a href="#">Compliance</a> .....	X-3
11. <a href="#">Final Compliance</a> .....	X-3
C. <a href="#">Patent Provisions for New Disposal Sites</a> .....	X-4
1. <a href="#">Indemnification</a> .....	X-4
2. <a href="#">Limited Reverter</a> .....	X-4
3. <a href="#">Compensation Provision</a> .....	X-4
4. <a href="#">Declaratory Covenant</a> .....	X-4
D. <a href="#">Leased Disposal Sites</a> .....	X-4
1. <a href="#">Conversion to Patent</a> .....	X-4
2. <a href="#">Renewal of Leased Sites</a> .....	X-6
3. <a href="#">Compliance</a> .....	X-7
4. <a href="#">Bonding</a> .....	X-7
E. <a href="#">Patent Provisions for Leased Disposal Sites</a> .....	X-7
1. <a href="#">Provisions</a> .....	X-7
F. <a href="#">Patented Disposal Sites</a> .....	X-7
1. <a href="#">Sites Patented on or Before Nov. 9, 1988</a> .....	X-7
G. <a href="#">Formal Closure of Landfill Sites</a> .....	X-8
1. <a href="#">Closure</a> .....	X-8
2. <a href="#">Stopped Accepting Waste</a> .....	X-8
3. <a href="#">Long-Term Monitoring</a> .....	X-8
H. <a href="#">Records Management</a> .....	X-9
1. <a href="#">Duplicate Files</a> .....	X-9

Illustrations

1. Sample Decision Denying Application for Lands Not Subject to Disposition

2. Form 2740-1 (July 1991) - R&PP Application
3. Sample Notification Letter to Correct Application Defects
4. Sample Decision denying Application for Failure to Correct Defects
5. Sample Notices of Realty Action
6. Form 2912-1 (April 1992) - R&PP Lease
7. Sample Decision Offering R&PP Lease
8. Sample Decision Offering R&PP Lease and Denying Request for Immediate

Conveyance

9. Form 2740-2 (May 1980) - R&PP Grants (Patentee Record)
10. Sample Decision Approving Request for Immediate Conveyance
11. Sample Letter Notice to Grazing Permittee/Lessee
12. Sample Grazing Cancellation Waiver
13. R&PP Pricing Guidelines
14. Form 1860-25 (May 1989) - Provisions of Title VI of the Civil Rights

Act of 1964

15. Cultural and Paleontological Resources Protection, and Pesticide Requirements

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

TC-4

#### H-2740-1 - RECREATION AND PUBLIC PURPOSES

16. Sample Decision Offering Lease Renewal
17. Sample Decision Denying Request to Exercise Purchase Option
18. Sample Decision Accepting Relinquishment of Lease
19. Sample Show-Cause Notice
20. Sample Decision Terminating a Lease
21. Sample Quitclaim Deed for Reconveyance to the United States

22. Sample Authorizing Resolution
23. Sample Decision Accepting Title
24. Sample Letter Informing County Assessor of Reconveyance
25. Sample Decision for Divestiture of Patent
26. Sample Approval of Transfer or Change of Use
27. Sample Certificate of Approval of Transfer of Title
28. Sample Certificate of Approval of Change of Use
29. Log of Certificates of Transfer or Change of Use
30. [Sample Indemnification Patent Provision](#)
31. [Sample Limited Reverter and Compensation Patent Provisions](#)
32. [Sample Declaratory Covenant Provisions](#)
33. [Sample Memorandum to Director](#)
34. [Sample Letter to Patentee to Remove Reversionary Clause](#)
35. [Sample Relinquishment of Reversionary Clause](#)
36. [Sample Decision Removing Reverter Provision Through Supplemental Patent](#)
37. [Sample Supplemental Patent with Reverter Language Removed](#)
38. Sample Letter Rejecting Application Based on Land Use Planning
39. Sample Letter Denying Application Based on Public Interest
40. Sample Declaratory Covenants for Patents on New or Existing Sites That May Result in the Disposal, Placement, or Release of Hazardous Substances
41. [Patent Civil Rights Language When Using the 1988 Amendment Act](#)
42. [Sample Patent - New Site Under the Provisions of the 1988 Amendment Act](#)

#### Appendices

1. Sample Plan of Development and Plan of Management
2. [R&PP NORA/Classification Process](#)
3. [Sample Landfill Transfer Audit](#)
4. R&PP NORA - Classification/Planning

5. Landfill Inspection Report

6. Sample Landfill Transfer Audit - New Site

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

VII-1

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Chapter VII

Chapter VII. Patent Provisions.

A. Commitments. Refer to VI.A.

B. Provisions Applicable to All Patents. All patents issued under

the Act must contain a reversionary clause (except patents as outlined in Chapter X), a reservation of all mineral deposits, and provisions regarding nondiscrimination (see Illustration 41 for nondiscrimination language to be used in patents for landfills or other uses which may result in the disposal, placement, or release of a hazardous substance). Examples of these provisions can be found in BLM Handbook H-1862-1, Chapter 1, Illustration 13.

C. 1988 Amendment Act Patents. New applications that may be subject to "disposal, placement, or release of any hazardous substance" should be processed under the guidance in 43 CFR 2743.2 and patented with a limited reverter provision. Facilities that were leased prior to November 9, 1988, and are subject to the same criteria should be patented with no reverter following the guidance in 43 CFR 2743.3. The processing steps in H-2740-1, Chapter X, should be followed when working on any proposal that is subject to the 1988 R&PP Amendment Act and meets the disposal, placement, or release of any hazardous substance criteria. The R&PP facilities going to patent which were leased after November 9, 1988, must contain standard reverter language.

