



# 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/office/salt-lake-field-office>



FEB 15 2019

In Reply Refer To:  
2805 (UTW011)  
UTU-093412

TOOELE COUNTY CORPORATON  
CONTRACT # 19-02-03

Certified Mail No. ----- 91 7199 9991 7038 6192 5092  
Tracking Receipt Requested

## DECISION

|                                    |   |  |
|------------------------------------|---|--|
| Tooele County Emergency Management | : | Federal Land Policy and Management Act |
| Attn: Bucky Whitehouse             | : | Grant Offer Letter                     |
| 47 SO Main St                      | : | 43 CFR 2800                            |
| Tooele, UT 84074                   | : |  |

FLPMA Title V Right-of-Way Conversion Determined  
Cost Recovery Category Exemption Determined  
Fair Market Rental Exemption Determined  
FLPMA Title V Right-of-Way UTU-093412 Offered

Dear Mr. Whitehouse,

On October 23, 1964, the Bureau of Land Management (BLM) issued a right-of-way (ROW) for a 2.5kV power distribution line, formerly serialized under UTU-0-126888, for a term of 50 years to Union Pacific Railroad. This ROW expired on December 31, 2013. Per BLM Manual 2807.22 (A)(1), the BLM is not authorized to process applications for the renewal of ROWs issued before October 21, 1976. The BLM will process your application for the renewal of this ROW as an application for a new authorization under the Federal Land Policy and Management Act of 1976 (FLPMA). To better facilitate this new authorization process, a new serial number, UTU-093412, has been issued for this ROW. Please refer to this number in all future correspondence regarding this ROW.

Enclosed are two copies of an unsigned right-of-way (ROW) grant offer (BLM Form 2800-14) for your 2.5-kilovolt power distribution line, serial number UTU-093412. Please review the documents. If they meet your needs and approval, sign and date both copies and return to the address shown above within 30 days. If there are any questions or concerns, you are encouraged to contact the BLM Salt Lake Field Office. Upon receipt of the signed documents, we will issue the ROW grant, absent any other unresolved issues.

Per 43 CFR 2806.14, the BLM has determined that this ROW qualifies for a rental exemption because Tooele County is a local government and is not using the ROW for commercial interest. Further, per 43 CFR 2804.16.A, Tooele County Emergency Management is exempt from paying cost recovery to the Federal government for this ROW.

Additionally, Federal regulation 43 CFR 2807.11 outlines the timeframes in which you would be required to contact or notify the BLM during the term of your grant. If there are any changes, such as the mailing address or project contact, please ensure that you follow the directions in this regulation to ensure proper and continued use of this ROW.

### Appeals Information

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 address above) 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 (request) pursuant to regulations 43 CFR 2801.10 or 2881.10 for a stay (suspension) 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 Appeal 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 regulations, 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, contact Emily Boivin, Realty Specialist, at 801-977-4351 or by email at [eboivin@blm.gov](mailto:eboivin@blm.gov).

Sincerely,



Matt Preston  
Field Manager

#### Enclosures:

Form 2800-14 Right of Way Grant Offer (two copies)

Form 1842-1 – Information on Taking Appeals to the Interior Board of Land Appeals

Exhibit A - Special Stipulations for Right-of-Way Grant UTU-093412

Exhibit B - Map of UTU-093412

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT**

Issuing Office  
**Salt Lake Field Office**

Serial Number  
**UTU-093412**

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 Emergency Management receives a right to construct, operate, maintain, and terminate a 2.5 kilovolt power distribution line on public lands (or Federal land for MLA Rights-of-Way) described as follows:

**This pre-FLPMA right-of-way was issued to Union Pacific Railroad for a 2.5 kilovolt power distribution line on October 23, 1964. This distribution line right-of-way is 6,600 feet long and 25 feet wide. The proposed action is to reissue under FLPMA, assign the authorization to Tooele County Emergency Management, and reauthorize it for a term of 30 years.**

**T8S, R5W, Sec. 10;  
T8S, R5W, Sec. 11;  
T8S, R5W, Sec. 15;  
T8S, R5W, Sec. 17;**

- b. The right-of-way or permit area granted herein is 25 feet wide, 6,600 feet long and contains \_\_\_\_\_ acres, more or less. If a site type facility, the facility contains \_\_\_\_\_ acres.
- c. This instrument shall terminate on December 31, 2049, 30 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 180 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 \_\_\_\_\_, 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.

