

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

Issuing Office

Vale District

Serial Number

OR 54261

1. A (right-of-way) ~~(easement)~~ is hereby granted pursuant to:

- a. Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
- b. Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
- c. Other (describe) _____

2. Nature of Interest:

a. By this instrument, the holder Umatilla County Public Works Department receives a right to ~~construct~~ operate, maintain, and terminate a paved road, known as Bensel Road #1268 on public lands (or Federal land for MLA Rights-of-Way) described as follows:

Willamette Meridian

T. 5N., R. 28E.,
sec. 22, lot 1, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ (R/W centered on south boundary);
sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

Umatilla County, Oregon

As shown on attached map (Exhibit B)

b. The right-of-way or permit area granted herein is $\frac{33}{60}$ feet wide, $\frac{1375}{1400}$ feet long and contains 3.0 acres, more or less. If a site type facility, the facility contains _____ acres.

c. This instrument shall terminate on perpetual, _____ years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

d. This instrument may may not be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: None - Local Government (43CFR 2803.1-2(b)(1)(i))

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A & B, dated 5/22/98, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

John Phillip

(Signature of Holder)

Penelope J. Dusan

(Signature of Authorized Officer)

Roadmaster

(Title)

Area Manager

(Title)

4/22/98

(Date)

8/26/98

(Effective Date of Grant)

Stipulations

1. The holder shall confine all use, maintenance, and rehabilitation activities to the existing roadway and its appurtenant facilities. No activity is permitted outside of the existing disturbed area.
2. If the holder shall not use the right-of-way for a continuous five year period for the purpose for which it was granted, the right-of-way will be presumed abandoned (43 CFR 2803.4(c)).

If the abandoned structures or improvements are not removed within a reasonable length of time, as determined by the Authorized Officer, they will become the property of the United States. The holder will be liable for any expense in removing the structures and restoration of the site (43 CFR 2803.4-1).
3. 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. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
4. 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 and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
5. Use of pesticides shall comply with the 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. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.
6. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant.
7. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any persons working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. 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 scientific 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.

8. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.
9. 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 Bureau of Land Management 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 Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land survey or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions of the Survey of the Public Lands of 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 Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
10. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 716.1-761.193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102 b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
11. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (43 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the right-of-way (unless the release or threatened release is

wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

12. 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.
13. The holder of this right-of-way grant 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.
14. The holder shall conduct all activities associated with the construction, operations, and termination of the right-of-way within the authorized limits of the right-of-way.
15. The holder shall take such measures for prevention and suppression of fire on the grant area and adjacent public lands or public lands used or traversed by the holder in connection with operations as are required by applicable laws and regulations.
16. The authorized officer reserves the right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant.
17. This right-of-way is subject to valid existing rights.

Exhibit "B"
OR 54261
5/22/98

R. 28E.

UMATILLA

IRRIGATION

RIVER

CANAL

Threemile Falls
Diversion Works
SPILLWAY ELEV 404

Power City

Rodeo Ground

Corral

Charlestown

Umatilla Butte

Mile 4

32

T. 5N.

T. 4N.

Radio Tower (KOHU)
Radio Tower (KOFM)

Sewage Disposal

Quarries

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

Gravel Pit

29

21

22

28

27

32

33

34

33

34

4

3