D. Other Provisions. Depending upon the location of the land for which patent will issue, the existence of valid existing rights, or other circumstances involving the case, other reservations, terms, and conditions may be required to be included in the patent. (BLM Handbook H-1860-1 shall be consulted to determine the provisions other than those in Chapter VII.B. that must be incorporated in the patent.)

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-274 10/20/94

X-1

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Chapter X

Chapter X. Solid Waste or Other Purposes That May Include the Disposal, Placement, or Release of a Hazardous Substance.

A. Policy.

1. Landfills. In order to minimize the potential liability associated with landfills, it is the policy of the Bureau of Land Management to terminate all R&PP landfill operations as soon as possible. Field offices should be working with lessees in an all out effort to stop waste collection and close the current landfills or to convey title to present landfill leases under either the R&PP Act, a FLPMA Section 203 sale, or a FLPMA Section 206 exchange. Because of the continuing liability of the BLM under the hazardous materials laws and the potential for long-term expenses associated with EPA regulations found at 40 CFR 258, landfill closures should be a high lands priority. Although lease termination is the ultimate goal, a lease constitutes a contract between the BLM and the lessee and may only be terminated when both parties agree or through operation of the lease terms and conditions. Therefore, where a lease still has a number of years remaining and the lessee intends to continue operation, it is incumbent upon field officials to ensure that the lessee is fully aware of the 40 CFR 258 requirements and that the landfill is being operated in compliance with the lease terms and conditions.

2. Other Uses. The 1988 Recreation and Public Purposes Amendment Act allowed for the disposal of public land for solid waste or .... for any other purpose that the authorized officer determines may include the disposal, placement, or release of any hazardous substance .... The disposal action applies to both new sites and for sites presently leased on or before

November 9, 1988, for recreation or public purposes. Although the 1988 Act was passed primarily as a solid waste management tool, the underlined language above should be considered whenever a proposed R&PP application is received or an existing R&PP lease meets any of the underlined criteria.

#### B. New Disposal Sites.

1. Preapplication Consultation. The applicant should participate in preapplication consultation with the appropriate District or Resource Area Office as discussed in Chapter I. In addition to the items listed in

Chapter I, the applicant should be informed of the Environmental Protection Agency regulations contained in 40 CFR 258 and applicable State regulations which pertain to siting, design, operation, closure, post-closure, and financial obligations for sanitary landfills and transfer stations, and that an appropriate State agency will generally oversee the operation of the landfill or transfer station.

The applicant should be informed that full reimbursement of costs of the investigative report will be required (see Chapter X.B.3), unless these costs are waived under special circumstances.

The applicant should be informed that the patent will contain a limited reverter provision that may cause the land to revert to the United States if, at the end of 5 years after the date of conveyance, the land is not being used in accordance with the approved plan of development. However, no portion of the land shall under any circumstances revert to the United States if any such portion has been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-277 10/20/94

X-2

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Chapter X

2. Application Procedures. Upon agreement as to the location of the facility and the amount of land required, the applicant should apply as follows:

a. Submit an application (Form 2740-1) (see Illustration 2) and plan of development to the authorized officer. The

plan of development should be structured so that major improvements will be completed at the end of 5 years (see Chapter X.C.2 for further detail).

b. Sign the indemnification statement (see Illustration 30) and return to the authorized officer along with the application.

c. Submit copies of the application for review to those Federal and State agencies with responsibilities for enforcement of applicable laws. Proof of the submittal, such as copies of the cover letters, shall also be furnished to the authorized officer with the application.

3. Investigative Report - Cost Recovery . Upon receipt of the application, the authorized officer shall conduct an investigation of the lands to determine if any hazardous substances (substance as defined in 40 CFR Part 302) are present. Cost recovery for time spent by BLM personnel conducting field examinations and in preparation of reports shall be required unless the applicant demonstrates undue financial hardship, or the authorized officer determines that the costs of establishing and maintaining a 5440 account is more expensive than the costs of the investigative report. Cost recovery fees are to be deposited into a 5440 account (requires project number) and appropriate decisions issued to the applicant. Where the applicant can demonstrate undue financial hardship, reimbursement costs may be waived or reduced by the State Director.

4. Report Requirements. No specific format is required for the investigative report. The investigation shall include, but not be limited to, the following items (see Appendix 6 for Sample Report):

a. A review of available records regarding the history and use of the lands. Sources of available information would include BLM District and State Office records as well as county zoning records pertaining to previous

or existing land uses. Appropriate State agencies shall be contacted to determine if they have information regarding previous or current violations of State environmental laws regarding hazardous materials in the area. Local government records, including those found at the city or county assessor and recorder offices, should be examined to determine previous or current adjacent ownership. Local landowners should also be interviewed to assist in determining previous land uses in the area.

b. A field examination of the lands under application, and an appropriate analysis of the soil, water, and air associated with the property shall be conducted. The level of the analysis should be determined on a case-by-case basis by the authorized officer depending on the lands under application. Unimproved lands in rural locations will likely require a less rigorous level of analysis than lands located near urban areas. The appropriate State agencies shall be consulted to determine any specific concerns which may need to be addressed, recommendations as to format of the report, etc. Any lands selected shall meet applicable State standards for the type of site or facilities needed. The completed investigative report shall then be presented to the applicant, who in turn will forward it to the appropriate State agency or agencies for review.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-277 10/20/94

X-3

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Chapter X

5. State Certification. After review, the State agency must provide certification to the applicant that, based on the provided documents, it concurs that no hazardous substances (substances as defined in 40 CFR Part 302) are present on the lands under application. The lands under application shall not be conveyed if hazardous substances are found to be present. Alternate locations for the facility should then be considered in consultation with the

applicant.

