

Appendix A
ROW Grant Stipulations

IDI-33676

APPENDIX A RIGHT-OF-WAY GRANT STIPULATIONS

PROJECT PLANNING, DESIGN AND COMPLIANCE

1. The holder shall construct, operate, maintain, and terminate the facilities, improvements, and structures within this right-of-way in strict conformity with the Plan of Development and Environmental Protection Measures set forth in this grant. The Environmental Protection Measures include: the Cotterel Mountain Annual Sage-grouse Monitoring Protocol, Cotterel Mountain Avian Fatality Monitoring Protocol, and Cotterel Mountain Raptor Nesting and Migration Monitoring Protocol. Any relocation, additional construction, or use that is not in accord with the approved Plan of Development shall not be initiated without the prior written approval of the Authorized Officer. A copy of the complete right-of-way grant, including all stipulations and approved Plan of Development, shall be made available to the Authorized Officer on the right-of-way area during construction, operation, and termination activities. If BLM determines that the Holder has violated one or more of the terms, conditions, or stipulations of this right-of-way grant, BLM can order an immediate temporary suspension of activities within the right-of-way area to protect public health or safety or the environment. (43 CFR 2807.16)
2. The holder shall contact the Authorized Officer at least 14 days prior to the anticipated start of construction or any surface disturbing activities. The Authorized Officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction or surface disturbing activities on the right-of-way. The holder or his representative shall attend this conference. The holder's contractor or agent involved with construction or any surface-disturbing activities associated with the right-of-way shall also attend this conference to review the stipulations of the grant including the Plan of Development.
3. The holder shall designate a representative(s) who shall have the authority to act upon and to implement instructions from the Authorized Officer. The holder's representative shall be available for communication with the Authorized Officer within a reasonable time when construction or other surface-disturbing activities are underway.
4. The holder shall not initiate any construction or other surface-disturbing activities on the right-of-way without the prior written authorization of the Authorized Officer. Such authorization shall be a written notice to proceed issued by the Authorized Officer. Any notice to proceed shall authorize construction or use only as therein expressly stated and only for the particular location or use therein described.

5. The Authorized Officer may suspend or terminate in whole, or in part, any notice to proceed which has been issued when, in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect public health and safety or to protect the environment.
6. The holder shall perform all necessary transportation studies and recommend a road standard to meet the purpose of the main access road. This standard and the topography, soils, and geologic hazards of the lands crossed will define the level of survey and design necessary. Accepted standards for road design, including the Bureau of Land Management (BLM) 9113 Manual Section may be used.
7. The holder shall obtain the services of a licensed professional engineer to locate, survey, design, and construct the road as directed by the Authorized Officer. The road design shall be based on the width, maximum grade, and design speed of the road.
8. The holder shall submit to the Authorized Officer prior to commencement of construction, standard or typical cross sections of the road to be constructed, maintained, or reconstructed as directed by the Authorized Officer. The cross sections shall include, but are not limited to, the road width, ditch dimensions, cut and fill slopes, and typical culvert installation.
9. As directed by the Authorized Officer, the completed subgrade shall be submitted to the BLM for approval prior to any surfacing.
10. As directed by the Authorized Officer, surfacing shall be designed to accommodate anticipated loading and traffic volumes and future maintenance.
11. The design and location of all structures, including turbines, transformers, substation, batch plant, roads, and meteorological towers shall be approved by the Authorized Officer prior to construction.
12. All roads, including the main access road from State Highway 81 to the project and the project roads connecting the turbines, shall be constructed and maintained in accordance with the BLM standards found in the 9113 Manual prescribed for a collector-type road.

RESOURCE PROTECTION

1. Any cultural or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on its behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or paleontological values.

- The holder will be responsible for the cost of evaluation, and any decision as to proper mitigation measures will be made by the Authorized Officer after consulting with the holder.
2. Use of pesticides shall comply with applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer. The holder shall not make emergency use of pesticides unless approved in writing by the Authorized Officer prior to such use.
 3. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the Authorized Officer or local authorities for acceptable weed control methods.
 4. The holder shall prepare a noxious and invasive weed plan as part of the project. The weed plan shall include preconstruction weed inventories and a post construction monitoring plan to prevent and treat the spread of weeds. Construction equipment shall be cleaned and free of weeds prior to coming onto the construction site. The holder shall locate an intermediate wash station midway through the project area to prevent lower elevation weed species from moving up the Cotterel ridgeline. Only certified weed free straw and hay shall be used as mulch or for temporary erosion control measures.
 5. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and BLM Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority if known. Where General Land Office or BLM right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a BLM cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the Authorized Officer. If the BLM cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.

