



**Bureau of Land Management  
LANDS & REALTY  
Publications (Revised February 5, 2008)**

## **OBTAINING A RIGHT-OF-WAY ON PUBLIC LANDS**

### **Bureau of Land Management Right-Of-Way Program**

Each year, thousands of individuals and companies apply to the Bureau of Land Management (BLM) to obtain a right-of-way (ROW) on public land. A ROW grant is an authorization to use a specific piece of public land for a certain project, such as roads, pipelines, transmission lines, and communication sites. A ROW grant authorizes rights and privileges for a specific use of the land for a specific period of time. Generally, a BLM ROW is granted for a term appropriate for the life of the project.

The BLM places a high priority on working with applicants on a proposed ROW to provide for the protection of resource values and to process the application expeditiously. This brochure is designed to acquaint you with this process. A more complete explanation of the BLM ROW program is found in Title 43 of the Code of Federal Regulations, Parts 2800 and 2880. Copies of these regulations are available at all BLM offices. The regulations include a customer service standard that BLM is committed to. BLM strives to provide ROW applicants a decision within 60 days from the receipt of a completed application. We will notify applicants after 30 days if the application processing will take longer, and identify a date when a decision on your application can be reasonably expected. See the [Customer Service Standard Flow Chart](#) for timeframes.

Careful advance planning with BLM personnel who will be handling your application is the key to success. If they know about your plans early, they can work with you to avoid many problems and costly delays later on in the process.

If you are not familiar with local BLM jurisdictions, the best place to start is by contacting a BLM State Office listed in the back of this brochure. Each State Office oversees a number of Field Offices. Depending on your project, you may be working primarily with personnel at a BLM Field Office.

### **WHEN YOU DO and WHEN YOU DON'T NEED A ROW**

As a general rule, you **do** need a ROW whenever you wish to build a project on the public land. Some examples of land uses which require a ROW grant include: electric transmission lines, communication sites, roads, highways, trails, telephone/fiber optic lines, canals, flumes, pipelines, reservoirs, etc.

You **don't** need a ROW for so-called "casual use." What kinds of activities are considered "casual use"? Examples include driving vehicles over existing roads, sampling, surveying, marking routes, collecting data to prepare an application for a ROW, and performing certain activities that do not cause any appreciable disturbance or damage to the public land, resources or improvements.

Depending on the specifics of your proposed activity, uses on the public land can be either casual use or will require a ROW grant. It's a good idea to contact the BLM and discuss your plans before assuming your use is casual. The BLM can then make a judgment on the requirements in your particular case.

## **INITIAL STEPS IN APPLYING FOR A ROW**

1. Contact the [BLM office](#) with management responsibility for the land where the ROW is needed.
2. Obtain an Application Form ([Standard Form 299](#) (563 KB PDF) "Application for Transportation and Utility Systems and Facilities on Federal Lands"). You must use this form to file an application except for oil and gas operators where a completed Sundry Notice or Application for Permit to Drill includes information on related ROWs that are needed.
3. Arrange a pre-application meeting with a BLM Realty Specialist or appropriate staff member. Jointly review the application form and requirements to determine what information is needed. In some cases it may be possible to arrange for a pre-application meeting at the location of your proposed ROW.
4. When you have assembled all of the required information, bring or mail the application to the appropriate BLM office.

## **PRE-APPLICATION MEETING**

The BLM wants to make the application process as easy as possible. The pre-application meeting provides the opportunity for you to fully discuss and describe your proposal in detail and provides an opportunity for BLM to fully explain the processing requirements. If possible, you should review the application form (SF-299) before the pre-application meeting. You can fill it out before or during the pre-application meeting with the BLM. Be sure to bring any information that may be useful during this session, such as a map of your project area (Item 8 of the application). You may already have a survey or another adequate map that will satisfy this requirement and provide additional information for processing your application.

The pre-application meeting will also cover fees, safety, work schedules, and other items. This meeting has the potential to save both you and the BLM time and expense.