6. Plan of Development. Sufficient acreage should be conveyed to allow operation of the facility for the long term. However, it is anticipated that at the end of the first 5-year period only a portion of the lands would have been utilized for actual waste disposal purposes. The 5-year requirement is interpreted to mean that major components of the plan, such as design, layout, and installation of ancillary facilities such as buildings, fencing, access roads, etc., should have been completed by the end of the first 5-year period.

7. State Permit. A permit to operate the type of facility must be secured from the State agency charged with oversight responsibility.

8. Application Processing. Further processing of the application should follow the guidelines contained in Chapter III of this Handbook. See Chapter V to determine pricing of the lands to be conveyed.

9. Records Management. The investigative report, all environmental analyses, State certification, State Permit, and other appropriate documentation used in determining the suitability of the lands shall be retained as permanent records (refer to Chapter X.H).

10. Compliance. Compliance checks shall be conducted and documented in the patent compliance case file on at least a quarterly basis during the initial 5-year period and as necessary (recommend at least every 2 years) after the initial 5-year period. This will ensure that the facility is constructed and operated in accordance with the approved plan of development. Copies of State permits and compliance reports should be included in the patent compliance case file. In the event that development is not occurring according to the plan, the authorized officer shall contact the patentee and request one of the following:

- a. Development of the land be brought into compliance with the approved plan of development.
- b. Submit a new plan of development for approval by the authorized officer.

11. Final Compliance. At the end of 5 years from the date of patent, the authorized officer shall make a determination as to whether the lands are being used in accordance with the approved Plan of Development and document the file accordingly. If at the end of 5 years the land is not being used in accordance with the approved Plan of Development and the patentee has made no diligent efforts to comply, the authorized officer shall initiate divestiture proceedings according to the instructions outlined in Chapter VIII.E.2, steps 7-13 and Chapter X.C.2.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

X-4

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Chapter X

#### C. Patent Provisions for New Disposal Sites.

Refer to Chapter VII of this handbook for commitments and other general provisions applicable to all patents (see Illustration 42 for sample patent).

In addition:

1. Indemnification. The patentee shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances (substance as defined in 40 CFR Part 302) and indemnify the United

States against any legal liability or future costs that may arise out of any violation of such laws. The wording of the signed indemnification statement submitted with the application (see Illustration 30) will become a patent provision.

2. Limited Reverter. A reversion clause shall be included which states that the lands will revert back to the United States unless substantially used in accordance with the approved plan and schedule of development, on or before 5 years after issuance of patent (see Illustration 31, Limited Reverter Provision). Under no circumstances will any portion of those lands that have been used for solid waste disposal, or for any other purpose that the authorized officer determines may result in the disposal, placement, or release of any hazardous substance be reconveyed to the United States.

3. Compensation Provision. A provision shall be included stating that if the patentee transfers to another party ownership of any portion of the land not used for the purposes specified in the application and approved Plan of Development, the patentee shall pay the BLM the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer from the patentee, and for any existing improvements on the subject land (see Illustration 31, Compensation Provision).

4. Declaratory Covenant. A declaratory covenant shall be included stating the purpose of the conveyance and that any proposed future uses of the land should take into account that small amounts of hazardous substances may be present which do not pose a significant risk to human health or the environment. This should be placed in the patent in such a manner so as to remain evident through subsequent conveyances (see Illustration 32, New Authorizations (landfills) or Illustration 40, New Authorizations (uses that may result in the disposal, placement, or release of hazardous substances)).

#### D. Leased Disposal Sites.

1. Conversion to Patent. The lessee may apply for a patent for all or part of the leased lands, provided that the lease was issued on or before November 9, 1988. However, the express approval of the Director, Bureau of Land Management, shall be required prior to granting of the patent (see Illustration 33 for sample memorandum). The lands must have been or will be used for solid waste disposal, or for any other purpose that the authorized officer determines may result in or include the disposal, placement, or release of any hazardous substance. See chapter V to determine pricing of the lands to be conveyed. The following will be considered prior to processing of the patent:

a. The conveyance shall be consistent with the land use planning provisions contained in 43 CFR 1600 and in compliance with the National Environmental Policy Act of 1969 and any other Federal and State laws applicable to the disposal of solid wastes and hazardous substances.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

X-5

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Chapter X

b. The conveyance shall be made only of lands classified for sale pursuant to the procedures and criteria in 43 CFR 2400 (see Appendix 2).

c. A landfill transfer audit (LTA) shall be conducted on the lands to be included in the patent. This is an assessment of the conditions of any facility prior to transfer of title to the lessee and is an addition to CERCLA 120 (h) requirements.

An LTA is composed of the following steps (see Appendix 3):

- (1) A CERCLA 120(h) search of BLM records conducted by BLM personnel.
- (2) Actions to supplement the CERCLA 120(h) provisions. These actions may be conducted by qualified BLM personnel or a qualified independent party not associated with BLM or the lessee. The independent party should preferably be a State agency or a university with expertise in conducting surveys of this nature. An outside contractor may also be utilized if a State agency or university is not immediately available.

