

## 2807 - GRANT ADMINISTRATION

### Table of Contents

#### .10 Initiating On-The-Ground Actions

- A. Immediate Starts
- B. Delayed Starts
  - 1. Plan of Development
  - 2. Appeal Likely
  - 3. Notice to Proceed

#### .11 Contacting the BLM

- A. Grant Terms
  - 1. Pre-Construction
  - 2. Post-Construction
- B. Substantial Deviation
  - 1. Determination
  - 2. Examples
  - 3. A Rule of Reason
- C. Changes in Holder Status
  - 1. Assignment
  - 2. Rent Status
  - 3. Bonding
- D. Contact by the BLM
  - 1. Compliance Examinations
  - 2. When an Appeal is Filed
    - a. Solicitor's Office
    - b. Meetings
    - c. Written Material
  - 3. Land Tenure Actions

#### .12 Liability of Holder

- A. Pre-FLPMA Authorizations
  - 1. Specific Conditions
- B. FLPMA Grants
  - 1. General Liability
  - 2. Strict Liability
    - a. Not imposed
    - b. Limit on Damages
  - 3. Enforcement
    - a. Measure of Damage
    - b. Voluntary Redress
    - c. Strict Liability

2807 - GRANT ADMINISTRATION

- d. Negligence
- e. Bonds, Insurance, Etc.

.13 State, Tribal, and Local Governments

.14 Additional Proposed Uses

.15 Transfer of Servient Land

- A. Notice
  - 1. Type of Transfer
  - 2. Description
  - 3. Name
  - 4. Time Frame
  - 5. Opportunity to Comment
  - 6. ROW Holder's Options
- B. Transfer to Another Federal Agency
  - 1. Partial ROW
  - 2. Diminished Rights
  - 3. Term Change
- C. Conveyance Out of Federal Ownership
  - 1. Withhold Conveyance
  - 2. Accept Replacement Agreement
  - 3. Retain Jurisdiction
  - 4. Transfer Jurisdiction
    - a. Without Modified Grant
    - b. With Modified Grant
      - (1) Conduct Initial Review
      - (2) Use Escrow
      - (3) Process [Reserved]

.16 Immediate Temporary Suspensions

- A. Notice
- B. Resumption of Activity
  - 1. Resolved
  - 2. Unresolved
  - 3. 5-Day Rule
- C. Holder Fails to Suspend Activities

.17 Suspensions and Termination

- A. Suspension
  - 1. Use Suspension
  - 2. Rent

## 2807 - GRANT ADMINISTRATION

- B. Termination
  - 1. Stated Condition
  - 2. Abandonment
  - 3. Non-Conformance
- C. Notice
- D. Easement Involved
  - 1. Grant of Easement
    - a. Pre-FLPMA
    - b. FLPMA
  - 2. Hearing
    - a. Referrals
    - b. Results of Hearing
      - (1) Justified
      - (2) Not Justified
- E. Disposition of Facilities
  - 1. POD
  - 2. Abandon in Place
  - 3. Failure to Remove
    - a. Declare as Property
    - b. Collect on Bond
    - c. LM Removal

### .20 Amendments

- A. Process
  - 1. Cost Recovery
  - 2. Pre-FLPMA
    - a. Issue a New Grant
    - b. Retain Old Grant
  - 3. Railroad
    - a. Time
    - b. Terms and Conditions

### .21 Assignments

- A. Application
- B. Cost Recovery
  - 1. New
  - 2. Processing
  - 3. Monitoring
- C. Mass Assignments
- D. Terms and Conditions

2807 - GRANT ADMINISTRATION

- E. Rent
  - 1. Rent to Waived or Reduced
  - 2. Rent to Rent
  - 3. Waived or Reduced Rent to Rent
- F. Approval
  - 1. New Grant
  - 2. Pre-FLPMA
    - a. Congressional Grants
    - b. General Railroad Grant Act
    - c. Irrigation and Drainage

.22 Renewals

- A. Application
  - 1. Pre-FLPMA
  - 2. Late Filings
- B. Extension of Term
- C. Cost Recovery
- D. Terms and Conditions
- E. Decision
- F. Rejection

.23 Change in Name

- A. Filing Required
- B. Cost Recovery
- C. Spot Check
- D. Decision

Illustrations

- 1. Assignment Request and Statement Form
- 2. Sample Notice of Temporary Suspension
- 3. Sample Notice of Pending Transfer
- 4. Sample Show Cause Notice Why Grant Should Not be Terminated
- 5. Sample Name Change Request and Statement

## 2807 - GRANT ADMINISTRATION

.10 Initiating On-The-Ground Actions. A BLM decision affecting a ROW application carries the “full force and effect” of the decision; meaning that activities allowed by the grant can be implemented immediately even if the decision is appealed to the IBLA.