## **COMPLETING THE APPLICATION (Standard Form 299)**

Directions for completing the application are included on page 3 of the form ([Standard Form 299](#)), however, the following instructions may also assist you. Incomplete information is often the reason application processing periods are unnecessarily delayed.

The application form is considered **complete** when information has been provided for the following items:

Required: Items 1, 3, 4, 5, 7, 8, 12, 13, 19, signature, and date.

Required if applicable: Items 2, 6, 11, 20 and “Supplemental” page 4, if a business entity.

Optional: Items 9 and 14 through 18.

### **Detailed Instructions:**

**Item 6—Citizenship:** This applies only to oil and gas pipelines, which are authorized under the Mineral Leasing Act (MLA); wherein applicants must be citizens of the United States. Citizenship is required of all partners in a partnership. Aliens may own or control stock in corporations if the laws of their countries do not deny similar privileges to citizens of the United States.

**Item 7—Project Description:** This section requires you to provide details about the project you are applying for. Be as specific as possible in describing the project, its location, and dimensions. Include the legal description of the affected public land. You may need to attach separate sheets as the space in this block is limited and we recommend you review the list of items found under the heading of “ROW – Plan of Development Outline” that follows. Detailed lists and examples of PODs for particular types of projects (roads, power lines, wind energy, etc.) are also available on the [Pre-Application website](#). This POD outline should help you thoroughly describe your project from the initial construction phase through termination and rehabilitation of the public land. You should also describe any temporary or short-term use areas needed (See the section on Temporary Use Permits or Short-term ROW for more information).

**Item 8—Map:** Attach a map (BLM intermediate scale map, 1:100,000; U.S. Geological Survey quadrangle; aerial photo; or equivalent) showing the approximate location of the proposed ROW on public land and existing improvements adjacent to the proposal. Only improvements that may directly affect the proposal need to be shown on the map. Include the township, range, section, and a north arrow.

**Item 9—State or local government approval:** It is not mandatory to submit documentation of other approvals at the time you submit your application. However, the authorized officer may require other agency approvals prior to or during the application processing.

Item 10— Nonreturnable application fee: The fees are discussed in the COSTS section below. No fees are required at the time you file your application with BLM. BLM will determine the appropriate [Processing Category fee](#) once you have submitted your complete application and will notify you of the fee in writing.

Item 12—Statement of technical and financial capability: If you have no doubts about your capability to complete the project, write in "[I am/We are] technically and financially capable of completing the project described in this application." The BLM Authorized Officer may require you to post a performance bond or to hire a registered/licensed engineer, depending upon the scope and complexity of your project.

Item 13 —Describe reasonable alternatives: Complete parts a. through c. to help BLM understand alternatives that could be considered in the analysis of this project.

Items 14 through 18--It is generally not necessary to complete these items. However, if you have information or have conducted studies that address these items, the information should be submitted to accelerate the processing of the application.

Item 19—Hazardous Materials: It is mandatory to provide information related to the use or transportation of any hazardous materials. Do not write "N/A" in this block but you may state "None".

Signature and Date blocks—The application must be signed and dated. If you are allowing an Authorized Agent to act on your behalf, and you want them to sign the application or authorization on your behalf, please complete Item 2. on the application and include evidence of permission allowing the other person to act as your Authorized Agent.

Supplemental (page 4 of application)—This information is needed for all business entities. For all applications filed under the FLPMA, check the appropriate boxes and if the information has been previously submitted with another BLM ROW application or grant, provide the name of the office and file identification numbers. For all applications filed under the MLA, complete only Section I - f. and g. and Section II – e. or Section III – d., as these pertain only to oil and gas pipelines authorized under the MLA.

An application consists of a completed application form (Standard Form 299) and map. When you have all the required information, bring or mail the application to the appropriate BLM office.