Bucky Whitteaux  
(Signature of Holder)

\_\_\_\_\_  
(Signature of Authorized Officer)

EMERGENCY Services Director  
(Title)

\_\_\_\_\_  
(Title)

2/25/2019  
(Date)

\_\_\_\_\_  
(Effective Date of Grant)

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DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

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- c. This instrument shall terminate on December 31, 2049, 30 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.
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- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A & B, 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.

Bryce Whittom  
(Signature of Holder)

\_\_\_\_\_  
(Signature of Authorized Officer)

EMERGENCY Services Director  
(Title)

\_\_\_\_\_  
(Title)

2/25/2019  
(Date)

\_\_\_\_\_  
(Effective Date of Grant)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS**

**DO NOT APPEAL UNLESS**

1. This decision is adverse to you,  
AND
2. You believe it is incorrect

**IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED**

**1. NOTICE OF APPEAL.....**

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

**2. WHERE TO FILE**

NOTICE OF APPEAL..... Bureau of Land Management, Salt Lake Field Office, 2370 South Decker Lake Blvd, West Valley City, Utah 84119

WITH COPY TO SOLICITOR...

Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111

**3. STATEMENT OF REASONS**

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR.....

Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111

**4. ADVERSE PARTIES.....**

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

**5. PROOF OF SERVICE.....**

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

**6. REQUEST FOR STAY.....**

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). 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 (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 regulations, 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.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

**NOTE:** A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

**43 CFR SUBPART 1821—GENERAL INFORMATION**

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

**STATE OFFICES AND AREAS OF JURISDICTION:**

Alaska State Office ----- Alaska  
Arizona State Office ----- Arizona  
California State Office ----- California  
Colorado State Office ----- Colorado  
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri  
and, all States east of the Mississippi River  
Idaho State Office ----- Idaho  
Montana State Office ----- Montana, North Dakota and South Dakota  
Nevada State Office ----- Nevada  
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas  
Oregon State Office ----- Oregon and Washington  
Utah State Office ----- Utah  
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.



## EXHIBIT "A"

### Special Stipulations for Right-of-Way Grant UTU-093412

#### General Administrative Protective Measures

1. Hereinafter, holder means any party granted this ROW, temporary use permit, or both, its agents, contractors, representatives, or other persons directed by holder to construct, maintain, repair, restore, relinquish, abandon, modify, rehabilitate, or terminate this right-of-way, and holder's successors, or assigns.
2. The holder shall comply with all Federal, State, and local regulations whether or not specifically mentioned within this grant.
3. In case of legal name changes, transfers/sales, or change of address the holder shall notify the Bureau of Land Management (BLM) Authorized Officer (AO) within 30 calendar days of any such change.
4. This grant is subject to all valid rights existing on the effective date of this grant.
5. The holder shall construct, operate, and maintain the facilities, improvements, and structures within this Right-of-Way (ROW) and in strict conformity with existing infrastructure or facilities authorized by this grant and with any stipulations. Any relocation, construction, or other use that is not explicitly permitted by the approved grant shall not be initiated without the prior written approval of the AO. A copy of the complete ROW grant, including all stipulations and approved Plans of Development (PODs), shall be made available on the ROW site during its construction, operation, and termination to the AO. Noncompliance will be grounds for an immediate temporary suspension of activities if, in the AO's sole discretion the noncompliance constitutes a threat to public health and safety or to the environment.
6. The holder may not construct new access roads or travel off road by vehicle to reach the grant area without the AO's prior written approval.
7. The holder shall protect all survey monuments found within the ROW. Survey monuments include, but are not limited to, General Land Office (GLO) and Bureau of Land Management (BLM) Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable public and private civil survey monuments. In the event of the obliteration or disturbance of any survey monument, the holder shall immediately report the incident in writing to the AO and the respective installing authority. Where GLO or BLM right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a BLM cadastral surveyor to restore the disturbed monuments or references using the surveying procedures found within the latest edition of the Manual of Surveying Instructions for the Survey of the Public Lands in the United States. The holder shall record the resulting survey at the appropriate county facility and send a copy to the AO. If any BLM cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for all survey costs.
8. The holder shall conduct all activities associated with the construction, operation, and termination of the ROW expressly authorized within its terms.