The auditor would take the following actions:

- (a) Review lease records and interview the staff operating the facility. Review records of county health department, State solid waste and hazardous waste agency, and EPA for indications of problems at the facility during the term of the lease.
  - (b) Assess the probability of contamination based on location, hydrogeological characteristics, remoteness, local industrial base, access from transportation routes, etc.
  - (c) Conduct a physical inspection of the facility including an appropriate analysis of soil, water, and air, by persons qualified to identify indicators of significant contamination or related problems.
  - (d) Independently assess the probability of risk to human health and the environment based on the above evidence.
- (3) Auditor and lessee sign statement that no significant risk to human health and the environment exists. Proceed to d.
  - (4) If independent party will not sign statement:
    - (a) Do not convey the lands and attempt to find an alternate location for a new facility, or
    - (b) The independent party may conduct further detailed sampling, including drilling if necessary, to determine the extent of contamination at the site. If sampling determines that there is no significant risk to human health or environment and independent party signs statement, proceed to d.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

X-6

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Chapter X

- (c) Where contamination or probable contamination is found, notify the Environmental Protection Agency (EPA), as required under the National Contingency Plan and CERCLA, Section 103.
- d. The lessee shall send a copy of the signed statement and supporting documentation to the State agency charged with oversight of landfill responsibility for review. After review, the State agency must provide certification to the lessee that, based on the provided documents, it concurs that the contents of the leased site in question does not threaten human health and the environment.
- e. State Permit. A permit to operate the landfill must be secured from the State agency charged with oversight

responsibility.

f. Cost Recovery. The authorized officer will collect cost recovery fees from the lessee for all administrative costs of the United States incurred during the investigation. Cost recovery fees are to be deposited into a 5440 account which requires a project code (see BLM Manual 1323 for account processing procedures) and appropriate decisions issued to the applicant. If the lessee demonstrates that such costs will be an undue financial hardship, case reimbursement costs may be reduced or waived by the State Director. However, these costs shall be waived only under extraordinary circumstances and is solely at the discretion of the State Director.

Cost recovery fees are to be collected prior to any "hands-on" work other than preapplication activity. Fees are to be assessed for direct costs (site visits, application review, plan amendments, audit coordination, personnel costs, etc.), and indirect costs (managerial direction, administrative costs, general utility charges). All costs are to be documented on BLM Form 1323-1.

g. Records Management. The landfill transfer audit, all environmental analyses, State certification, and other appropriate documentation used in determining the suitability of the lands shall be retained as permanent records by the authorized officer (see Chapter X-H).

## 2. Renewal of Leased Landfill Sites.

a. Annual Renewal. When a landfill is being operated in full compliance with the lease terms and conditions, leased sites may be renewed on a yearly basis until such time as the applicant has either received a patent to the site, developed an alternate site, or closed the existing site. Care should be taken by the authorized officer to ensure that the annual renewals are not merely for the convenience of the lessee and that the lessee is actively pursuing closure of the site or a patent. Under no circumstances may the leased lands be expanded beyond the present authorization.

b. Closure. Renewed leases shall include a stipulation stating that closure of landfills or transfer stations shall be in conformance with regulations developed by the EPA and contained in 40 CFR 258, Subtitle D, and applicable State requirements. Copies of all closure plans will be provided by the operator to the authorized officer for inclusion into the permanent records. Closure plans should detail who will be responsible for monitoring the site after closure and should take into account such things as when (or if) to remove the fencing, who pays for removal of the fencing, surface revegetation, site security, etc. The final closure plan should be prepared in cooperation with the lessee, the State, and the BLM.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

X-7

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Chapter X

3. Compliance. Landfill compliance checks are to be made a minimum of once each quarter. If noncompliance is encountered, immediate action is necessary to bring the operation into full compliance with the lease terms and conditions. If the lessee is unwilling or unable to bring the operation into full compliance, procedures will be initiated to terminate the lease. The processing steps in Chapter VIII are to be strictly adhered to.

4. Bonding. Because a lease is a contract, bonding cannot be required unless the lease terms and conditions mandate or allow for bonding. However, any lease renewal or extension or an assignment approval may be made subject to a bond. Bonds should be used whenever there is any doubt as to the financial ability of the lessee to properly terminate a lease and should be in an amount sufficient to cover all closure and rehabilitation expenses.

## E. Patent Provisions for Leased Disposal Sites.

1. Provisions. Refer to Chapter VII for commitments and other general provisions applicable to all patents. No portion of the lands patented shall revert back to the United States under any circumstances. In addition:

a. The patentee shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances (substance as defined in 40 CFR Part 302) and indemnify the United States against any legal liability or future costs that may arise out of any violation of such laws (see Illustration 30).

b. A declaratory covenant shall be included stating that the lands have been utilized for solid waste disposal and that any proposed future uses of the lands should take into account that a solid waste disposal facility was located on the lands. This should be placed in the patent in such a manner so as to remain evident through subsequent conveyances (see Illustration 32, Existing Authorizations).

## F. Patented Disposal Sites.

1. Sites Patented on or Before November 9, 1988. In regard to sites patented on or before November 9, 1988, upon request or with the concurrence of the patentee, the authorized officer may renounce the reversionary interest of the United States which allows for reconveyance to the United States of any lands, or portion thereof, and rescind any portion of any patent or other instrument of conveyance inconsistent with the renunciation upon a determination that such lands have been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance. After such renunciation, affected lands shall not, under any circumstances, revert to the United States by the operation of law. Illustrations 34 and 35 provide a sample letter and consent form that may be provided to the patentee for his/her signature. Illustrations 36 and 37 provide a sample decision removing the reversionary language and a supplemental patent. If the patentee elects not to accept relinquishment of the reversionary clause, the regulations contained in 43 CFR 2741.6 and 2741.9 will continue to apply. In no case will the reversionary language be removed from a patent under the 1988 amendment Act if the land was not used for solid waste or for any other purpose that the authorized officer determines may result in the disposal, placement, or release of any hazardous substance.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-277 10/20/94

X-8

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Chapter X

2. A field examination of the patented site should be made prior to renouncing the reversionary clause. The patent file should be documented as to what is existing on the site at the time the reversionary clause is revoked. This includes pictures of the operation and any structures, interviews with employees, a complete walk-over of the site, and anything else that the examiner feels necessary to fully document what is existing at the time. This examination may help to reduce or eliminate any future liability of the United States that may be connected with the operation of the site.