SURVEY AND STAKING

1. The holder shall place slope stakes, culvert location and grade stakes, and other construction control stakes as deemed necessary by the Authorized Officer to ensure construction in accordance with the Plan of Development. If stakes are disturbed, they shall be replaced before proceeding with construction.
2. No surface disturbance or construction activity will be allowed within 100 feet of any cultural sites, which are clearly marked as specified by the Authorized Officer. No deviation from this requirement shall occur unless the holder has the prior written approval of the Authorized Officer.
3. The holder shall set center line stakes to identify the location of the main access road as directed by the Authorized Officer.
4. Cut and fill slope stakes shall be set as directed by the Authorized Officer.
5. The holder shall identify and physically mark the boundaries of all construction work areas (e.g., construction right-of-way, extra work space areas, storage and contractor yards, borrow and disposal areas, access roads, etc.) that would be needed for safe construction. The holder must ensure that appropriate cultural resources and biological surveys have been conducted.

CONSTRUCTION MEASURES

1. Suitable topsoil material removed in conjunction with clearing and stripping shall be conserved in stockpiles within the right-of-way. Topsoil shall be stripped to an average depth of 4-6 inches. If deep soils are available, the holder shall segregate 6-12 inches of topsoil and stockpile accordingly.
2. The holder will rip severely compacted areas to a depth of 12". In areas where topsoil has been segregated, the holder shall rip the subsoil before replacing the segregated topsoil.
3. Excavation and embankment quantities shall be balanced as nearly as design and construction considerations allow. Any waste and/or borrow needs shall be specifically identified by the holder.
4. Excess excavated and unsuitable materials shall be disposed of as directed by the Authorized Officer.
5. Waste rock from road and turbine pad construction shall be hauled to the rock crushing plant to create material to be used for road surfacing. Excess rock shall be hauled off-site and disposed of at an approved facility.

6. Clearing and grubbing debris shall not be placed or permitted to remain in or under any embankment sections. Clearing and grubbing debris may be placed under waste material with a minimum of 3 feet of cover as directed by the authorizing officer.
7. Earthwork areas shall be cleared of vegetation and the topsoil stockpiled for future rehabilitation. Prior to fill construction, the existing surface shall be sloped to avoid sharp banks and allow equipment operations. No fills shall be made with water saturated soils. Materials shall be placed in uniform layers not to exceed 12 inches in thickness. Construction equipment shall be routed evenly over the entire width of the fill to obtain a thorough compaction.
8. The holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.
9. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of six (6) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
10. The holder shall conduct all activities associated with the construction, operation, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way.
11. Construction holes left open over night shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.
12. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.
13. The holder shall limit excavation to the areas of construction. No borrow areas for fill material will be permitted on the right-of-way. All waste material resulting from construction or use of the site by the holder shall be removed from the right-of-way.

FENCING, CATTLEGUARDS AND CULVERTS

1. Cattleguards shall be 5 feet by 16 feet and at a minimum meet the requirements of BLM Manual Section 9113.25. They shall be set on timber, precast concrete, or cast-in-place concrete bases at right angles to the roadway. Backfill around cattle guards shall be thoroughly compacted. A bypass gate shall be built adjacent to each cattleguard structure. Gate materials, dimensions, and construction shall conform to the requirements specified by the Authorized Officer.
2. Fences, gates, and brace panels shall be reconstructed to appropriate BLM standards or specifications determined by the Authorized Officer.

3. The holder shall furnish and install culverts of the gauge, materials, diameter(s), and length(s) indicated and approved by the Authorized Officer. Culverts shall be free of corrosion, dents, or other deleterious conditions. Culverts shall be placed on channel bottoms on firm, uniform beds which have been shaped to accept them and aligned to minimize erosion. Backfill shall be thoroughly compacted. No equipment shall be routed over a culvert until backfill depth is adequate to protect the culverts.
4. As directed by the Authorized Officer, construction stakes shall be set for each culvert to show location as well as inlet and outlet elevations, diameter, and length.
5. As directed by the Authorized Officer, the holder shall submit a complete culvert list to reflect the drainage plan for the main access road. The list shall include, but not be limited to, size(s), lengths, and locations of the culverts.
6. The minimum diameter for culverts shall be 18 inches.
7. All roads and parking areas shall be constructed to provide drainage and minimize erosion. Culverts shall be installed if necessary to maintain drainage. All areas to be used for roads and parking shall be surfaced with gravel.
8. Culverts and lateral ditches shall be staked for location, skew, and elevation as directed by the Authorized Officer.

