

2880 – MINERAL LEASING ACT RIGHTS-OF-WAY

Glossary of Terms

-A-

ABC: Activity Based Costing.

Act: Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

actual costs: the financial measure of resources expended or used by the United States in processing a ROW application or monitoring the construction, operation, and termination of a facility authorized by a grant or permit. Actual costs include both direct and indirect costs, exclusive of management overhead costs.

agency: a Federal department or independent Federal office.

airways: gondolas, aerial trams, aerial conveyor belts, and other devices for transportation above-the-ground. It also includes takeoff and landing zones associated with airport operations.

ALJ: Administrative Law Judge.

amendment: a modification of a grant to provide for a substantial deviation in location or use.

appeal: a formal action requesting a decision be reviewed by a higher authority. For the BLM this usually means a review by the IBLA.

applicant: any individual, partnership, corporation, association, or other business entity, or any State, or local governmental entity, including municipal corporations, which applies for a ROW grant or TUP.

assignee: one who receives an assignment.

assignment: transfer, in whole or in part, of any right or interest in a ROW grant or TUP from one legal entity to another.

assignor: one who makes an assignment.

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authorized officer (AO): any employee of the Department of the Interior to whom has been delegated the authority to perform the duties described in this Manual Section. Under the BLM standard delegation (Manual 1203) this is no lower than the Field Office or District Manager. Delegation below this level should be specific to an individual and a specific ROW project.

authorized officer's representative: a BLM employee designated by the AO for onsite inspection for compliance with stipulations of the ROW grant or permit. The individual does not have authority to change or alter the ROW grant or permit but is the primary contact between the Bureau and the holder's representative for matters pertaining to the ROW grant or permit.

avoidance area: an area designated on a land use plan, for which use for a ROW should be avoided if at all possible.

-B-

backlog: the number of existing and anticipated cases that exceed the number of cases that can be accomplished within 6 months, considering resources available to conduct the work.

BLM: the Bureau of Land Management

bond: cash or legal document given to assure compliance with specific requirements.

-C-

CBS: a collection and billing system used by the BLM.

casual use: activities ordinarily resulting in no or negligible disturbance of the public or Federal lands, resources, or improvements. Examples of casual use include: Surveying, marking routes, and collecting data to use to prepare applications for grants or TUPs.

CERCLA: the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.).

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commercial purpose or activity: the circumstance where a holder attempts to produce a profit by allowing the use of its facilities by an additional party. The BLM may assess an appropriate rent for such commercial activities. The holder's use may not otherwise be subject to rent charges under the BLM's rent provisions.

common use ROW: a strip or parcel of public land used by more than one holder.

compliance: operating within the requirements of the grant or TUP.

compliance enforcement: any and all actions taken by or on behalf of the AO to ensure the holder is operating within the requirements of the grant or TUP.

corridor: a tract of land forming a passageway for linear utilities or transportation uses.

cost recovery: the recovery of the cost to the Federal government of providing an item or processing an application through use of fixed fees or a record of actual costs.

-D-

designated ROW corridor: a parcel of land with specific boundaries identified by law, Secretarial order, the land-use planning process, or other management decision as being a preferred location for existing and future ROWs. The corridor may be suitable to accommodate more than one type of ROW or one or more ROWs which are similar, identical or compatible.

direct costs: those costs which can be specifically identified with the application and which are incurred for the benefit of the applicant in that the costs would not have been incurred except for the application and are appropriate in order for the BLM to process the application. Examples of direct costs may include personnel costs in the form of wages paid to the BLM or other Federal personnel working on the application, with allowances provided for fringe benefits and leave surcharge rates and any overtime associated with processing the application; travel expenses; purchased services, if necessary, such as printing, automated data processing services and photographic reproduction; and any miscellaneous supplies and equipment of a specialized nature, the use of which is directly applicable to processing the application.

discharge: the meaning found at 33 U.S.C. 1321(a)(2) of the Clean Water Act.

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due diligence: such diligence as a reasonable person under the same circumstances would use. The use of reasonable but not necessarily exhaustive efforts.