A. Immediate Starts. Unless the AO had reason to delay (see B. below.) the start, the holder may begin activities immediately and without further communication from the BLM upon issuance of the grant.

B. Delayed Starts. It may be appropriate to delay the initiation of on-the-ground activities for a number of reasons. This is usually enforced by a stipulation in the grant requiring a Notice to Proceed before specified on-the-ground activities occur. The AO must be prepared to respond promptly when such conditions have been met by the holder.

1. Plan of Development. One reason for a delayed start is to allow a grant to be issued, while preventing the holder from starting surface disturbing activities before a plan of development is approved.

2. Appeal Likely. Another reason is to ensure that activities do not start prematurely if it is likely an appeal will be filed with a petition for a stay of the decision, and the potential exists for IBLA to grant a stay of the decision.

3. Notice to Proceed. When the condition for delay is resolved, use a Notice to Proceed (Form 2800-15) to allow the holder to initiate surface disturbing activities. This may be a single notice or the situation may require a series of notices as construction of facilities occur.

.11 Contacting the BLM. Maintaining communication between the holder and the BLM is a requisite to proper development of approved facilities and minimizing adverse impacts on other resources and the environment.

A. Grant Terms. The AO must be prepared to timely respond to terms placed in the grant.

1. Pre-Construction. A grant may contain a stipulation requiring the holder to contact the BLM for a pre-construction conference or pre-construction field examination before surface disturbing activities begin.

2. Post-Construction. A grant may also contain a requirement for the holder to submit post-construction plans, drawings or maps, including “as built” information on the ROW facility to be submitted to the BLM in digital form.

## 2807 - GRANT ADMINISTRATION

B. Substantial Deviation. A substantial deviation is a proposed use or location not authorized in an existing grant, or a change in the authorized types of use. The holder must apply for the proposed additional ROW use/area and obtain a grant amendment or additional grant.

1. Determination. In determining whether a proposed change in use is a substantial deviation from the currently authorized use, the AO should consider those activities that are normally required to Operate and Maintain the facility, what is actually authorized by the grant, and proposed changes in the capacity of the facility.

2. Examples. Substantial deviation occurs when:

- a. Adding a water line to a road ROW,
- b. Adding a fiber-optic line to an existing electric distribution line,
- c. Addition of a building or tower to a communication site,
- d. Replacement of a transmission line static wire with fiber-optic communication cable, or
- e. A user placing equipment, such as a back-up generator, outside a communication site owner's facility.

3. A Rule of Reason must be applied in making this determination. Certain minor changes or additions may be considered as within the scope of use authorized by the original grant.

C. Changes in Holder Status. Normally the holder is required to inform the BLM of any change in the holder's business or corporate status, financial conditions, mailing address, or designated agents.

1. Assignment. Review submitted information to determine whether the changes require the filing of an assignment request. If yes, see .21 below.

2. Rent Status. Review submitted information to determine whether the changes affect rent status.

3. Bonding. Review submitted information to determine whether the changes affect the status of existing bonds or require bonding.

## 2807 - GRANT ADMINISTRATION

D. Contact by the BLM. The BLM makes and maintains formal and informal contact with ROW grant holders at various times during the grant term.

1. Compliance Examinations. A detailed discussion of the Bureau's ROW compliance responsibilities is contained in the Compliance Handbook.

2. When an Appeal is Filed. The BLM loses jurisdiction over a case when an appeal is filed, or that portion/issue involved in the appeal, but must still oversee any activity by the holder under the "full force and effect" status of the grant. The BLM may still communicate with a holder/appellant on such matters.

a. The Solicitor's Office must be involved in these contacts/communications.

b. Meetings. Any arranged face-to-face communication, including telecommunication, must allow other parties to the appeal to participate. A summary of such communication must be furnished to the IBLA.

c. Written Material sent or received by the BLM must be copied and provided to other parties to the appeal and to the IBLA.

3. Land Tenure Actions. When considering the transfer or disposal of lands, either through the land use planning process or a specific land tenure action, early notification to the holders of existing ROW grants **is mandatory**. See .15 below for subsequent ROW actions.