## G. Formal Closure of Landfill Sites.

1. Closure. Closure of landfills or transfer stations shall be in conformance with regulations developed by the Environmental Protection Agency and contained in 40 CFR 258, Subtitle D. Closure plans shall be developed in accordance with appropriate State regulations and copies of all approved closure plans shall be provided by the operator to the authorized officer for inclusion into the permanent records. The following will apply depending on which date the particular facility stopped receiving solid waste:

a. Facilities that stopped receiving waste on or before

October 9, 1991, are not subject to the EPA regulations. However, the operator must provide suitable documentation that no wastes were received after that date.

b. Facilities receiving waste after October 9, 1991, are subject

to a variety of operating requirements and closure procedures depending on the date of closure, the amount of waste received per day and if the State has an approved permit from the EPA to oversee the 40 CFR 258, Subtitle D regulations. Consult the 40 CFR 258 regulations for the procedure affecting the landfill or transfer station in question.

2. Stopped Accepting Waste. As landfill operations end and the lease is terminated, there will be a period of time between when the landfill stops accepting waste and when all rehabilitation and the EPA closure requirements have been met. During this time, the lease is not to be terminated. The lease is to remain in effect and the lessee held accountable until the closure requirements have been met and all rehabilitation has been completed. Following proper closure and rehabilitation, the lease is to be terminated and the case closed. When a landfill stops accepting waste, action code 514 (stopped accepting waste) should be entered in case recordation using the date the landfill is closed to the public.

3. Long-term Monitoring. All landfills that receive waste after a certain date (see below) will be required to install ground water monitoring equipment and monitor the site for at least 30 years. Besides the actual monitoring wells, there may be a need for an access road, fencing, diversion structure maintenance, or other facilities. The proper authorization for these long-term facilities is a FLPMA Title V right-of-way (R/W). Therefore, prior to terminating the lease, all long-term facilities and needs will be identified and authorized with a R/W. If an environmental analysis is completed for the closure and rehabilitation requirements, the analysis should include the impacts of a 30-year R/W. The analysis of the R/W at this point will "tie together" all the final requirements of the landfill and will negate the need for a separate analysis at a later date.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-277 10/20/94

X-9

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Chapter X

The EPA published revised 40 CFR 258 rules on October 1, 1993. As a result of the revised rulemaking, landfills accepting waste after the below dates are subject to all the operating criteria established in 40 CFR 258:

1. Landfills accepting more than 100 tons per day - October 9, 1993.

2. Landfills accepting less than 100 tons per day, are located in

a State that has submitted an application to the EPA for approval to oversee landfill operations in that State, and sites that are not on the National Priority List - April 9, 1994.

3. Landfills that meet the small landfill exemption in

40 CFR 258.1(f) - October 9, 1995.

H. Records Management.

1. Duplicate Files. The regulations provide that all new patent applications, both approved or unapproved, and all documentation pertaining to issuance of patents for existing facilities, will be maintained as permanent records. Disposition of original approved and unapproved patent application case files will be in accordance with BLM Records Schedule (1272), Schedule 4, Item 7c.(2). Approved patents will be filed by patent number according to BLM Manual H-1862-1, Chapter IV. Unapproved applications will be filed by their respective serial numbers. Original files for approved patent applications will be stored at the National Archives and Records Administration (NARA) in perpetuity. A duplicate patent compliance file will be maintained at the District Office in perpetuity. All compliance documentation and subsequent correspondence will be maintained in the compliance file. Disposition of unapproved patent applications will also be in accordance with the BLM Records Schedule; however, until the new schedule pertaining to unapproved applications is approved by NARA, all documentation pertaining to unapproved applications will be retained at the District Office on a permanent basis.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-277 10/20/94

Illustration 30

(X.B.2.b)

(X.C.1)

(X.E.1.a)

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### INDEMNIFICATION PATENT PROVISION FOR DISPOSAL SITES

The (patentee), its successors or assigns, assumes all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to in this clause as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as claims) resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons (including the patentee's employees) or property growing out of, occurring, or attributable directly or indirectly, to the disposal of solid waste on, or the release of hazardous substances from (insert legal description), regardless of whether such claims shall be attributable to:

(1) the concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States.

---

Signature Date

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

Illustration 31

(X.C.2 & C.3)

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

## LIMITED REVERTER PROVISION

## LIMITED REVERTER PROVISION

Provided, that the title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially developed the lands in accordance with the approved plan of development on or before the date five years after the date of conveyance. No portion of the land shall under any circumstance revert to the United States if any such portion has been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance.

## COMPENSATION PROVISION

If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose (s) specified in the application and approved plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

Illustration 32

(X.C.4 & E.1.b)

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### SAMPLE DECLARATORY COVENANTS FOR PATENTS ON NEW OR EXISTING LANDFILL SITES

The following language should be utilized in the patent in order to establish a covenant that will be noted by title researchers when investigating future conveyances of the land. Surface indicators of a disposal facility will probably disappear within a few years after closure while the landfill contents will likely be present for several hundred years or more. These covenants would be especially important in areas where urban expansion could eventually result in the land being utilized for development which may require extensive disturbance of the subsurface.

### SAMPLE COVENANT FOR NEW AUTHORIZATIONS

The above described land has been conveyed for utilization as a solid waste disposal site as follows: (describe precise location to the extent possible utilizing legal descriptions and/or relationship to permanent landscape markers. Include proposed depth of landfill, dimensions of perimeter, type of liner and cover, etc., and place where permanent records will be filed). Upon closure, the site may contain small quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5. Although there is no indication these materials pose any significant risk to human health or the environment, future land uses should be limited to those which do not penetrate the liner or final cover of the landfill unless excavation is conducted subject to applicable State and Federal requirements.

