



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Salt Lake Field Office
2370 South Decker Lake Blvd.
West Valley City, UT 84119
Phone: (801) 977-4300; Fax: (801) 977-4397
<https://www.blm.gov/utah>

In Reply Refer To:
2800 (UTW011)
(UTU-092432)

SEP 25 2017

CERTIFIED MAIL NO. – 7014-2120-0003-7884-6032
RETURN RECEIPT REQUESTED

DECISION

Jerry Houghton	:	FLPMA Title V
Engineering Director, Tooele County	:	Right-of-way Grant
47 South Main Street	:	UTU-092432
Tooele County, UT 84074	:	

Right-of-Way Grant UTU-092432 Issued

Dear Mr. Houghton,

Enclosed is your signed copy of right-of-way grant serial number UTU-092432, which has been approved by the Bureau of Land Management. This authorization shall remain in effect for a term commencing on the date shown on the enclosed grant document and continuing in perpetuity.

Tooele County is exempt from processing and monitoring fees and rental under the regulations at 43 Code of Federal Regulations 2804.16(a) and 2806.14(a)(2).

The issuance of this right-of-way grant constitutes a final decision by the BLM in this matter.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR

4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

If you have any questions, please contact Mary Higgins, Realty Specialist, at the above address or call 801- 977-4327, or by e-mail at mhiggins@blm.gov.

Sincerely,



Matt Preston
Salt Lake Field Manager

Enclosures:

- Signed Right-of-Way Grant (Form 2800-14), with Exhibit A (Special Stipulations) and Exhibit B (Map)
- Appeals Information (Form 1842-1)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

Issuing Office
SALT LAKE FILED OFFICE

Serial Number
UTU-092432

1. A (right-of-way) (permit) 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 TOOELE COUNTY, 47 SO. MAIN ST., TOOELE, UT 84074 receives a right to construct, operate, maintain, and terminate a ACCESS ROAD on public lands (or Federal land for MLA Rights-of-Way) described as follows:

T. 2 S. R. 4 W., SALT LAKE MERIDIAN, UT

SECTION 11, PORTIONS OF THE SW1/4NE1/4, E1/2SW1/4, NW1/4SE1/4.

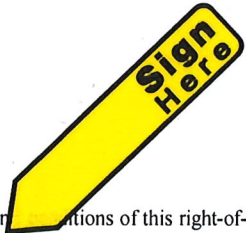
- b. The right-of-way or permit area granted herein is 84 feet wide, 3,890 feet long and contains 7.50 acres, more or less. If a site type facility, the facility contains _____ acres.
- c. This instrument shall terminate on 01/01/9999, N/A years from its effective date unless, prior thereto, it is relinquished, 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:

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 _____ 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) Exhibits A (Stips) B (Map) , dated _____ , 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.

Wade B. Britner

(Signature of Holder)

Mark Preston

(Signature of Authorized Officer)

Commissioner Choie

(Title)

Field Manager

(Title)

Aug 15, 2017

(Date)

9/22/17

(Effective Date of Grant)

1. The holder shall survey and clearly mark the exterior limits of the ROW.
2. The holder shall limit all activities associated with the construction, operation, maintenance, and termination of the ROW to 84 feet by 3,890 feet, including running surface and borrow pits. Use of vehicles or equipment outside the 84-foot by 3,890-foot disturbance zone is strictly prohibited. Any violations of this stipulation shall be grounds for termination of the ROW.
3. The holder shall designate in writing a representative 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 under way.
4. If construction, maintenance or reclamation activities occur within the long-billed curlew breeding season (April 1 to July 31), surveys should occur within a 500 meter radius of the Project Area no more than 7-10 days prior to project initiation. Curlew surveys will be performed by a qualified wildlife biologist and a report of the survey results will be provided to the BLM.
 - a. If no long-billed curlews are found nesting in the Project Area, then project activities may proceed as planned.
 - b. If long-billed curlews are present and nesting in the Project Area, the nests will be flagged and avoided by 500 meters until the nests are no longer active.
 - c. If nests cannot be avoided, or if take as defined by the Migratory Bird Treaty Act is likely to occur, the project proponent must contact the U.S. Fish and Wildlife Service's Utah Field Office (801.975.3330) or the Migratory Bird Permit Office (303.236.8171) for guidance on appropriate avoidance, minimization, and mitigation measures. Any exceptions to this requirement must have prior written approval from the authorized officer.
5. All construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.
6. The road improvements authorized by this grant shall be constructed and maintained in accordance with the BLM standards prescribed in BLM Manual 9113 (BLM 2015a).
7. No construction, operation, 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 4 inches deep, the soil shall be deemed too wet to adequately support construction equipment.
8. The holder shall meet federal, state, and local emission standards for air quality.
9. The holder shall furnish and apply water or other means satisfactory to the authorized officer for dust control.