### .12 Liability of Holder.

A. Pre-FLPMA Authorizations. Pre-FLPMA ROW holders are generally required, under regulations in effect at the time of grant issuance, to indemnify the United States against any liability for damages to life, person or property arising out of the holder's occupancy and use of the lands in a ROW.

1. Specific Conditions. If there are no specific terms and conditions in the grant dealing with holder liability, provisions in the authorizing statute and regulations in effect at the time of grant issuance will govern holder liability.

### B. FLPMA Grants.

1. General Liability. All grant holders are fully liable to the United States and third parties, for any damage or injury incurred in connection with the holder's use and occupancy of a ROW.

## 2807 - GRANT ADMINISTRATION

2. Strict Liability. When the BLM determines that a foreseeable hazard or risk of damage or injury to the United States is present as a result of activities or facilities that will be conducted or placed on the ROW, strict liability is imposed as a term or condition of the grant. When strict liability is a condition of the grant be sure to enter this requirement into LR2000.

a. Not Imposed. Where the damage is caused by an act of war, act of God, or negligence of the United States, the BLM will not seek redress under strict liability.

b. Limit on Damages. Where damages exceed two million dollars (or subsequently adjusted amount) the BLM must show negligence to seek the overage. Exceptions to this limit are found at 43 CFR 2807.12(b)(3).

3. Enforcement. If injury or damage has occurred to the United States, the State Office should be informed. If necessary the State Office should inform the Solicitor's Office or the U.S. Attorney's Office.

a. Measure of Damage. Prepare a report describing the incident, the injury or damage incurred by the United States and the value or cost involved, repair needed, etc.

b. Voluntary Redress. The holder should be contacted to determine whether repair, payment, restitution, etc., may be obtained voluntarily.

c. Strict Liability. Where strict liability is involved, the holder may be "billed" for up to two million dollars (or annually adjusted amount) without regard as to negligence.

d. Negligence must be shown to achieve redress for damages other than any amounts under strict liability.

e. Bonds, Insurance, Etc. Where the holder has filed bonds, insurance, etc., to cover potential liability issues, the sureties should be notified early in the process of obtaining redress.

.13 State, Tribal, and Local Governments are liable to the fullest extent law allows at the time that the BLM issues their grant. If they lack the legal power to assume full liability, repair and/or restitution are required. Bonding may be considered in grant issuance.



## 2807 - GRANT ADMINISTRATION

.14 Additional Proposed Uses. The BLM must notify existing grant holders when an application(s) is received for other uses either within or in the vicinity of existing authorized ROWs, or within a designated corridor. Provide the holder an opportunity to review and comment on such third party or BLM proposals. Existing rights shall be given priority when applications for new uses are received. The BLM shall not unduly impair an existing grant holder's rights by issuing a potentially conflicting authorization.

.15 Transfer of Servient Land. Where there is a proposal to transfer the land encumbered by a ROW(s) **notice must be given** to the holder(s) and a reasonable time must be provided to comment on the potential effect of the transfer on their ROW. Within reason and if legally possible, no transfer will be made until, at least, 30 days after notice has been given to the holder.

A. Notice. At a minimum the notice to the ROW holder must contain:

1. Type of Transfer being considered - withdrawal, sale, exchange, etc.;
2. Description. Will the transfer affect all or only a portion of the ROW?;
3. Name. If known, the name and address of the proposed new owner/agency;  
and
4. Time Frame. The estimated time to process the transfer - date transfer is expected to occur.
5. Opportunity to Comment. Where possible allow the holder a minimum of 30 days to review the proposed transfer and to provide comments on whether the transfer will diminish the holder's rights and, if so, in what manner or to what degree.
6. ROW Holders Options. When the proposal is for transfer out of BLM management or conveyance out of Federal ownership the notice must provide the following options to the holder, and request that the holder inform the BLM of the option chosen:
  - a. Maintain the ROW under its current terms and conditions, including expiration date (status quo); or
  - b. Negotiate a new authorization with the prospective new owner that would become effective at the time of patent or deed issuance; or
  - c. Apply with the BLM to amend the ROW, or portion thereof, to a term of perpetuity; or

## 2807 - GRANT ADMINISTRATION

- d. Apply to replace the ROW or portion thereof with an easement.
- e. Failure of the holder to respond will automatically put option 6.a. in place.