### SAMPLE COVENANT FOR EXISTING AUTHORIZATIONS

The above described land has been used for solid waste disposal as follows: (describe precise location to the extent possible utilizing legal descriptions and/or relationship to permanent landscape markers. Include proposed depth of landfill, dimensions of perimeter, type of liner and cover, etc., and place where permanent records will be filed). Solid waste commonly includes small quantities of commercial hazardous waste and household hazardous waste as

determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5. Although there is no indication these materials pose any significant risk to human health or the environment, future land uses should be limited to those which do not penetrate the liner or final cover of the landfill unless excavation is conducted subject to applicable State and Federal requirements.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-274 10/20/94

Illustration 33

(X.D.1)

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### Sample Memorandum to the Director

2740

NMN-87542

Memorandum

To: Director (260)

From: State Director

Subject: Direct Sale of Sanitary Landfill

We are requesting your approval for the sale of the (insert name) sanitary landfill to (insert lessee). The site is currently leased for landfill purposes under the Recreation and Public Purposes (R&PP) Act and the applicant has requested that the landfill be conveyed pursuant to the provisions of the R&PP Act and the regulations contained in 43 CFR 2743. The lessee has determined that retaining the existing site is in their best economic interests and will provide an acceptable facility for the disposal of solid waste.

A landfill transfer audit (LTA) has been completed and signed by the (insert auditor and lessee)(copy attached). The audit indicates that the facility is operated in an environmentally safe fashion and does not pose a significant threat to human health or the environment. The audit has been reviewed by (State agency) which has certified that, based on the information in the audit, it concurs that the contents of the disposal site do not threaten human health and the environment. The lessee has signed an indemnification statement agreeing to hold the United States harmless from any liability associated with the operation of the landfill, and a provision to that effect will be included in the patent. A provision stating that the landfill may contain small amounts of hazardous waste in the form of household or commercial materials will be included in the patent. In addition, a covenant stating that the lands have been utilized for landfill purposes which should be taken into account when considering future land uses will also be included.

The lessee has been made aware of the Environmental Protection Agency regulations contained in 40 CFR 258 which pertain to siting, design, operation, closure, and post-closure obligations for sanitary landfills.

The sale is in conformance with the BLM land use plan for the area and local zoning ordinances.

Questions may be directed to Susan Black at 505-465-8723.

Attachment

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

Illustration 34

(X.F.1)

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Letter to Patentee to Remove Reversionary Clause

2740

R&PP Patentee

160 Maple St.

Anytown, NV 89081

Dear Patentee:

On (insert date), you were granted a patent under the Recreation & Public Purposes Act for the purpose of establishing a (sanitary landfill/transfer station) located at (location).

Recently, the Federal regulations pertaining to the Recreation and Public Purposes Act were revised to allow patentees to rescind the reversionary clause contained in the patent which provides for reconveyance of the land to the United States in the event that the lands are not utilized for the intended purpose. Removal of the reversionary clause would ensure that the lands remain in private ownership, thus limiting liability to the United States in the event that hazardous substances are present on the land. Relinquishment of the clause would in no manner affect your existing right to operate a (sanitary landfill/transfer station) on the patented lands.

Enclosed is a form, which when signed, will authorize removal of the reversionary clause from the patent. If removal of the reversionary clause is satisfactory to you, please sign and return to this office. If you have questions, please contact (authorized individual) at 505-234-9876.

Sincerely yours,

Authorized Officer

Enclosure

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-274 10/20/94

Illustration 35

(X.F.1)

H-2740-1 - RECREATION AND PUBLIC PURPOSES

RELINQUISHMENT OF REVERSIONARY CLAUSE

The undersigned hereby (requests/concurs with) relinquishment of the reversionary clause contained in Patent No. (patent number) granted to (patentee) for the purpose of a (sanitary landfill/transfer station) located at (legal description).

---

Signature Date

---

Title

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-274 10/20/94

Illustration 36, Page 1 (X.D.1)

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Decision Removing Reverter Provision

Through Supplemental Patent

Certified Mail

Return Receipt Requested

Decision

County of Rio Blanco :

County Courthouse : COC 27132

Montrose, Colorado 86542 : R&PP Patent

Supplemental Patent Issued

On June 5, 1982, Rio Blanco County was issued patent number 05-82-0013 under the authority of the Recreation and Public Purposes Act of June 14, 1926, as amended (44 Stat. 741), for a sanitary landfill on the following described land:

Sixth Principal Meridian, Colorado

T. 1 N., R. 101 W., Sec. 5, NENE

Containing 40 acres

The land has been used properly for a landfill since the date of patent.

On July 23, 1992, Rio Blanco County requested an amendment to the patent to remove the reverter language

pursuant to the Recreation and Public Purposes Amendment Act of 1988 (Public Law 100-648). Rio Blanco County has complied with all provisions of the law and therefore, the patent is supplemented by removal of the reversionary language. The supplemental patent is enclosed.

Within thirty (30) days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400 and the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. The appellant has the burden of proof by showing that the decision appealed from is in error.

If you wish to file a petition (request) (pursuant to regulation 43 CFR 4.21) 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 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 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.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

Illustration 36, Page 2

## H-2740-1 - RECREATION AND PUBLIC PURPOSES

### 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.

Sara Roberts

Deputy State Director, Operations

Enclosures:

Patent 05-92-0013

Form 1842-1, Appeals Procedures

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

Illustration 37, Page 1

(X.F.1)

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Supplemental Patent With Reverter Language Removed

Colorado 27132 Page 1 of 3

WHEREAS

COUNTY OF RIO BLANCO, STATE OF COLORADO

is entitled to a land patent pursuant to the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741), as amended and supplemented (43 U.S.C. 869; 869-1 to 869-4), for the following described land:

Sixth Principal Meridian, Colorado

T. 1 N., R. 101 W.,

sec. 5, NENE.

containing 40 acres.