9. All design, material, and construction; operation, maintenance, and termination practices shall be conducted in accordance with safe and proven engineering practices.
10. The holder must submit an application to amend the ROW (using SF-299) for any proposed substantial deviation to this ROW. Per 43 CFR 2801.5, "*substantial deviation means a change in the authorized location or use which requires: (1) construction or use outside the boundaries of the right-of-way, or (2) any change from, or modification of, the authorized use. Examples of substantial deviation include: adding equipment, overhead or underground lines, pipelines, structures, or other facilities not included in the original grant.*" Additional NEPA analysis may need to be conducted prior to the BLM's decision to permit any amendment to the previously approved grant.

#### Public Health and Safety Protective Measures

11. The holder agrees to indemnify and hold harmless the United States Government for any and all liability, including but not limited to injury to persons or damage to property, which may result from the use permitted.
12. The right-of-way shall be maintained in a sanitary condition at all times; waste materials 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. The holder is strictly prohibited from storing or disposing of any toxic or hazardous substance on the right-of-way.
13. The AO may suspend or terminate in whole or in part any notice to proceed which has been issued when, in his or her sole judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
14. Holder shall maintain the right-of-way in a sanitary, safe, and usable condition, as directed by the authorized officer.
15. The holder shall inform the authorized officer within 48 hours of any accidents on federal lands.

#### Environmental Protection Protective Measures

16. The holder shall comply with all applicable Federal laws and regulations existing or hereinafter 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. (1982) with regards to any toxic substances that are used, generated by, or stored on the right-of-way or in any facilities authorized under this ROW grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (e.g. leaks or spills.) in excess of the reportable quantity established by 40 CFR 117 and 40 CFR 302 shall be reported to the AO and to the National Response Center at 687-9485 or 888-331-6337 (NDEP), as required by the Comprehensive Environmental Response, Compensation, and Liability Act, Section 102b. 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 AO concurrent with the filing of the reports to the involved Federal agency or State government.
17. The holder agrees to indemnify the United States Government 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, 42 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 determined to be wholly unrelated to the holder's authorized activities on the right-of-way). This agreement applies to the ROW regardless whether a release is caused by the holder, its agent, or any unrelated third parties.

18. If during any phase of the construction, operation, 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.
19. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If equipment creates ruts in excess of four inches deep, then the soil is deemed too wet to adequately support construction equipment.

#### Cultural Resources Protective Measures

20. 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. 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.

#### Vegetation and Weeds Protective Measures

21. 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).
22. The holder will submit a written Pesticide Use Proposal (PUP) to the BLM prior to any application of pesticides for weed control. Further, pesticide application records, see exhibit C, must be submitted to the BLM after application of pesticides is complete.

#### Fire Prevention and Mitigation Protective Measures

23. 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.
- c) Initiate fire suppression actions in the work area to prevent fire spread to or on federally administered lands.
- d) 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.
- e) Notify the Northern Utah Interagency Fire Center (801) 495-7600 (or 911) immediately of the location and status of any escaped fire.