B. Transfers to Another Federal Agency. Administration of the ROW grant will be transferred to the new Federal Agency except:

- 1. Partial ROW. Where the transfer affects only a portion of the ROW, the AO will determine if the BLM should still retain jurisdiction over the entire ROW grant;
- 2. Diminished Rights. Where the holder has commented that the transfer will diminish his rights, the AO shall determine whether such diminishment warrants retention of jurisdiction over the ROW by the BLM; and
- 3. Term Change. Where a change to perpetual term or substitution of an easement should be offered to the holder (see C.4.b. below).

C. Conveyances Out of Federal Ownership. Giving due consideration to the holder's comments, and others, the AO shall determine if the BLM should:

- 1. Withhold Conveyance of the land encumbered by the ROW. The AO shall determine whether the rights of the holder would be overly and unreasonably diminished or that the ROW (most likely a corridor) is of such National significance that the encumbered land should not be transferred.

**Note:** Normally the National significance of a corridor is determined at the Land Use Planning stage.

- 2. Accept Replacement Agreement which has been reached between the conveyance proponent and holder. The AO shall arrange for escrow handling to allow relinquishment of the BLM ROW grant and proponent issuance of a replacement grant, easement or other agreed upon document prior to recordation of conveyance (patent). If relinquished, the BLM ROW grant will not be mentioned in the patent.
- 3. Retain Jurisdiction. The AO shall determine whether 1) the rights of the holder would be sufficiently diminished by the transfer; or 2) the Federal interest in the ROW facility is so important that administration over the ROW grant or corridor should be retained by the BLM.
- 4. Transfer Administration. The conveyance document will be made "subject to" the ROW grant, or portion of the ROW grant involved. The new landowner assumes all responsibility for administration of the grant.

## 2807 - GRANT ADMINISTRATION

a. Without Modified Grant. The ROW grant holder has not responded to notice and/or has not requested a modified grant.

b. With Modified Grant. Where the ROW grant holder requests a modified grant, the AO shall

(1) Conduct Initial Review.

(a) Receive the request as an application for amendment of the grant, or portion of the grant involved with the proposed conveyance.

(b) Determine appropriate cost recovery category and collect the fee.

(c) Consider it a categorical exclusion under NEPA.

(d) Prepare a replacement grant for the existing ROW grant, or portion thereof.

(i) Change the grant term to perpetual; or

(ii) Convert the grant to an easement.

(2) Use Escrow. Provide for simultaneous escrow process with the replacement grant to be recorded prior to recording of patent, clear list, warranty deed, or other transfer document. Follow up with cancellation of the original grant and appropriate LR2000 and records notation.

(3) Process. [Reserved]

.16 Immediate Temporary Suspensions are to be used when there is a violation of the terms and conditions of the grant and it is necessary to protect public health and safety or prevent or stop damage to the environment.

A. Notice may be given orally or written. If given orally, it must be confirmed in writing within 5 working days. The Notice must specify the violation, the effect on or protection needed for the environment involved, and corrective measure(s) required.

B. Resumption of Activity. The holder may file a written request with the AO to resume activity.

.16B1

## 2807 - GRANT ADMINISTRATION

1. Resolved. If the AO determines that the adverse situation has been resolved the holder is notified that activities may be resumed. This must be in writing and may be by letter or formal decision.

2. Unresolved. If the AO determines that the situation has not been resolved, the holder's request must be denied by formal decision.

3. 5-day Rule. If the BLM's formal decision is not made within 5 business days the holder's request for resumption is considered denied and the holder may file an appeal within the next 30 days.

C. Holder Fails to Suspend Activities. If the holder refuses or fails to suspend activities, the AO shall:

1. Assure that the holder received the notice of suspension;
2. Immediately contact the State Director to determine whether
  - a. Law Enforcement assistance is needed and/or
  - b. Assistance from the Solicitor's Office is needed; and
3. Issue a Notice of Trespass.

.17 Suspensions and Termination. Unless there are mutual advantages to suspending a ROW grant it is Bureau policy to seek termination.

A. Suspension is the cessation of all activities on the ROW other than limited activity necessary to protect public health and safety or the environment.

1. Use suspension where cessation of activities is necessary and
  - a. The BLM needs time to demonstrate violations of terms or conditions such as abandonment; or
  - b. Issues require considerable time to resolve - such as resolution of a new occurrence of an endangered species requiring action by the Fish & Wildlife Service.
2. Rent may not be collected for any full calendar year during the suspension period.