-E-

EA: environmental assessment.

easement: a document issued in replacement of an existing ROW grant over lands being transferred out of BLM management or Federal Ownership.

EIS: environmental impact statement.

exclusion area: An area identified through Land Use Plans or in the process of designating corridors for which ROWs are to be excluded.

-F-

facility: an improvement or structure, whether existing or planned, that is or would be owned and controlled by the grant or TUP holder within a ROW.

Federal lands: all lands owned by the United States, except lands:

- (1) In the National Park System;
- (2) Held in trust for an Indian or Indian tribe; or
- (3) On the Outer Continental Shelf.

FERC: the Federal Energy Regulatory Commission. Among others, the authority over hydropower facilities under the Federal Water Power Act, interstate gas pipelines under the Natural Gas Act, and certain responsibilities for energy projects under the Energy Policy Act of 2005.

FLPMA: the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1701 et seq.).

full force and effect: means that the decision involved is effective immediately and remains so unless a stay is issued by the IBLA.

-G-

grandfathered rights: usually the right to use in a non-conforming manner due to existence prior to the establishment of conforming terms and conditions.

grant: any authorization or instrument (e.g., easement, lease, license, or permit) the BLM issues under section 28 of the Mineral Leasing Act, 30 U.S.C. 185 (MLA). The term also includes those authorizations and instruments the BLM and its predecessors issued for like purposes before November 16, 1973, under then existing statutory authority. It does not include authorizations issued under FLPMA (43 U.S.C. 1761 et seq.).

guide stipulation: a BLM-approved, or mandated by law, term or condition for a ROW grant that is to be used by the AO where necessary to ensure the facility authorized is constructed, operated, maintained and terminated in a safe and environmentally sound manner. No attempt is made in this Manual to distinguish stipulations from terms and conditions. The two expressions are used interchangeably.

-H-

hazardous material:

- (1) Any substance or material defined as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act at 42 U.S.C. 9601(14) and (33);
- (2) Any regulated substance contained in or released from underground storage tanks, defined by the Resource Conservation and Recovery Act at 42 U.S.C. 6991 et seq.;
- (3) Oil, as defined by the Clean Water Act at 33 U.S.C. 1321(a) and the Oil Pollution Act at 33 U.S.C. 2701 et seq.; or
- (4) Other substances defined and regulated as “hazardous” by applicable Federal, state, tribal, or local law.

holder: any entity to whom the BLM has issued a ROW grant or TUP.

holder's representative: the holder's onsite representative who is responsible to see that the stipulations of the ROW grant or permit are met. The representative is the primary contact for the Bureau concerning technical matters of the ROW grant or permit.

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-I-

IBLA: the Department of the Interior, Board of Land Appeals.

IM: an Instruction Memorandum containing policy or procedure.

immediate temporary suspension: a prompt verbal or written order by the AO which requires the holder to immediately curtail ROW activities and privileges in order to protect public health or safety or the environment. The order is given prior to an administrative proceeding.

impacts: the effect an action has on other resource conditions.

indirect costs: those costs which cannot be specifically identified with the application expressed as a percent of “direct costs.” The percentage figure is developed in accordance with Department of Interior procedures and represents those administrative and program costs, excluding management overhead, which can be attributed to processing the application. Indirect costs include a portion of the costs for capitalized and non-capitalized equipment; space rental; telephone services; postage; personnel transfer costs; budget and program development; administrative and clerical support; training; safety management; public information, inquiries and reports; cartography and basic series mapping; aviation management; telecommunications; maintenance of equipment and tools; and systems design and implementation. The percentage figure is calculated annually by the NBC and provided to the field offices.

individual: a single human being, as distinguished from a group. For purposes of this manual it also means a married couple.

interagency agreement: a written document between the Bureau and another Federal bureau or agency, State governmental agency, governing official, or governing board of a unit of local government, any agency of local government, or any organization with authority to commit itself, setting forth a policy covering respective or mutual responsibilities with regard to a ROW grant or TUP and how mutual goals and responsibilities will be carried out.