## **COSTS**

There are three different fees or charges involved for processing ROWs. These three fees are adjusted annually based on inflation indices:

**Processing Fee** – Applicants are required to reimburse the United States in advance for the cost of processing an application. The fees are based on the amount of time BLM

estimates it will take to process your application and issue a decision to grant or deny the application. BLM will determine the appropriate Processing Category fee, once you have submitted your complete application, and will notify you in writing of this fee. You must submit the appropriate payment before BLM will begin processing your application.

There are six Processing Fee Categories. Categories 1 through 4 are one-time, non-refundable fees based on the number of federal work hours involved to process an application. The [Processing Fee Schedule](#) is available at BLM offices. Category 5 is for Master Agreements which are negotiated with a single applicant for processing and monitoring multiple applications covering facilities within a specific geographic area. Any application that requires more than 50 hours to process is a Category 6 which requires the applicant to reimburse BLM for the full costs of processing your application.

**Monitoring Fee** – A Monitoring fee is charged to reimburse the BLM for monitoring the construction, operation, maintenance, and termination of the project, including protection and rehabilitation of the public lands involved. BLM categorizes this fee based on the estimated number of work hours necessary to monitor your grant. [Monitoring fees](#) in Categories 1 through 4 are one-time, non-refundable fees. Category 5, for Master Agreements, and Category 6, involving more than 50 hours of monitoring, are the same as described above. BLM will determine the appropriate Monitoring Category fee and will notify you in writing of this fee. You must pay the monitoring fee before BLM issues you a grant.

**Rent** - The third charge is the annual rent. The Linear Rent Schedule is adjusted annually based on changes to the Implicit Price Deflator Index (an inflation index), The Communication Uses Rental Schedule is adjusted annually based on changes to the Consumer Price Index, All Urban Consumers (CPI-U). The rent for linear and communication site ROWs on public land is established via two separate administrative schedules (see [Linear Schedule](#) or [Communication Uses Schedule](#)). These schedules are based on land values in the project area and, in some cases, the rent is established by an appraisal. BLM will notify you of the initial rent amount due. You must pay rent for the initial rent period before BLM issues you a grant.

**No processing fee, monitoring fee, or rent is required for:**

- State or local agencies or instrumentalities thereof (except municipal utilities and cooperatives whose principal source of revenue is customer charges) where the land will be used for governmental purposes and the land resources will continue to serve the public interest.
- Road use agreements or reciprocal road agreements.

Other exemptions, waivers, or reductions in the processing and monitoring fees and/or rent may apply and can be explained by BLM officials during the pre-application meeting.

## **BONDS**

BLM may require you to post a cash or surety bond.

## **REMEMBER TO PLAN AHEAD**

You should arrange for your pre-application meeting well in advance of when you would like to start work on the project. BLM will try to process your completed application in 60 calendar days if it is in a Category 1 through 4. You will be notified, in writing, if it is expected to take longer than 60 days to process. Applications for Category 5 projects are processed based on the agreement that is negotiated. Applications for Category 6 projects can take much longer. The Field Office Manager and staff are ready to provide information, advice, and assistance to help you prepare an application.

## **TEMPORARY USE PERMIT (TUP – for MLA oil & gas pipelines) or SHORT-TERM ROW (FLPMA facilities)**

Keep in mind that all activities associated with the construction, operation and termination of your ROW must be within the specified limits (length, width, etc.) of the authorization. Temporary construction needs should be discussed during the pre-application meeting. You can apply for a TUP/short-term ROW at the same time you apply for a ROW by describing its dimensions, locations, and term needed in Item 7. of the ROW application (SF-299), or by describing it in your Plan of Development. This additional land may be necessary for construction, stock piling of excess materials, equipment parking, etc. These authorizations can be granted for up to 3 years.

You may also apply for a TUP/short-term ROW after your ROW has been granted. In this case, you would use a separate SF-299 form, and would pay additional processing/monitoring fees for BLM to process the authorization. This might require a separate environmental analysis and take additional processing time. If there is a possibility that you may need extra construction width or space, it is best to identify this in your ROW application.