## 2807 - GRANT ADMINISTRATION

B. Termination may occur as the result of a stated condition or be sought upon a major or repeated violation of the terms and conditions of the ROW grant.

1. Stated Condition. If the terms of the ROW grant provide for termination upon a stated condition, such as a date certain, the BLM will issue an appealable decision terminating the grant.

2. Abandonment (or Apparent Abandonment).

a. Pre-FLPMA [reserved]

b. FLPMA provides for a presumption of abandonment if the ROW is not used for any consecutive 5-year period.

3. Non-Conformance. If termination is to be sought based on the violation of a term or condition of a grant, the BLM must issue a Notice of Non-Compliance to the holder that identifies the stipulation not complied with, the curative action required (and the timeframe), and that the BLM intends to suspend or terminate the grant in the event of continued non-compliance.

a. Appropriate action is then taken based on the response or lack of response.

b. These actions should be coordinated with the Solicitor's Office.

C. Notice. All holders must be given advance notice of the intent to suspend or terminate their ROW grant. Where the action is based on a stated condition provide advance notice, use the call up features of LR2000 wherever possible, of the upcoming condition to the holder. For other conditions, use of a "show cause" decision is recommended as the notice.

D. Easement Involved. If the ROW grant was issued as an easement, a formal hearing may be required before suspension or termination of the grant may occur.

1. Grant of Easement. For purposes of determining whether a hearing is required, a ROW grant is considered a grant of easement if it is:

a. Pre-FLPMA. Grants issued under many of the pre-FLPMA acts are considered easements. When in doubt, seek advice from the Solicitor's Office. Among those that are easements are:

(1) Railroad grants by Congress, including the General Railroad Act of 1875;

.17D1a(2)

## 2807 - GRANT ADMINISTRATION

- (2) RS 2339, 2340 Ditches and Canals;
- (3) RS 2477 Public Highways;
- (4) Act of March 3, 1891, 43 U.S.C. 946, et seq.; and
- (5) Act of March 4, 1911, 43 U.S.C. 961.

b. FLPMA. Issued pursuant to FLPMA and expressly states that the grant is in the form of an easement.

2. Hearing. Upon receiving a response (or no response) to the BLM notice, the matter will be referred to the Office of Hearings and Appeals (OHA) for a hearing unless the termination is based on the occurrence of a fixed or agreed upon condition, event, or time.

a. Referrals to OHA shall be through the State Office and include a copy of the case file, notice or show cause decision, and response. A copy shall be furnished to the Regional or Field Solicitor.

b. Results of Hearing. Appropriate action will be taken upon receipt of the results of the hearing from OHA.

(1) Justified. If the determination is that the grounds exist and suspension or termination is justified, issue an appealable decision implementing suspension or termination.

(a) Not Justified. If the determination is that the action is not justified:

i. Advise holder that the BLM notice or show cause decision has been satisfactorily resolved.

ii. The AO should meet with the holder to “mend any broken fences.”

iii. In consultation with the State Director, may seek to continue action toward suspension or termination.

E. Disposition of Facilities. The Holder is to be allowed a reasonable time to remove facilities when ‘terminating’ the grant.

1. POD. If a POD exists, disposition of facilities and restoration of the area should take place in accordance with that document.

## 2807 - GRANT ADMINISTRATION

2. Abandon in Place. The AO may allow the holder to abandon in place those facilities where the AO determines that significant damage may result from the removal.

3. Failure to Remove. Should the holder fail to remove facilities or restore the area, the BLM:

a. Declare as Property. May declare the facilities to be the property of the United States where the AO determines that such have value to a program or programs of the BLM.

b. Collect on Bond. Where a bond exists, advise the surety that the bond is attached and allow an opportunity for the surety to arrange for removal and restoration.

c. BLM Removal and restoration, as a last resort, may be necessary for public health and safety and for environmental considerations. Where this is done, the holder is to be billed for any costs.

.20 Amendments are required where there is a proposed substantial deviation in location or use. A separate Form 2800-14 (ROW Grant) must be signed by both the BLM and the holder for each amendment to the original authorization.

A. Process. Amendments are processed in the same manner as new applications.

1. Cost Recovery. Determine and issue a processing fee category determination unless:

- a. The amendment is to an existing Category 6 case, or
- b. Is within a Master Agreement.