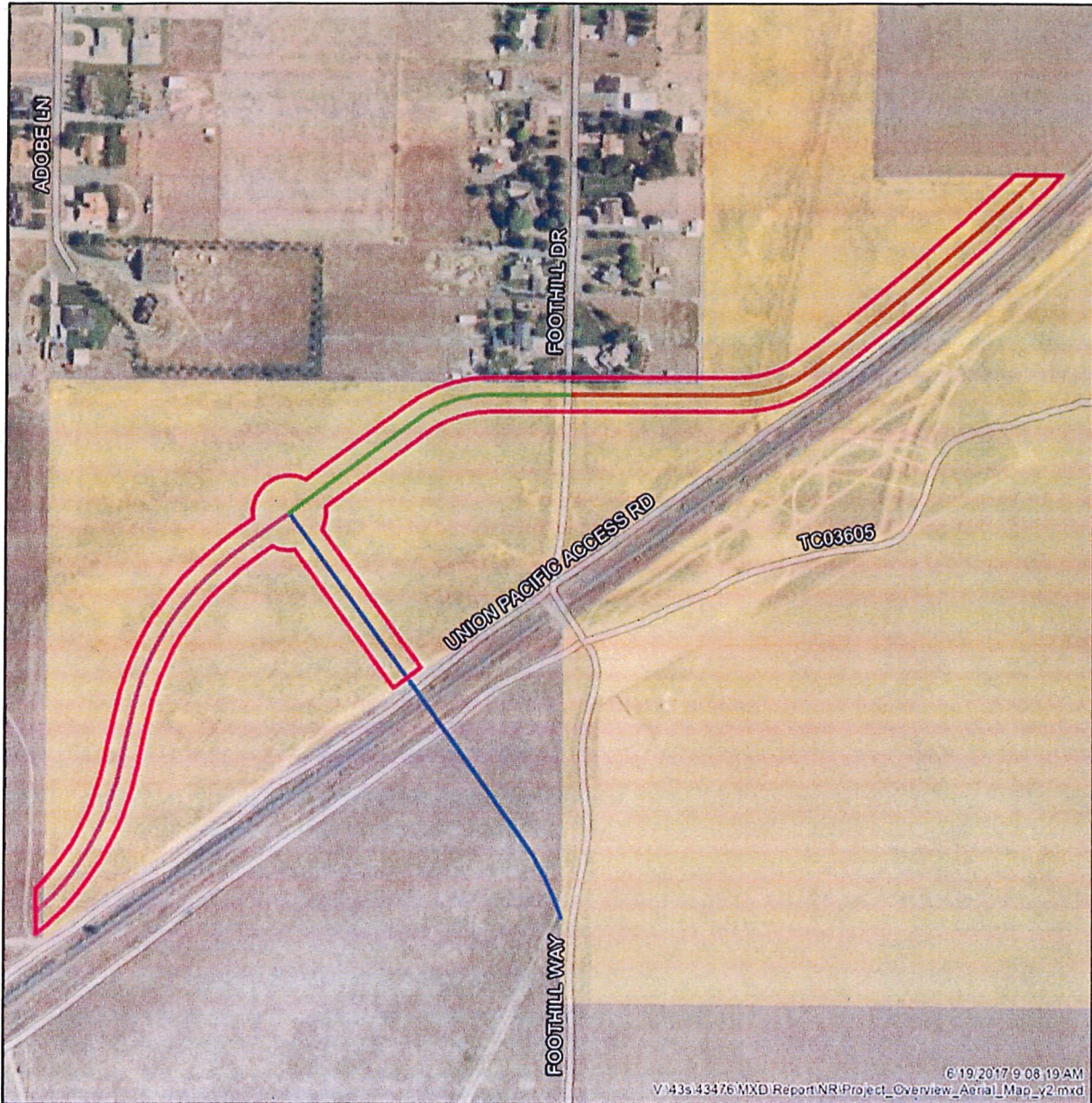
10. The holder shall recontour the disturbed area and obliterate all earthwork by removing embankments, backfilling excavations, and grading to reestablish the approximate original contours of the land in the ROW.
11. The holder shall prepare a seedbed by scarifying the disturbed area, distributing topsoil uniformly, or disking the topsoil as determined appropriate by the authorized officer.
12. The holder shall seed all disturbed areas that have been or are being reclaimed with seed mixtures submitted to and approved by the authorized officer.
13. The holder shall be responsible for weed control on disturbed areas within the limits of the ROW. The holder is responsible for consultation with the authorized officer, local authorities, or both for acceptable weed control methods. The ROW area should be sprayed for weeds annually. In addition, the holder shall ensure that vehicles using the road be cleaned of all caked mud, dust, and plant material before entering the ROW area.
14. 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.
15. If during any phase of construction, operation, maintenance or termination any oil or other pollutant should be discharged from containers or vehicles and impact Federal lands, the control and total removal, disposal, and cleanup of such oil or other pollutant, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of holder to control, cleanup, or dispose of such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting therefrom, the authorized officer may take such measures as he deems necessary to control and cleanup the discharge and restore the area, including, where appropriate, the aquatic environment and fish and wildlife habitats, at the full expense of the holder. Such action by the authorized officer shall not relieve the holder of any liability or responsibility.
16. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his 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 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. A qualified cultural monitor will be present during construction activities.