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interlocutory decision: an interlocutory decision is a decision or ruling in the course of dealing with the case, but it is not the final decision. It usually seeks information as

to why a condition exists, or similar request. The only penalty for not responding to an interlocutory decision is a final decision based on an incomplete file.

IPD-GDP: the Implicit Price Deflator, Gross Domestic Product, as published in the most recent edition of the Survey of Current Business of the Department of Commerce, Bureau of Economic Analysis. It is used to make annual or periodic adjustments to things such as the linear ROW rent schedule.

-L-

LRAM: the Lands and Realty Authorization Module system used for billings and related activities and records.

land use plan: a plan which provides by tracts or areas for the use of the public lands. They are sometimes referred to as Management Framework Plans or Resource Management Plans.

liability: the state of being legally obliged and responsible for an action.

LR2000: a data base for land and mineral records of the BLM. It is used to retrieve individual data such as a case file serial page or to compile reports by case types or geographical location.

-M-

MLA: the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

master agreement: a written agreement providing for the BLM's expeditious handling of a customer's ROW needs with or without an actual application having been previously filed. It includes cost recovery procedures.

MILS: the USGS Mineral Industry Location System database.

mitigation: the lessening of, usually adverse, impacts from an action through modification of the action or taking other action either at the site of the adverse impact or a replacement action at another site.

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monitoring: actions performed to ensure compliance with the terms, conditions, and stipulations of a grant or TUP. (1) For Monitoring Categories 1 through 4, the actions include inspecting construction, operation, maintenance, and termination of

permanent or temporary facilities and protection and rehabilitation activities until the holder completes rehabilitation of the ROW and the BLM approves it; (2) For Monitoring Category 5 (Master Agreements), those actions agreed to in the Master Agreement; and (3) For Monitoring Category 6, those actions agreed to between the BLM and the applicant before the BLM issues the grant.

monitoring fee: reimbursement to the United States for the cost of monitoring the construction, operation, maintenance and termination of the facilities within the grant areas and in protecting and rehabilitating the affected public lands. Except for Master Agreements, the BLM bases the monitoring category on the number of work hours necessary to monitor a grant.

-N-

name change: a change in the holder's identity that affects only the name of the individual or title of the corporation, company, association, partnership, etc.

negligence: failure to exercise the degree of care considered reasonable under the circumstances.

NEPA: the National Environmental Policy Act, 42 U.S.C. 43.21 et seq.

Notice to Proceed: a written authorization by the AO which allows the holder to initiate actions under the grant. A notice to proceed applies only if specifically stipulated in the grant. A notice to proceed is usually used to allow a grant to be issued, while preventing the holder from starting surface disturbing activities before a POD is approved. The AO can issue separate notices to proceed if the project involves distinct work phases and/or locations. Each notice to proceed will specify the nature of work, location, and dates to be authorized.

-O-

oil or gas: oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced from them.

on-line Payment Accounting Collection (OPAC): a Treasury subsystem that provides electronic transfer of funds between Federal agencies.

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-P-



pipeline: a line crossing Federal lands for transportation of oil or gas. The term includes feeder lines, trunk lines, and related facilities, but does not include a lessee's or lease operator's production facilities located on its oil and gas lease.

pipeline system: all facilities, whether or not located on Federal lands, used by a grant holder in connection with the construction, operation, maintenance, or termination of a pipeline.

Plan of Development (POD): a complete description of and design for the proposed project. It includes but not limited to proposed plans, specifications, construction methods, schedules, restoration practices, and other information pertinent to the proposal; the plan becomes a part of the ROW grant or permit. The plan can include sections for construction, maintenance, and termination. The content of the plan will vary with the complexity of the proposal.

prescriptive uses/rights: usually relates to an easement over another's property. Under State law such an easement may be obtained through continuous adverse, open, and notorious use of the other's property.

processing fee: reimbursement to the United States for the cost of processing a ROW or TUP application and issuing the ROW grant or TUP. Except for Master Agreements, the BLM bases the processing category on the number of work hours necessary to issue a final decision on the application.

production facilities: a lessee's or lease operator's pipes and equipment used on its oil and gas lease to aid in extracting, processing, and storing oil or gas. The term includes:

- (1) Storage tanks and processing equipment;
- (2) Gathering lines upstream from such tanks and equipment, or in the case of gas, upstream from the point of delivery; and
- (3) Pipes and equipment, such as water and gas injection lines, used in the production process for purposes other than carrying oil and gas downstream from the wellhead.

project: the transportation or other system which the ROW grant authorizes.