2. A Pre-FLPMA grant involving a proposed substantial deviation in the location or use or terms and conditions requires applying for a new grant under FLPMA. Unless the application is rejected, the AO will determine whether to issue a

a. New Grant replacing the existing grant (preferred), and whether:

- (1) to contain new terms and conditions, or
- (2) include the existing terms as to annual rent, duration, and nature of interest in the new grant; or the

.20A2b

## 2807 - GRANT ADMINISTRATION

b. Old Grant is retained and a new grant is issued covering the new use or location, or terms and conditions.

3. Railroad. 43 U.S.C. 1769(b) provides special action for amendments or applications for new alignments of railroad ROWs granted by the United States.

a. Time. A decision must be reached within 6 months after receiving a complete application.

b. Terms and Conditions. The AO will determine whether to include the same terms and conditions in the new grant as were in the original grant as to annual rent, duration, and nature of interest if:

- (1) These terms are in the public interest;
- (2) The lands are of approximately equal value; and
- (3) The lands involved are not within an incorporated community.

.21 Assignments. Holders of a ROW grant may assign their interest in the grant. Where only a change in name is involved see .23 below.

A. Application. A proposed assignee files an application (SF 299) **which is processed the same as a new application**, in the office having jurisdiction over the ROW grant. In addition, the application must contain:

1. Documentation that the assignor agrees to the assignment; and
2. A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations. (See Illustration 1, Assignment Request and Statement.)

B. Cost Recovery.

1. New cost recovery consideration is required unless:
  - a. The assignee is exempt from cost recovery; or
  - b. The assignment is to an existing Category 6 ROW application/grant; or
  - c. The assignment is within and will remain within a Master Agreement.



## 2807 - GRANT ADMINISTRATION

2. Processing. Determine and issue a processing fee category determination.
3. Monitoring. Determine and issue a monitoring fee category determination when:

- a. No previous monitoring fee was paid, or
- b. The terms and conditions are changed.

C. Mass Assignments. Single applications for mass assignments will be accepted for ROW grants in a single State Director's jurisdictional area, including Lead State assignments.

1. Assignees/applicants should be encouraged to group mass assignments by statutory authority and by Bureau organization (Field Office, District).
2. Assignment applications received for more than the State Director's jurisdictional area, including Lead State assignments, will not be accepted and will be returned to the assignee/applicant for separation and re-filing.
3. Cost recovery is determined based on the work hours estimated to process the entire mass assignment, not on the individual grants.

D. Terms and Conditions. The AO will determine whether to modify, delete, or add to the terms and conditions, including rent and bonding conditions, of the existing grant.

E. Rent. With the assignment, any "future" rent paid by the assignor goes to the favor of the assignee; i.e., rent is not due until the next rental period.

1. Rent to Waived or Reduced. Assignment from a holder subject to rent to a holder not subject to full rent merely means that rent would no longer be collected or the amount would be reduced. The new holder would have a waiver, exemption, or reduction of rent beginning with the next rental period. No previously-collected rent will be refunded to the assignor.

2. Rent to Rent. Assignment between holders both subject to rent, retain the status quo; appropriate rent will be collected from the assignee at the next billing period.

3. Waived or Reduced Rent to Rent. Assignment from a holder not subject to rent to a holder subject to rent requires rent to be collected for the balance of the year and additional years as appropriate. The assignee of a linear ROW may elect a rental period from among the linear rental options.

.21F

## 2807 - GRANT ADMINISTRATION

F. Approval. Approval will be by decision approving the assignment of interest in the ROW grant from the assignor to the assignee, except:

1. A New Grant will be issued if there are any changes in the terms and conditions.
2. Pre-FLPMA Grants. Certain pre-FLPMA grants do not require approval of assignment of interests. These include but are not necessarily limited to:
  - a. Congressional Grants of ROW such as the transcontinental railroad grants of the late 1800's.
  - b. General Railroad Grant Act of 1875, 43 U.S.C. 934-939.
  - c. Irrigation & Drainage ROWs under the Act of March 3, 1891, 43 U.S.C. 946-949.

.22 Renewals. BLM policy is to renew a grant as long as the holder is continuing to use, maintain and operate the facility for the purposes authorized in the original grant, and the use, maintenance and operation are in compliance with the grant terms and applicable laws and regulations.

A. Application for renewal must be submitted on form SF 299 and at least 120 calendar days prior to the grant expiration date.

1. Pre-FLPMA ROW grants may not be renewed. Advise applicants that their renewal application will be treated and processed as an application for a new ROW pursuant to FLPMA.