ACCESS

1. Specific sites as identified by the Authorized Officer (e.g., archaeological sites, areas with threatened and endangered species, or fragile watersheds) where construction equipment and vehicles shall not be allowed shall be clearly marked on-site by the holder before any construction or surface-disturbing activities begin. The holder shall be responsible for assuring that construction personnel are well trained to recognize these markers and understand the equipment movement restrictions involved.
2. The holder shall provide for the safety of the public entering the right-of-way. This includes, but is not limited to, flagmen/women with communication systems for single-lane roads without turnouts visible from one another, and attended gates for blasting operations.
3. The holder shall permit free and unrestricted public access to and upon the right-of-way for all lawful purposes except for those specific areas designated as restricted by the Authorized Officer to protect the public, wildlife, livestock, or facilities constructed within the right-of-way.
4. Construction-related traffic shall be restricted to routes approved by the Authorized Officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the Authorized Officer. Authorized roads used by

the holder shall be rehabilitated or maintained when construction activities are complete as approved by the Authorized Officer.

5. Existing roads and trails on public lands that are blocked as the result of the project shall be rerouted or rebuilt as directed by the Authorized Officer.
6. If 'cross country' access is necessary, clearing vegetation or grading a roadbed will be avoided whenever practicable. All construction and vehicular traffic shall be confined to the right-of-way or designated access routes, roads, or trails unless otherwise authorized in writing by the Authorized Officer. All temporary roads used for construction shall be rehabilitated after construction is completed.
7. The holder shall inform the Authorized Officer within 48 hours of any accidents on BLM or Bureau of Reclamation lands that require reporting to the Department of Transportation as required by 49 CFR Part 195.
8. The holder shall plan for safe and accessible conditions at all roadway crossings and access points during construction and restoration.

POWERLINE CONSTRUCTION

1. Unless otherwise agreed to by the Authorized Officer in writing, power lines shall be constructed in accordance with standards outlined in "*Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996*" by the Avian Power Line Interaction Committee (APLIC), Edison Electric Institute and the Raptor Research Foundation, 1996 in Washington, D.C. The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe". Such proof shall be provided by a raptor expert approved by the Authorized Officer.
2. The holder shall use nonreflecting lines and conductors.
3. The holder shall evenly spread excess soil excavated from pole holes within the right-of-way and in the immediate vicinity of the pole structure.
4. The holder shall use bird deflectors or other appropriate marking devices on the transmission interconnect lines where they cross the Snake River. The holder shall also install raptor perch prevention devices on all above-ground power transmission poles.

ENVIRONMENTAL COLORATION

1. The holder shall coordinate with the Authorized Officer on the design and color of the towers, blades, poles, and transmission lines to achieve the minimum practicable visual impacts.

2. All above-ground structures not subject to safety requirements or other painting requirements specified by the Authorized Officer shall be painted by the holder to blend with the natural color of the landscape. The paint used shall be a color which simulates “Standard Environmental Colors” designated by the Rocky Mountain Five-State Interagency Committee.