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project manager: a BLM employee having overall operational control in processing a ROW application or supervising a grant that is usually interstate in nature.

proponent: any individual, partnership, corporation, association, or other business entity or any State or local governmental entity including municipal corporations which is interested in applying for a ROW grant or TUP.

-R-

related facilities: those structures, devices, improvements, and sites, located on Federal lands, which may or may not be connected or contiguous to the pipeline, the substantially continuous use of which is necessary for operation or maintenance of a pipeline, such as:

- (1) Supporting structures;
- (2) Airstrips;
- (3) Roads;
- (4) Campsites;
- (5) Pump stations, including associated heliports, structures, yards, and fences;
- (6) Valves and other control devices;
- (7) Surge and storage tanks;
- (8) Bridges;
- (9) Monitoring and communication devices and structures housing them;
- (10) Terminals, including structures, yards, docks, fences, and storage tank facilities;
- (11) Retaining walls, berms, dikes, ditches, cuts and fills; and
- (12) Structures and areas for storing supplies and equipment.

release: the meaning found at 42 U.S.C. 9601(22) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

rent: a fee paid for the use and occupancy of Federal lands.

resource management plan (RMP): a plan which provides for the use and management of the public lands as required by Sec. 202 of FLPMA. It includes those prior land use plans (Management Framework Plans) developed prior to the passage of FLPMA.

right-of-way (ROW): the public or federal lands authorized to be used or occupied pursuant to a ROW grant.

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rule of reason: a standard used to differentiate reasonable and unreasonable actions or conditions.

-S-

site: a compact area, usually involving non-linear facilities such as a compressor site.

stay: a stop or delay in the effect of a decision.

stipulation: a condition, requirement, or term specified in a grant.

strict liability: liability without the need to prove intent, negligence or fault, i.e., if damage occurs, the holder is liable as long as it can be proved that the damage was caused by the holder's facility, equipment or activity.

substantial deviation: change in the authorized location or use which requires:

- (1) Construction or use outside the boundaries of the ROW or TUP area; or
- (2) Any change from, or modification of, the authorized use.

suspension: either the immediate or prompt curtailing of the activities and privileges under a grant for a period of time to protect the public health, safety or the environment or, because the holder has failed to comply with applicable laws or regulations or the terms, conditions, or stipulations of the grant.

-T-

TAPS: the Trans-Alaska Oil Pipeline System.

temporary use permit (TUP): a document the BLM issues under 30 U.S.C. 185 that is a revocable, non-possessory privilege to use specified Federal lands in the vicinity of, and in connection with a MLA ROW, to construct, operate, maintain, or terminate a pipeline or to protect the environment or public safety. A TUP does not convey any interest in land.

termination: ending a grant under one or more of these conditions: (1) the grant has expired under its own terms, (2) by operation of law, (3) the holder requests and the BLM consents to the termination in writing, or (4) the holder has failed to comply with applicable laws or regulations, or any terms and conditions of the grant.

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terms and conditions: see "stipulation."

third party: any person or entity other than the BLM, the applicant, or the holder of a ROW authorization.

transportation and utility corridor: a parcel of land, without fixed limits or boundaries that is used as the location for one or more transportation or utility ROWs.

-U-

unauthorized use: the use, occupancy, or development of the public lands without authorization or using, occupying, and developing them in a way that is beyond the scope and terms and conditions of an authorization. It includes acts or omissions causing undue or unnecessary degradation to the occupied public lands.

unit operator: the entity in charge of an oil or gas field that has been unitized.

USFS: the United States Forest Service.

-Z-

zone: one of eight geographic groupings used for linear ROW rent assessment purposes, covering all lands in the contiguous United States.