17. 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 surveyor or a Bureau 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 Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
18. The holder or its contractors will notify the BLM of any fires and comply with all rules and regulations administered by the BLM concerning the use, prevention and suppression of fires on federal lands, including any fire prevention orders that may be in effect at the time of the permitted activity. The holder or its contractors may be held liable for the cost of fire suppression, stabilization and rehabilitation. In the event of a fire, personal safety will be the first priority of the holder or its contractors. The holder or its contractors will:
 - a. Operate all internal and external combustion engines on federally managed lands per 36 CFR 261.52, which requires all such engines to be equipped with a qualified spark arrester that is maintained and not modified.
 - b. Carry shovels, water, and fire extinguishers that are rated at a minimum as ABC - 10 pound on all equipment and vehicles. If a fire spreads beyond the suppression capability of workers with these tools, all will cease fire suppression action and leave the area immediately via pre-identified escape routes.
 - c. Initiate fire suppression actions in the work area to prevent fire spread to or on federally administered lands.
 - d. Notify the Northern Utah Interagency Fire Center (801) 908-1901 (or 911) immediately of the location and status of any escaped fire.
19. The holder shall comply with all federal, state, and local regulations whether or not specifically mentioned in this grant.
20. The holder shall maintain the right-of-way area 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. In addition,

the holder will be responsible to clean area adjacent to road cover by litter from past activities in the right-of-way area.

21. The holder is strictly prohibited from storing, or disposing of any toxic or hazardous substance on the right-of-way area.
22. 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.
23. The holder shall maintain the right-of-way in a safe, usable condition, as directed by the authorized officer.
24. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is transferred out of Federal ownership and administration of the ROW or the land underlying the ROW is not reserved to the United States in the patent/deed/ and/or the United States waives any right it has to administer the ROW, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any right to have the holder apply to BLM for amendments, modifications or assignments and for the BLM to approve or recognize such amendments, modifications or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW holder.
25. No later than 180 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 may 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.

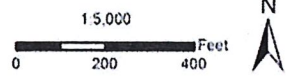
**Foothill Drive Rail Crossing
Tooele County Road Right-of-Way UTU-092432**



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- Road A
- Road B
- Road C
- Road D
- Local Road
- Proposed BLM ROW

- Landownership**
- Bureau of Land Management
 - Private



Imagery from NAIP, 2016