## **ROW - PLAN OF DEVELOPMENT (POD) OUTLINE**

For use in completing Item 7, Project Description on the SF-299

### **I. DESCRIPTION OF THE FACILITY (e.g., road, pipeline, utility line, etc.)**

What is to be built?

What will it be used for?

Why is it necessary to use public lands?

When do you propose to construct? Specify duration and timing if known.

How long is the authorization needed?

Is an additional temporary construction area needed? List the needs for additional space outside of the ROW grant area. Include the type of proposed use, dimensions, duration of the temporary use needed, including time to rehabilitate the site.

**II. DESIGN CRITERIA** - The degree of design must be compatible with the proposed use and anticipated environmental impacts. All disturbances must be within the boundary of the ROW/TUP.

**A. Road Specifications** ([Road POD Outline](#))

- Length and total width of ROW; width of road surface; maximum grade of road
- Minimum/maximum clearing width
- Cut/fill slope ratios
- Type and location of drainage structures, cattle guards, fences, gates
- Proposed surfacing type (gravel) and quantities, dust abatement
- Centerline survey plat
- Design drawings including: Plan and Profile sheets, typical roadway cross-sections, culvert installation details, grade dip detail (water bars, rolling dips, etc.), cattle guard, fence and gate details
- Construction specifications
- Materials specifications

**B. Pipeline Specifications** ([Pipeline POD Outline](#))

- Length and width of ROW/TUP
- Diameter of pipe and type of material
- Depth of pipeline
- Size of trench
- Construction access requirements during and after construction
- Construction equipment requirements
- Survey plat
- Site specific engineering surveys for critical areas
- Cathodic protection site, valve stations, compressor stations

**C. Power Line Specifications** ([Powerline POD Outline](#))

- Length and width of ROW
- Size, number and type of conductors
- Height and size of tower/poles
- Vegetation clearance requirements
- Raptor proof design
- Construction access and equipment requirements
- Transformers, substations, anchor locations, pulling sites
- Marker ball installations

**D. Communication Site Specifications** (pertain to non-linear sites) ([Communication Site POD Outline](#))

- Site dimensions
- Size of all structures (building, towers, guys)
- Site design plan
- Utility requirements (power, phone)
- Access requirements during and after construction
- Technical data report including specifications of equipment, frequency of transmissions
- FCC license
- Compatibility with other users

**III. CONSTRUCTION OF THE ROW FACILITY** - Most surface disturbing activities associated with a ROW occur during this phase of the project. The following components have been found to be common to most ROW construction projects. These items, where relevant, should be carefully described in the Plan of Development.

A. Flagging and Staking the ROW/TUP.

- Stake centerline and/or the exterior limits of the ROW
- Construction staking, cut and fill areas, clearing limits

B. Clearing and Grading of the ROW/TUP.

- State how much topsoil will be saved, show where it will be stockpiled and how it will be spread
- Describe disposal of all woody vegetation (trees, stumps and brush) cut on the ROW

C. Earthwork

- Engineering and quality control
- Excavation and placement of embankment
- Borrow material sources
- Removal of structures and obstructions
- Disposal of unsuitable excavated materials (e.g. oversize rock, weak soils, etc.)
- Soil erosion and water pollution control measures

D. Structure Installation - Describe how improvements will be constructed i.e., constructed on-site, prefabricated and delivered to the site, concrete cast-in-place, precast concrete, etc.