EARTHWORK AND EROSION CONTROL

1. The holder shall recontour all disturbed areas, or designated sections of the right-of-way, by grading to restore the site to approximately the original contour of the ground as determined by the Authorized Officer.
2. The holder shall recontour disturbed areas and obliterate all earth work by removing embankments, backfilling excavations, and grading to re-establish the approximate original contours of the land in the right-of-way.
3. The holder shall uniformly spread topsoil over all unoccupied disturbed areas. Spreading shall not be done when the ground or topsoil is frozen or wet.
4. The holder shall construct water bars on all disturbed areas to the spacing and cross sections specified by the Authorized Officer. Water bars are to be constructed to: (1) simulate the imaginary contour lines of the slope (ideally with a grade of one or two percent); (2) drain away from the disturbed area; and (3) begin and end in vegetation or rock whenever possible.
5. As directed by the authorizing officer, all road segments shall be winterized by providing a well-drained roadway. This may be achieved by water barring, maintaining drainage, and any additional measures necessary to minimize erosion and other damage to the roadway or the surrounding public lands.
6. Temporary erosion and sediment control devices, including slope breakers and sediment barriers, will be installed promptly after soil disturbance. These devices will be inspected on a daily basis in areas of active construction; on a weekly basis in areas with no active construction; and within 24 hours of each 0.5-inch or greater rainfall. Temporary slope breakers (*e.g.*, hay bales, silt fence, earthen berms) will be constructed and maintained according to the specifications and recommendations of the BLM. The holder will install temporary sediment barriers, such as silt fence or staked straw bales, on either side of a water body channel across the width of the construction right-of-way; around spoil and topsoil stockpiles; and at the edge of the right-of-way to contain topsoil or spoil material and the flow of sediment into adjacent areas. Sediment barriers will be maintained as necessary to ensure effectiveness during construction. In steep terrain, temporary sediment barriers will be installed during clearing to prevent the movement of disturbed soil off the right-of-way. Temporary slope breakers consisting of mounded and compacted soil will be installed across the right-of-way during grading.

7. Surface water quality shall be protected from impacts of construction with sediment barriers that shall be maintained until satisfactory reclamation is established.

SEEDING AND MULCHING

1. The holder shall prepare a seedbed by scarifying the disturbed area, distributing topsoil uniformly, or by disking the topsoil as directed by the Authorized Officer.
2. The holder shall seed all disturbed areas with the seed mixture(s) listed below. The seed mixture(s) shall be planted in the amounts specified by the Authorized Officer in pounds of pure live seed (PLS)/acre.

There shall be no primary or secondary noxious weed seed in the seed mixture. Seed shall be tested and the viability testing of seed shall be done in accordance with State law(s) and within 6 months prior to purchase. Commercial seed shall be either certified or registered seed. The seed mixture container shall be tagged in accordance with State law(s) and available for inspection by the Authorized Officer. Seed shall be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture shall be evenly and uniformly planted over the disturbed area. (Smaller/heavier seeds have a tendency to drop to the bottom of the drill and are planted first. The holder shall take appropriate measures to ensure this does not occur.) Where drilling is not possible, seed shall be broadcast and the area shall be raked or chained to cover the seed. When broadcasting the seed, the pounds per acre noted below are to be doubled. The seeding will be repeated until a satisfactory stand is established as determined by the Authorized Officer. Evaluation of growth will not be made before completion of the 2nd season after seeding. The Authorized Officer is to be notified a minimum of 14 days prior to seeding of the project.

The seed mixture shall be approved by the Authorized Officer as follows:

- a. Species of Seed Variety Pounds/acre PLS of: three types of blue bunch wheatgrass (goldar, secar and anatone) at 2 lbs/acre each, prairie june grass at 1 lb/acre, mountain big sagebrush 1 lb/acre, and low sagebrush 1 lb/acre.
 - b. Total of 10-12 lbs/acre PLS.
 - c. Pure Live Seed (PLS) formula: % of purity of seed mixture times % germination of seed mixture = portion of seed mixture that is PLS.
3. The holder will apply clean, weed-free straw mulch to all disturbed areas. Mulch will be applied concurrent with or immediately after seeding, where necessary to stabilize the soil surface and to reduce wind and water erosion. Mulch will be uniformly spread over at least 75 percent of the ground surface in disturbed areas to minimize the effects of water and wind erosion and to preserve moisture in areas requiring vegetation. Mulch will be anchored by disking or punching, depending on the slope.

FIRE PROTECTION

1. The holder shall prepare a fire prevention and suppression plan, which shall be reviewed, modified, and approved, as appropriate, by the Authorized Officer. The holder shall take into account such measures for prevention and suppression of fire on the right-of-way and other public land used or traversed by the holder in connection with operations on the right-of-way. Project personnel shall be instructed as to individual responsibility in implementation of the plan.
2. During construction, operation, maintenance, and termination of the right-of-way during the period from July 1 to Sept. 15, vehicles, gas-powered equipment, and flues shall be equipped with spark arresters approved by the Authorized Officer.
3. When requested by the Authorized Officer, the holder shall make its equipment, already at the site with operators, temporarily available for fighting fires in the vicinity of the project. Payment for such services will be made at rates determined by the Authorized Officer.