NOW KNOW YE, that the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the said Act of Congress, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said County of Rio Blanco, State of Colorado, the tract above described, for a sanitary landfill; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the same County of Rio Blanco, State of Colorado, forever; and

EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945); and
2. All the mineral deposits in the lands so patented, and the right of the United States, or persons authorized by the United States, to prospect for, mine, and remove such deposits from the same under applicable laws and regulations as the Secretary of the Interior may prescribe; and

Patent Number **05-92-0013**

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-274 10/20/94

Illustration 37, Page 2

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Colorado 27132 Page 2 of 3

Subject To:

1. Those rights for highway purposes as have been granted to the Colorado State Highway Department, its

successors or assigns, by Permit No. Denver 056626 under Section 17 of the Act of

November 9, 1921 (23 U.S.C. 317), as amended; and

2. Those rights for electric power distribution line purposes as have been granted to Moon Lake Electric Association, Inc., its successors and assigns, by Permit No. Colorado 090815 under the Act of March 4, 1911 (43 U.S.C. 961), as amended.

This entry is made under Section 29 of the Act of February 20, 1920 (30 U.S.C. 186), and the patent is issued subject to the rights of prior permittees or lessees to use so much of the surface of said land as is required for mining operations without compensation to the patentee for damages resulting from proper mining operations.

The grant of the herein described land is subject to the following reservations, conditions, and limitations:

(1) The patentee or his (its) successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the land conveyed herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.

(2) The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, or the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.

Patent No 05-92-0013

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-274 10/20/94

Illustration 37, Page 3

#### H-2740-1 - RECREATION AND PUBLIC PURPOSES

Form 1860-10

(April 1988)

Colorado 27132 Page 3 of 3

(3) The patentee or his (its) successor in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.

(4) The reservations, conditions, and limitations contained in paragraphs (1) through (5) shall constitute a covenant running with the land, binding on the patentee and his (its) successors in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.

(5) The assurances and covenant required by sections (1)-(4) above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

This patent is supplemental to Patent No. 05-82-0006, issued on June 5, 1982, and issued for the purpose of

removal of the reversionary language.

In Testimony Whereof, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions

of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the

United States, caused these letters to be made Patent, and the Seal

of the Bureau to be hereunto affixed.

[SEAL] Given under my hand, in DENVER, COLORADO

the TWENTY-SEVENTH day of AUGUST

in the year of our Lord one thousand nine hundred and

NINETY-TWO and of the Independence of the

United States the two hundred and SEVENTEENTH

By

JOE SMITH

CHIEF, DIVISION OF OPERATIONS

Patent No. **05-92-0013**

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-274 10/20/94

Illustration 40

(X.C.4)

#### H-2740-1 - RECREATION AND PUBLIC PURPOSES

#### SAMPLE DECLARATORY COVENANTS FOR PATENTS ON NEW OR EXISTING SITES THAT MAY

#### RESULT IN THE DISPOSAL, PLACEMENT, OR RELEASE OF HAZARDOUS SUBSTANCES

The following language should be utilized in the patent in order to establish a covenant that will be noted by title researchers when investigating future conveyances of the land. Surface indicators of a facility will probably disappear within a few years while the contents will likely be present for several years or more. These covenants would be especially important in areas where urban expansion could eventually result in the land being utilized for development which may require extensive disturbance of the subsurface.

#### SAMPLE COVENANT FOR NEW AUTHORIZATIONS

The above described land has been conveyed for utilization as a (describe site). The land may contain small

quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5.

## SAMPLE COVENANT FOR EXISTING AUTHORIZATIONS

The above described land has been used for (describe site). The land may contain small quantities of commercial hazardous waste and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5.

BLM MANUAL Rel. 2-280

10/20/94

Illustration 41

(VII.B)

### H-2740-1 - RECREATION AND PUBLIC PURPOSES

Patent Civil Rights Language When Using

the 1988 Amendment Act

#### **Reverter Provisions**

The 1988 R&PP Amendment Act provided for patents to be issued on new sites with a limited title reverter and patents to be issued for leased sites with no title reversion. The limited and no reverter provisions of the 1988 Act created a conflict with the standard Civil Rights Act Title VI patent provisions which allow for title reversion if there are violations of the civil rights provisions in the patent. Patents issued pursuant to the provisions of the 1988 R&PP Amendment Act will have the following Title VI language:

1. The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964, 78 Stat. 241, and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto, 43 CFR 17, for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.
2. The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.
3. The patentee or its successor in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.
4. The reservations, conditions, and limitations contained in paragraphs 1-3 shall constitute a covenant running with the land, binding on the patentee and its successors in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provisions of similar services or benefits.
5. The assurances and covenant required by paragraphs 1-4 above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

Those States that use BLM Form 1860-25 should XX out items 2 and 3 prior to attaching to the patent.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Patent for New Sites Under the  
Provisions of the 1988 Amendment Act

NMNM 86622 Page 1 of 3

W H E R E A S

City of Farmington

is entitled to a land patent pursuant to The Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), for the following described land:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 14 W.,

sec. 34, lots 5 and 6,

SENESE, SSWNESE.