2. Late Filings will not be accepted. Advise applicants that their renewal application will be treated and processed as an application for a new ROW pursuant to FLPMA.

B. Extension of Term. The ROW grant for which a renewal application has been properly filed will remain in effect until a final decision on the renewal application has been reached.

C. Cost Recovery. Renewal applications are treated as original applications for cost recovery purposes.

D. Terms and Conditions. The AO will determine whether to modify, delete, or add to the terms and conditions, including rent and bonding conditions.

## 2807 - GRANT ADMINISTRATION

E. Decision. All renewals shall be by issuance of a new grant.

F. Rejection. A grant which does not contain renewal language may be rejected if the AO determines such action is in the public interest.

.23 Change in Name. Name changes occur when the applicant for or the holder of a ROW grant decides that a new name is needed. Name changes can be by an individual, partnerships, corporations, etc. While technically an assignment, a change in name only will be treated separately. Only the name of the entity can change; any other change to the entity requires that the matter be handled as an assignment or an amendment.

A. Filing required. For each State Office's jurisdiction the holder must file:

1. A Name Change Request and Statement (see Illustration 5);
  2. An SF 299;
  3. Evidence of the name change;
    - a. If an individual, a copy of the court order approving or making the name change.
    - b. If a corporation;
      - (1) A copy of the corporate resolution(s) proposing and approving the name change and
      - (2) A copy of the filing/acceptance of the change in name by the State/Territory in which incorporated.
    - c. A copy of the appropriate resolution(s), order(s) or other documentation showing the name change.
  4. List of serial numbers of the ROW grants involved with the change in name.
- B. Cost recovery is handled in the same manner as assignments, see .21. above.
- C. Spot check to determine whether any involved case has outstanding payments due or is in non-compliance. Name changes are not to be recognized until such matters are resolved.
- D. Decision. A change in name will be acknowledged by use of the Name Change Request form or by a letter decision.

Illustration 1  
.21

## 2807 - GRANT ADMINISTRATION

### Assignment Request and Statement

#### ASSIGNMENT CONSENT AND REQUEST

Case File \_\_\_\_\_

##### **Assignor Consent**

\_\_\_\_\_[Name of Assignor as shown on existing grant]\_\_\_\_\_, does hereby consent to assign to \_\_\_\_\_[Name of assignee as shown on application]\_\_\_\_\_, all undivided right, title, and interest in and to right-of-way grant number \_\_\_\_\_, if approved by the United States Department of Interior, Bureau of Land Management.

\_\_\_\_\_  
Signature of Assignor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

##### **Assignee Agreement**

\_\_\_\_\_[Name of Assignee as shown on application]\_\_\_\_\_ does hereby make application for approval of the above assignment of right-of-way grant number \_\_\_\_\_ . This application is made pursuant to the regulations in 43 CFR Part 2800/2880. \_\_\_\_\_[Name of Assignee as shown on application]\_\_\_\_\_, the undersigned applicant, agrees to comply with and be bound by all terms and conditions of the right-of-way grant.

\_\_\_\_\_  
Signature of Assignee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

2807 - GRANT ADMINISTRATION

Sample Notice of Temporary Suspension

Illustration 3

2807 – GRANT ADMINISTRATION

Sample Notice of Pending Transfer

In reply refer to:  
NVN 098765 (FE)

Mr. John Utility  
2468 Main Street  
Jackpot, NV 77777

Notice of Proposed Disposal of Public Land

Mr. Tom Smith, 9876 First Street, Ely, NV 77766, has offered to exchange land with the Bureau of Land Management for the SE ¼ Section 24, T6N, R27E, MDM. Such an exchange is commensurate with our Land Use Plan for the area and we are looking favorably at consummating an exchange within the next six months.

Our records indicate that you have a right-of-way (ROW), NVN 023939, over this quarter section for an electric distribution line that appears to serve Mr. Smith's ranch. No other public lands are involved with your ROW. The ROW was issued in 1992 and is shown to expire in 2021.

Any comments you have in regards to the land exchange proposal will be considered in processing the proposal.

Within 30 days of receipt of this notice we would like your response as to how you would like the Bureau of Land Management to handle your ROW. If we do not hear from you we will make the land transfer subject to your ROW as it presently exists. Otherwise you may advise us that you would prefer to:

- a. Negotiate a new authorization with the prospective new owner that would become effective at the time of patent or deed issuance; or
- b. Apply with the BLM to amend the ROW to a term of perpetuity; or
- c. Apply to replace the ROW or portion thereof with an easement grant.

