

Graves, Lori

To: Effie_Schultsmeier@blm.gov
Subject: RE: Rights-of-Way on BLM Administered Lands

Thanks Effie. Please let me know how and when you plan to proceed with the Jack Mooers ROW situation so that I can keep the file documented.

Lori Graves
Sr. Water Allocations Agent

-----Original Message-----

From: Effie_Schultsmeier@blm.gov [mailto:Effie_Schultsmeier@blm.gov]
Sent: Wednesday, February 23, 2005 8:18 AM
To: lori.graves@IDWR.idaho.gov
Subject: Rights-of-Way on BLM Administered Lands

Lori,

This email is a follow up to our conversation regarding when a right-of-way is required on public lands administered by BLM.

Following is the internet location of information regarding applying for a right-of-way:

Currently, there are two locations where you should be able to locate the right-of-way application forms and related information on the internet. The first one I'll describe is the Idaho BLM site and the second one is the National BLM site. I'm providing directions for both in case one site is not working for some reason.

The first one is located at www.blm.gov, scroll down, look on the left side of the screen and click on the button "What We Do". On this page, scroll down to Lands, Realty and Cadastral Land Survey and click on Rights-of-Way Information. This page provides brief information on rights-of-way on public lands. Scroll down this page and click on "Obtaining a Right-of-Way on Public Lands" for more specific information on rights-of-way. Two lines further down is SF 299: Application for Right-of-Way. This will take you to the page where you can download and print the form page by page. Hopefully in the near future you will be able to download this form into a word processing program and fill it out.

You can also go directly to the application form at:
http://www.nc.blm.gov/blmforms/forms/sf_forms/pdf/FormSF-299.pdf

Another location is at www.id.blm.gov. At this site, click on "What We Do" just below the heading near the center of the page. On this page click on Lands and Realty which is located on the second line of the

second column. On this page scroll down and under Forms which is located on the top line of the second column you can click on SF299 Application for Transportation and Utility Systems and Facilities on Federal Lands.

You can also go directly to the application form at:
<http://www.id.blm.gov/whatwedo/data/SF-299.pdf>

Regarding the issue of when an irrigation facility does not need a right-of-way grant issued under the authority of the Federal Land Policy and Management Act of 1976 (FLPMA), BLM Manual 2801.48G discusses RS 2339

and states: "...The authority to use the public lands was contingent upon the holders obtaining a water right under the appropriate State laws...."

Further, at 2801.48G(1) which discussed evaluating an assertion under RS 2339, it states: "b. Review the documents filed to determine that the facility was constructed prior to October 21, 1976, and that a vested and accrued water right existed at the time of construction."

If you need further information regarding rights-of-way for irrigation facilities on public lands administered by BLM or have further questions, please call me.

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