Containing 34.96 acres;

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES, unto the City of Farmington, the land above described for a law enforcement shooting range and training facility; TO HAVE AND TO HOLD the land with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the City of Farmington, and its assigns forever; and

EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945);
2. All mineral deposits in the land so patented, and right of the United States, or persons authorized by the United States, to prospect for, mine, and remove such deposits from the same under applicable laws and regulations as the Secretary of the Interior may prescribe.

SUBJECT TO:

1. Valid existing access road rights-of-way and easements;
2. Outstanding oil and gas lease NMNM 0206995 embracing lots 5, 6, SENESE, and SSWNESE, sec. 34, T. 30 N., R. 14 W., issued August 1, 1948, for a 10-year period, and so long thereafter as oil and gas is produced in paying quantities or other extensions granted consistent with the terms of the lease and applicable laws and regulations, with any funds generated under the lease for fees or royalties from production accruing to the benefit of the United States;

Patent Number 30-94-0007

BLM MANUAL Rel. 2-280

Illustration 42, Page 2

H-2740-1 - RECREATION AND PUBLIC PURPOSES

NMNM 86622 Page 2 of 3

3. The City of Farmington, its successors or assigns, shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances (substance as defined in 40 CFR Part 302);
4. The City of Farmington, its successors or assigns, assumes all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to in the clause as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as claims) resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons including the patentee's employees) or property growing out of, occurring, or attributable directly or indirectly, to the disposal, placement, or release of hazardous substances from lots 5, 6, SENESE, and SSWNESE, sec. 34, T. 30 N., R. 14 W., NMPM, regardless of whether such claims shall be attributable to: (1) the concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States;
5. The above described land has been conveyed for utilization as a shooting range and training facility. The land may contain small quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5;
6. Provided, that the title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially used all of the land in accordance with the approved plan of development on or before the date five years after the date of conveyance;
7. No portion of the land shall under any circumstances revert to the United States if any such portion has been used for any purpose which may result in the disposal, placement, or release of any hazardous substance;
8. If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and approved plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon;
9. The Secretary of the Interior may take action to revest title in the United States if the patentee directly or indirectly permits its agents, employees, contractors, or subcontractors (including without limitation lessees, sublessees and permittees) to prohibit or restrict the use of any part of the patented land or any of the facilities thereon by any person because of such person's race, creed, sex, or national origin.

Patent Number 30-94-0007

BLM MANUAL Rel. 2-280

Illustration 42, Page 3

H-2740-1 - RECREATION AND PUBLIC PURPOSES

NMNM 86622 Page 3 of 3

In addition to the above the grant of the herein described land is subject to the following reservations, conditions, and limitations:

1. The patentee and its successors or assigns in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits;
2. The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee;
3. The patentee and its successors or assigns in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed;
4. The reservations, conditions, and limitations contained in paragraphs (1) through (3) shall constitute a covenant running with the land, binding on the patentee and its successors or assigns in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits;
5. The assurances and covenant required by sections (1)-(4) above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

[SEAL] GIVEN under my hand, in Santa Fe, New Mexico

the FOURTEENTH day of JANUARY

in the year of our Lord on thousand nine hundred and

NINETY-FOUR and of the Independence of the

United States the two hundred and EIGHTEENTH.

By

Michael J. Pool

Patent Number **30-94-0007** Farmington District Manager

BLM MANUAL Rel. 2-280

Appendix 2

H-2740-1 - RECREATION AND PUBLIC PURPOSES

R&PP NORA/CLASSIFICATION PROCESS

Responsible

Official Action

District 1. Prepares and publishes NORA. Allows 45-day comment period. Comments, if any, go to Manager issuing office.

- a. If no adverse comments are received, classification becomes final, effective 60 days after publication of NORA in the Federal Register.
- b. If adverse comments are received, prepares analysis and forwards recommendations to State Director.

State 2. Reviews District recommendations and either affirms, modifies, or vacates the NORA.

Director

- a. If affirmed, advises protestant(s) by certified mail, other interested parties by regular mail, of the decision by letter. Provides opportunity for comment to Secretary (LLM 260) within 30 days of protestants receipt of decision in accordance with 43 CFR 2450.5.
- b. If modified, either by adding or deleting acreage from the original NORA, or there is a significant change in proposed use, republishes NORA in accordance with 43 CFR 2741.5(h), providing for comment to Secretary (LLM 260). NORA must state: (1) that for a period of 45 days after date of publication in the Federal Register, the proposed classification shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review, and (2) that if the Secretary does not exercise his authority for review, the proposed classification shall become the final order of the Secretary.
- c. If modified for reasons other than 2b. above, notifies protestant and other interested parties as in 2a.

3. If no adverse comments are received, the State Director's decision becomes the final order of the Secretary.

Secretary of 4. If timely adverse comments are received, requests analysis of comments by State Director.

Interior

(LLM 260) 5. Decides whether to exercise supervisory authority and so advises all parties.

6. Classification, if approved, becomes effective upon completion of administrative review.

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

Appendix 3, Page 1

(X.D.1.c)

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Landfill Transfer Audit

PICKLES BUTTE SANITARY LANDFILL

RECORD REVIEW AND INSPECTION

STATE OF IDAHO

DEPARTMENT OF HEALTH & WELFARE

DIVISION OF ENVIRONMENTAL QUALITY

HAZARDOUS MATERIALS BUREAU

C. STANLEY RASMUSSEN

HAZARDOUS MATERIALS COMPLIANCE OFFICER

NOVEMBER 20, 1990

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94

Appendix 3, Page 2

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Based on the existing available data and the results of this report, the Pickles Butte Sanitary Landfill does not present a significant risk to human health and the environment at this time.

---

Canyon County Commission Date

---

Idaho Department of Date

Health and Welfare

BLM MANUAL Rel. 2-280

Supersedes Rel. 2-275 10/20/94