E. Stabilization, Rehabilitation and Revegetation

1. Soil replacement and stabilization. (Explain how soil will be stabilized in the project area).

- Recontouring all disturbed areas to restore original contours



- Placement of waterbars and/or other erosion control structures

## 2. Seeding Specifications

- Seed mixture (certified seed required)
- Rate, method, schedule for seed application
- Application of mulch (straw, burlap, hydromulch) and locations
- Application of fertilizer (type, location, rates)
- Criteria for determining success of revegetation

## **IV. OPERATION AND MAINTENANCE OF THE FACILITY** - Describe what maintenance is required and the anticipated level of use

- State when and how scheduled maintenance will be performed
- Snow removal, road grading, building maintenance

## **V. TERMINATION AND REHABILITATION** - Provide a written plan describing the actions required to terminate the use and rehabilitate the ROW area

- Removal of facilities (who, how, when) and method for reclamation of disturbed areas

## **VI. MISCELLANEOUS INFORMATION NEEDS**

A. Waste Disposal - Trash, construction debris, solid waste and hazardous waste

B. Traffic Control Plan – Barricades, construction signs, flaggers

C. Safety Plan for employees, contractors, general public

D. Fire Prevention Plan

E. Spill Prevention and Contingency Plan: Preventive measures, notification of proper authorities, Incident Response/Containment measures, testing and cleanup measures

F. Pesticide Use Proposal - application to BLM describing plans for controlling noxious weeds (chemicals, rate, method of application, etc.)

## **HOW BLM PROCESSES YOUR ROW APPLICATION**

Once you have filed an application with BLM (SF-299 completed with maps, POD, and other details) it will be reviewed to make sure all necessary information has been included. The application is then evaluated to ensure the proposed use is in conformance with the BLM land use plan and that there are no other conflicts, such as other valid existing rights currently on the lands requested in your application. BLM has the discretion to grant a ROW if doing so is in the public interest.

If your proposed use is in conformance with the BLM plans and there are no apparent conflicts, BLM will determine the Processing Fee Category based on the number of federal work hours expected to process the application. BLM will request you to pay the non-refundable processing fee and request any additional information that is needed. Once the processing fees have been received, BLM will start processing your application. If BLM determines it will take more than 60 days to process your application, you will be notified of the expected timeframe for processing the application. Please refer to the [Customer Service Standard Flow Chart](#) for more information.

ROW applications are generally processed in the order they are received. A thorough, complete application can move ahead of a deficient, problem-riddled application. ROW applications often compete against other land use applications and other priority workloads. For this reason, applicants may have to wait for extended periods of time for the BLM specialist to complete required inventories or to consult with other agencies. Other points to consider are weather and season of the year. Application processing may come to a standstill while waiting for inventory work or studies to be completed. For example, if you filed an application late in the fall and the BLM archaeologist already had other workloads committed for that year, the archaeologist may not be able to complete the field work prior to snowfall and the application may be delayed until the next summer. If specific resource issues are identified on the proposed project area it can prolong the processing time.

Once BLM has completed the necessary reviews, inventories and reports, you will be notified in writing if the ROW will be granted or denied. If the ROW will be granted, BLM will request you to review and sign the ROW Grant and to pay the rent and monitoring fee (See COSTS section). Once all the necessary fees have been received and you have signed and returned the ROW Grant, the BLM Authorized Officer will sign and return a copy of the completed ROW Grant to you.

The BLM will inspect and monitor your project for compliance with the terms and conditions of the grant. In addition, the BLM reserves the right of access onto the public lands covered by the ROW grant and, with reasonable notice to the holder, the right of access and entry to any facility constructed in connection with the project.

### **Applicant Contributions to the ROW Process**

One option you may wish to consider is contracting with qualified individuals or firms to perform required inventories when the BLM has other competing workloads. The BLM may accept the work of certain qualified individuals and firms that hold permits to do cultural resources and Threatened and Endangered Species (T&E) inventories on the public lands. These firms do the field inventory and write reports for BLM approval. This can often significantly reduce the processing time for your application and may also reduce the processing fee. These items should be discussed with the BLM at the pre-application meeting.

**A ROW application may be denied for any one of the following reasons:**

--The proposal is not in conformance with the applicable Land Use Plans, i.e., purpose for which the public lands are managed.

--The proposal would not be in the public interest.