LIABILITY AND BONDING

1. The holder shall be liable for damage or injury to the United States to the extent provided by applicable regulations (43 CFR 2807.12). The holder shall be held to a standard of strict liability for damage or injury to the United States resulting from fire or soil movement (including landslides and slumps as well as wind and water-caused movement of particles) caused or substantially aggravated by any of the following within the right-of-way:

- (1) Activities of the holder, including but not limited to, construction, operation, maintenance, and termination of the project.

Activities of other parties including but not limited to:

- a. Land clearing and logging.
- b. Earth-disturbing and earth-moving work.
- c. Blasting.
- d. Vandalism and sabotage.

The maximum limitation for such strict liability damages shall not exceed (\$2,000,000) for any one event, and any liability in excess of such amount shall be determined by the ordinary rules of negligence of the jurisdiction in which the damage or injury occurred. This section shall not impose strict liability for damage or injury resulting primarily from the negligent acts or omissions of the United States.

2. The holder shall be responsible for repairing/replacing any resources lost by grazing permittees or the United States as a result of the project. Resources may include, but not be limited to, stock water pipelines, livestock, forage for livestock grazing (except

for permanent project roads), spring (water) production, and the ability to graze livestock. Any lost resources shall be repaired, replaced in kind, or compensated for by mutual agreement.

3. A bond, acceptable to the Authorized Officer, shall be furnished by the holder prior to the issuance of a notice to proceed or at such earlier date as may be specified by the Authorized Officer. The amount of this bond shall be determined by the Authorized Officer. This bond must be maintained in effect until removal of improvements and restoration of the right-of-way have been accepted by the Authorized Officer.
4. Should the bond delivered under this grant become unsatisfactory to the Authorized Officer, the holder shall, within 30 days of demand, furnish a new bond.

ROAD AND CONSTRUCTION SITE MAINTENANCE

1. If snow removal from the main access road is undertaken, equipment used for snow removal operations shall be equipped with shoes to keep the blade two (2) inches off the road surface. The holder shall take special precautions where the surface of the ground is uneven and at drainage crossings to ensure that equipment blades do not destroy vegetation.
2. The holder shall maintain the right-of-way in a safe, usable condition, as directed by the Authorized Officer. A regular maintenance program shall include, but is not limited to, blading, ditching, culvert installation, and surfacing.
3. Except rights-of-way expressly authorizing a road after construction of the project is completed, the holder shall not use the right-of-way as a road for purposes other than routine maintenance as determined necessary by the Authorized Officer in consultation with the holder.
4. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. 'Waste' means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
5. For the purpose of determining joint maintenance responsibilities, the holder shall make road use plans known to all other authorized users of the main access road. The holder shall provide the Authorized Officer, within 30 days from the date of the grant, with the names and addresses of all parties notified, dates of notification, and method of notification. Failure of the holder to share proportionate maintenance costs on the common use access road in dollars, equipment, materials, or manpower with other authorized users may be grounds to terminate the right-of-way grant. The determination as to whether this has occurred and the decision to terminate shall rest with the Authorized Officer acting in compliance with applicable regulations (43 CFR 2807.17 through 2807.19) Upon request, the Authorized Officer shall be provided with copies of any maintenance agreement entered into.

HAZARDOUS MATERIALS

1. The holder shall comply with all applicable Federal, State, and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazardous materials, as defined in this paragraph, that will be used, produced, transported, or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance, or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, or material defined as hazardous, a pollutant, or contaminant under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations See 43 CFR 2801.5. The definition of "hazardous substance" under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6901 et seq. and its regulations. The term "hazardous material" also includes oil, regulated substances contained in or released from underground storage tanks, or other substances that applicable law define and regulate as hazardous and any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term "hazardous substance" does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.
2. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous material (as these terms are defined in the CERCLA or the RCRA) on the right-of-way unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way. This applies without regard to whether the release is caused by the holder, its agent, or unrelated third parties.
3. The holder shall submit a contingency plan for hazardous materials to the Authorized Officer prior to scheduled start up. The plan will:
 - a. Include provisions for the control of oil spills or spills of other pollutants;
 - b. Provide that agencies responsible for contingency plans in southern Idaho shall be among the first to be notified in the event of any transformer failure resulting in a spill of oil or other pollutant;
 - c. Provide for restoration of the affected resource;
 - d. Provide that the Authorized Officer shall approve any materials or devices used for oil spill control and any disposal sites or techniques selected to handle oil, matter, or other pollutants; and
 - e. Include separate and specific techniques and schedules for cleanup of spills of oil or other pollutants on land or waters.
4. The holder shall not refuel any equipment within 500 feet of any live water source.