Wildlife Protective Measures

24. If construction, maintenance or reclamation activities occur within the migratory bird breeding seasons (raptors: January 1 to August 31 and passerine birds: April 1 to July 31), surveys will occur within a 0.5 mile radius (raptors) and a 100 foot radius (passerines) of the Project Area no more than 7-10 days prior to project initiation. Migratory bird 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 migratory birds are found nesting in the Project Area, then project activities may proceed as planned.
  - b) If migratory birds are present and nesting in the Project Area, the following measures must be incorporated during the project construction phase:
    - i. Passerine bird nests will be flagged and avoided by 100 feet until the nests are no longer active.
    - ii. If occupied, raptor nests will be avoided by the spatial and temporal buffers specified in the U.S. Fish and Wildlife Utah Field Office's Guidelines for Raptor Protection From Human and Land Use Disturbances (Romin and Muck 2002).
  - c) If occupied nests cannot be avoided, or if take as defined by the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection 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 permission.
25. Any replacement poles will be designed to reduce raptor electrocution risk while also minimizing the creation of raptor foraging perches in sage-grouse habitat. Replacement poles will be framed with a minimum of 60 inches horizontal and 40 inches vertical phase-to-phase and phase-to-ground separation. The use of covers (that might provide perching sites for raptors) to achieve minimum separation distances will be avoided. If the design inherently creates perch sites, then perch deterrents would be incorporated into the replacement pole design.
26. Existing poles will be retrofitted to reduce electrocution risk and minimize perch sites. Poles that are no longer being used will be removed.

27. To avoid disturbance to wintering sage-grouse, no construction or ground disturbing activities will occur during the period of November 15 – March 15 within sage-grouse winter habitat. Any exceptions to this requirement must have prior written permission.

Transfer of Federal Ownership/Relinquishment/Assignment Protective Measures

28. As per 43 CFR 2807.21, any proposed transfer of any right or interest in the ROW shall be filed with the AO. An application for assignment shall be accompanied by a showing of qualifications of the Assignee. The assignment shall be supported by a stipulation that the Assignee agrees to comply with and to be bound by the terms and conditions of the grant to be assigned. No assignment shall be recognized unless and until it is approved in writing by the AO.
29. In the event that the public land underlying the ROW, or any portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not reserved to the United States in the conveyance device, or the ROW is not within a ROW corridor being reserved to the United States in the conveyance device, or any combination of the above, the United States Government waives any right to administer the ROW, in whole or in part under all applicable Federal laws, statutes, and regulations, including but not limited to those located at 43 CFR 2800. These include any right to require the holder to apply to BLM and for BLM to approve or recognize any amendments, modifications, or assignments. At the time of conveyance, the conveyee, and its agents, successors, and assigns shall succeed to all conveyed interests of the United States Government in the ROW, or portion thereof, and shall be subject to applicable State and local 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 conveyee and the ROW holder.

Termination/Reclamation Protective Measures

30. Not less than 180 days prior to the termination of this authorization, the holder shall contact the BLM authorized officer to arrange for a joint inspection of the facilities. This inspection will be held to agree to an acceptable termination and rehabilitation plan for the public lands which are included in this authorization. This plan shall include but is not limited to, removal of facilities, drainage structures or surface materials, recontouring, top soiling, or seeding of the impacted areas. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
31. Reclamation will be generally conducted with native seeds that are representative of the native species present in the adjacent habitat. Any nonnative species seeding will be documented with an explanation as to why they were selected for use. Possible exceptions to this documentation requirement would include the use of nonnative species for a temporary cover crop to out-compete weeds. In all cases, ensure seed mixes are expressly approved by the authorized officer before planting.
32. Restoration requirements may include but are not limited to reshaping, re-contouring, resurfacing with topsoil, installation of water bars, and seeding on the contour. Removal of structures such as culverts, concrete pads, cattle guards, and signs may be required regardless of their providence. Additionally, the disturbance may require fertilization, fencing, or both. Additional erosion control measures, such as fiber matting and barrier placement to discourage road travel, may be required.

33. An area is considered to be satisfactorily reclaimed when all disturbed areas have been re-contoured to blend with the natural topography, erosion has been stabilized, and an acceptable vegetative cover has been established. Vegetation cover shall be determined by the AO.