Please contact Mr. Fred Examiner at 703-555-1212 if you wish further information of this matter or to discuss the above options.

Top Administrator  
Field Office Manager

2807 – GRANT ADMINISTRATION

Sample: Show Cause Notice Why Grant Should Not be Terminated

In Reply Refer To:  
UTU 23939  
2800 (031)

August xx, 2006

CERTIFIED MAIL - RETURN RECEIPT REQUESTED:

NOTICE

Los Angeles Department	:	
of Water and Power	:	
P.O. Box 111 #1035	:	Right-of-Way UTU 23939
Los Angeles, CA 90051	:	

ORDER TO SHOW CAUSE

Right-of-Way Grant UTU 23939 was issued on July 8, 1974, pursuant to the Act of March 4, 1911 (036 Stat. 1253; 43 U.S.C. 961) for a communications facility and access road associated with the Navajo-MuCullough transmission line. The communications facility and access road are located on the following-described public lands:

Salt Lake Meridian  
T. 42 S., R. 2 W.,  
Sec. 27, SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 34, E $\frac{1}{2}$ W $\frac{1}{2}$ .

Los Angeles Department of Water and Power, as Holder of the grant, is responsible for complying with all terms and conditions of the grant, even though Nevada Power Company is identified as the entity to which rent bills are to be sent. Rent totaling \$1,663.96 was due on January 1, 2006, for the calendar year 2006 billing period. Nevada Power Company failed to pay the rent when it was due. The Bureau of Land Management notified Nevada Power Company of the debt to the United States on March 21 and April 7, 2006, adding late payment and administrative fees as provided by the regulations at 43 CFR 2806.13.

On April 17, 2006, we received payment of \$1,663.96, leaving a balance of \$272.65 due. Interest and administrative charges continue to accrue on the unpaid balance and since the bill is older than 90 days, it incurs a 6% penalty from the date of the bill. The total rent due as of August xx, 2006, is \$xxxxxxx.

2807 - GRANT ADMINISTRATION

On June 29, 2006, a Notice of Noncompliance (Notice) was issued by the BLM. The Notice was addressed to Nevada Power Company, as billee, and a copy of the Notice was sent to you, as holder, by certified mail. The Notice informed you and Nevada Power Company that the BLM may terminate the grant unless the outstanding debt was paid within 30 days from receipt of that Notice. The debt to the United States remains unpaid.

You have fifteen (15) days from receipt of this Notice to 1) remit the amount still due or 2) show cause why the grant should not be terminated. Failure to respond or an insufficient response will result in our referring the matter to the Office of Hearings and Appeals, US Department of the Interior, for a hearing in accordance with 43 CFR 2807.18(b).

David Wolf  
Acting Monument Manager

cc: Certified Mail - Return Receipt Requested:  
Nevada Power Company  
P.O. Box 98910  
Las Vegas, NV 89151-0001



2807 – GRANT ADMINISTRATION

Name Change Request and Statement

ROW Serial Number \_\_\_\_\_  
(Attach list if appropriate)

☐ Individual  
☐ Association, Partnership  
☐ Corporation  
☐ Other

1. \_\_\_\_\_[New Name]\_\_\_\_\_, applicant for or holder of subject right-of-way grant(s), certifies that applicant's/holder's name has been changed from

\_\_\_\_\_ [Old Name]\_\_\_\_\_ to \_\_\_\_\_ [New Name]\_\_\_\_\_ and apply to have this name change reflected on the right-of-way grant(s) indicated above.

2. In support of this request attached is/are (check all that apply):

☐ Court Order  
☐ Partnership Letter  
☐ Signing Authority  
☐ Other  
☐ Explanation \_\_\_\_\_

☐ Association Resolution  
☐ Board Resolution  
☐ State of Incorporation Certification

3. \_\_\_\_\_[New Name]\_\_\_\_\_ further certifies that there is no other change to Corporate, Partnership, Association, etc., that would affect its holding of the right-of-way grant(s).

4. \_\_\_\_\_[New Name]\_\_\_\_\_ does hereby agree to comply with and be bound by all terms and conditions of the right-of-way grant(s).

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

=====

The Name Change request above has been accepted by the Bureau of Land Management.

\_\_\_\_\_  
BLM Authorized Officer

\_\_\_\_\_  
Date