AIR QUALITY

1. The holder shall meet Federal, State, and local emission standards for air quality and shall submit for the Authorized Officer's review a technical report addressing criteria and methodology of how the Cotterel Wind Power Project will be located and designed to meet said standards.
2. The holder shall furnish and apply water or other means satisfactory to the Authorized Officer for dust control.
3. The holder will be responsible for controlling dust by reducing travel speed and/or applying dust suppressants (e.g., magnesium chloride or other agency-approved materials). Dust will be considered a nuisance/hazard when a visible plume of dust extends more than 300 feet from the source and an estimated opacity exceeding 20 percent (objects partially obscured). Additional methods of dust control that may be used by the holder include, but are not limited to:
 - a. Application of water or magnesium chloride to access roads or sections of the right-of-way as needed to suppress dust;
 - b. Application of water to specific activities on the right-of-way that generate dust plumes (e.g., trenching or blasting);
 - c. Curtailing of dust-generating activities during high winds;
 - d. Implementation of mandatory speed limits on vehicles using access roads or traveling the right-of-way; and
 - e. Limitation of number of vehicles allowed on the right-of-way.

BLASTING

1. The holder shall conduct pre- and post-blasting surveys of springs within 500 feet of the blast site. Ground vibrations shall be monitored at the blast site and at these spring locations. If springs are damaged, the holder shall replace a like amount of lost water or otherwise compensate the owner.
2. The holder shall limit blasting to the hours of 8 am to 5 pm Monday through Friday and shall limit heavy truck traffic through communities to the same hours.

CIVIL RIGHTS

The holder or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and the regulations of the Secretary of the Interior issued pursuant thereto.

RIGHT-OF-WAY TERMINATION

Ninety days prior to termination of the right-of-way, the holder shall contact the Authorized Officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination and rehabilitation plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. A plan approved in writing by the Authorized Officer must be in place prior to the holder's commencement of any termination activities.

RESPONSIBILITIES OF ENVIRONMENTAL INSPECTOR(S)

The holder shall institute an environmental inspection program that shall be responsible for:

1. Ensuring compliance with the requirements of the Plan of Development and the Environmental Protection Measures of the right-of-way grant authorization and the mitigation measures proposed by the holder (and approved or modified by the right-of-way grant), other environmental permits and approvals;
2. Identifying, documenting, and overseeing corrective actions, as necessary to bring an activity back into compliance;
3. Verifying that the limits of all authorized construction work areas and locations of access roads are properly marked before clearing;
4. Verifying the location of signs and highly visible flagging marking the boundaries of sensitive resource areas, drainages, water bodies, or areas with special requirements along the construction work area;
5. Identifying erosion/sediment control and soil stabilization needs in all areas;
6. Ensuring that the location of dewatering structures and slope breakers will not direct water into known cultural resources sites or locations of sensitive species;
7. Verifying that trench dewatering activities do not result in the deposition of sand, silt, and/or sediment near the point of discharge into a drainage or water body. If such deposition is occurring, the dewatering activity shall be stopped and the design of the discharge shall be changed to prevent reoccurrence;
8. Ensuring that subsoil and topsoil are tested in areas to measure compaction and determine the need for corrective action;
9. Advising the Construction Contractor when conditions (such as wet weather) make it advisable to restrict construction activities to avoid excessive rutting;
10. Ensuring restoration of contours and replacement of topsoil;

11. Verifying that any soils or materials imported for use have been certified as free of noxious weeds;
12. Determining the need for and ensuring that erosion controls are properly installed, as necessary to prevent sediment flow into drainages, water bodies, sensitive areas, and onto roads;
13. Inspecting and ensuring the maintenance of temporary erosion control measures at least:
 - a. on a daily basis in areas of active construction or equipment operation;
 - b. on a weekly basis in areas with no construction or equipment operation; and
 - c. within 24 hours of each 0.5 inch of rainfall;
14. Ensuring the repair of all ineffective temporary erosion control measures within 24 hours of identification;
15. Keeping records of compliance with the environmental conditions of the right-of-way grant, and the mitigation measures proposed by the holder in the application submitted to the BLM; and
16. Identifying areas that should be given special attention to ensure stabilization and restoration after the construction phase.

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