--The applicant is not qualified.

--The proposal is inconsistent with Federal, State, or local laws.

--The applicant is not technically or financially capable of accomplishing the project.

--Serious environmental consequences may occur from the proposed project that cannot be mitigated.

Reminder: A pre-application meeting can reduce the possibility of the application being denied.

## **YOUR RESPONSIBILITIES AS A ROW GRANT HOLDER**

Once you have a signed ROW grant, you can proceed with your plans, unless your grant has a Notice to Proceed stipulation. In this circumstance, BLM will notify you in writing when you can begin activities on the area authorized in the grant. A ROW holder may use the ROW only for those purposes authorized in the grant. You will need to follow the terms and conditions in the ROW Grant. You are responsible for notifying the local BLM office of any changes in your address or legal rights to hold the ROW grant.

The ROW grant holder is responsible for damage or injuries to the United States Government in connection with the holder's use of the ROW. The ROW grant holder indemnifies or insures the United States Government harmless for third party liability, damages, or claims arising from the holder's use and occupancy of the ROW. The BLM may suspend or terminate a ROW if the holder does not comply with the applicable laws, regulations, terms, or conditions. The BLM may also add additional terms and conditions to the grant, including bonding, and require an immediate temporary suspension of activities within a ROW, to protect the public health and safety or the environment.

### **ROW Amendments:**

If you want to change, improve, or add to your project once you have a ROW grant you will need to get approval from BLM (see Amendments in the [Grant Administration](#) section of the ROW website). Contact the Field Office Manager to determine if your proposed changes require an amendment to your ROW grant.

You must complete form [SF-299](#) (also see the [Forms](#) section of the ROW website) to amend your ROW grant and receive prior written approval from the BLM for any change in location or authorized use during construction, operation, or maintenance of the ROW. BLM will process your request for amendment in the same manner as a new application

including new terms and conditions, cost recovery fees, monitoring fees, bonding, and may include an adjustment to the rent.

### **ROW Assignments:**

If you wish to transfer all or part of your ROW to another person/entity, this is called an Assignment. The person who wants the ROW Grant (Assignee) must apply to BLM using a form [SF-299](#) (also see the [Forms](#) section of the ROW website). The proposed Assignee fills out questions 1-6, and 12 and provides the form to the local BLM office. In addition, the ROW Grant holder (Assignor) must sign a document agreeing to the assignment, and the proposed assignee must sign a statement agreeing to be bound by the terms and conditions of the grant (see Assignment Statements in the [Grant Administration](#) section of the ROW website).

The assignment to the new owner is not legally recognized by the United States until it has been approved in writing by the BLM. If the new owner is qualified and agrees to be bound by all of the requirements of the ROW grant, and the ROW is in compliance with all its terms and conditions, the BLM will approve the assignment. A processing fee will be charged for the assignment process.

### **ROW Renewals**

If your ROW grant specifies that it is renewable, you must apply to BLM to renew it at least 120 calendar days before your grant expires (refer to [SF-299](#) from the [Forms](#) section of the ROW website) BLM will renew the grant if you are in compliance with its terms and conditions. If your grant does not address whether it is renewable, you may apply to BLM to renew your grant at least 120 calendar days before your grant expires. BLM has the discretion to renew the grant, if doing so is in the public interest, and may change or add terms and conditions to the new ROW Grant. (See Renewal Guidance in the [Grant Administration](#) section of the ROW website).

## **APPEAL RIGHTS**

Any party to a case who is adversely affected by a decision of the Bureau of Land Management has the right to appeal that decision. If your ROW application is denied, BLM will provide you with a written decision and explain the reasons for denying the ROW as well as information on how and where to file an appeal, should you so desire. Appeal rights also pertain to other decisions, such as the determination of the processing and monitoring categories.

## **FOR MORE INFORMATION**

Please contact the [BLM State Office](#) in your area for any questions or information concerning how to obtain a right-of-way on public lands.