

## United States Department of the Interior



#### BUREAU OF LAND MANAGEMENT Yuma Field Office 2555 East Gila Ridge Road Yuma, AZ 85365 www.blm.gov/az/

In Reply Refer To: AZA 33392 (AZ-320) 2800

August 11, 2008

T REQUESTED, 7007 1490 0002 2268 8954 CERTIFIED MAIL - RETURN RE

#### DECISION

Mr. Tom Simmons La Paz County Public Works P.O. Box 3580 Parker, Arizona 85344-3580 Right-of-Way (ROW) Serial Number AZA 33392

Type: Road

Right-of-Way (ROW) Grant AZA 33392 Issued;

Exempt from Cost Recovery Fees;

#### Rental Exempt

Enclosed is ROW grant for AZA 33392 which was approved by the Bureau of Land Management (BLM) pursuant to Title V of the Federal Land Policy Management Act (FLPMA) of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761). This grant authorizes a road to provide legal access to a private residential subdivision in the Quartzsite, Arizona, area. This ROW is hereby issued for a term of approximately 20 years and is effective upon the signature of the authorized officer. This ROW is subject to the terms and conditions in 43 CFR 2800 and the terms and conditions specified in the grant.

In accordance with regulations found at 43 CFR 2804.16(a), La Paz County is exempt from paying processing and monitoring fees for the road ROW application because the road would benefit the general public and the principal source of revenue would not result from charges levied on customers.

In accordance with regulations found at 43 CFR 2806.14(b), La Paz County is also exempt from paying rent for the road ROW.

The issuance of this ROW 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 (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 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 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 Realty Specialist Francisca Mueller at 928-317-3237.

James T. Shoaff Field Manager

Enclosures

cc: James Kunisch 2015 Freda Lane Cardiff by the Sea, California 92007 Form 2800-14 (August 1985)

# UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

Issuing Office Yuma Field Office	
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#### RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

Serial Number AZA 33392

l.	A (right-of-way) or (permit) is hereby granted pursuant to:
	a. X 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)
	Nature of Interest:
	a. By this instrument, the holder
	La Paz County
	receives a right to construct, operate, maintain, and terminate a
	road
	Gila and Salt River Meridian, La Paz County, Arizona  T. 3 N., R. 19 W., sec. 19, E½E½SE¼ (within); sec. 20, W½W½SW¼ (within); sec. 30, NE¼NE¼ (within).
	Common and the common
	b. The right-of-way or permit area granted herein is
	* approximately 1,302 feet long on section 19 as described above, approximately 2,139 feet long on section 20 as described above, and approximately 33 feet long on section 30 as described above  c. This instrument shall terminate on
	Federal law or regulation.
	d. This instrument X 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.

#### 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 20<sup>th</sup> 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 and B ,dated July 14 , 2008, 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.
- 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.
- g. The holder shall conduct all activities associated with the construction, operation and termination of the right-of-way within the authorized limits of the right-of-way.
- h. The holder shall contact the authorized officer at least 30 days prior to the anticipated start of construction and/or any surface disturbing activities. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant including the plan(s) of development.
- i. Ninety (90) days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding.

The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

- The holder shall meet Federal, State, and local emission standards for air quality.
- k. Construction-related traffic shall be restricted to routes approved by the authorized officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the authorized officer. Authorized roads used by the holder shall be rehabilitated or maintained when construction activities are complete as approved by the authorized officer.
- l. 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.
- m. If in connection with operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. The holder shall continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.
- n. In the event of an unanticipated discovery of cultural resources, all work will cease in the area of the discovery and the BLM Authorized Officer shall be notified immediately. Procedures outlined in the implementing regulations for the National Historic Preservation Act of 1966, as amended (see 36 CFR 800.13, Post Review Discoveries), will be followed. Pursuant to these regulations, all tribes consulted for this project will be notified of an unanticipated discovery within 48 hours of the discovery. Work may not resume until written authorization to proceed is issued by the BLM.
- o. 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).
- p. The holder will thoroughly power wash and remove all vegetative material and soil before transporting equipment to the construction site to help minimize the threat of spreading noxious and invasive weeds. This includes trucks, trailers, and all other machinery.
- q. Holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.
- r. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
- s. Gravel and/or fill material to be placed in relatively weed-free areas must come from weed-free sources.
- t. The holder shall identify a road maintenance program which will include monitoring for noxious weeds. If holder identifies any noxious weeds, the holder will notify the authorized officer immediately. A treatment program will be identified and the holder will be responsible for weed abatement.

- u. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.
- v. 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 operation, 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.
- w. Holder shall maintain the right-of-way in a safe, usable condition, as directed by the authorized officer. (A regular maintenance program shall include, but is not limited to, blading, ditching, culvert installation, and surfacing.)
- x. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
- y. Movement of all construction vehicles shall be restricted to the proposed ROW.
- z. To prevent the introduction of invasive species, all earth-moving and hauling equipment shall be washed at the contractor's storage facility before entering the construction site. In addition, to prevent the potential spread of invasive species to uncontaminated areas, all earth-moving and hauling equipment shall be washed at a designated location before leaving the construction site.
- aa. All disturbed soils that would not be landscaped or otherwise permanently stabilized by construction shall be seeded using species native to the project vicinity.
- bb. The removal of any plants shall be kept to a minimum to limit disturbance areas and to minimize re-vegetation requirements.
- cc. To avoid any adverse impacts to cultural and ecological resources, all personnel shall be educated on these matters, including the importance of these resources and the purpose and necessity of protecting them.
- dd. Archaeological site AZ R:7:120 (ASM) shall be completely avoided by project activities. A vehicle barrier shall be placed at the end of the road right-of-way. A fence shall be constructed around the cultural site in accordance with BLM standards. The fence will be placed by the Holder so that there is a 30-foot buffer between the fence and all site features and artifacts. The Holder shall attach BLM Archaeological Resource Protection Act (ARPA) signs to the protective fencing at intervals of 20 feet.
- ee. A qualified, BLM-permitted archaeological monitor shall be present during project activities to ensure that archaeological site AZ R:7:120 (ASM) is avoided. A letter report summarizing the results of the monitoring shall be submitted to the BLM. The monitor must be present until the protective fencing around site AZ R:7:120 (ASM) is installed.

- ff. The Holder shall monitor the condition of the fences along the sides of the right-of-way and around archaeological site AZ R:7:120 (ASM) on a regular basis, according to their maintenance schedule, but not less than once a year. Any damage to the fences shall be immediately repaired by the Holder.
- gg. Fugitive dust generated from construction activities shall be controlled by the contractor in accordance with local rules and ordinances.
- hh. During construction, stormwater pollution prevention measures shall be taken as required by the Clean Water Act. A NPDES permit must be obtained from the EPA before any construction activities begin.
- ii. Burning of construction trash such shall not be on BLM land.
- jj. All hazardous materials shall be contained and removed to a disposal facility authorized to accept such materials.
- kk. Liquid chemicals shall be stored in steel or polyethylene (PE) drums as provided by chemical supplier. Drums shall be stored on 2-barrel, platform-type units with a minimum sump capacity of 66 gallons and meeting EPA requirements for secondary containment. Liquid feed shall be pumped in 3/8-inch polyvinylidene fluoride (PVDF) lines contained in ½-inch polyvinyl chloride (PVC) conduit for secondary containment. Liquid contained in the sumps due to chemical spill may be fed to the treatment facility at a metered rate.
- II. Dry chemicals shall be stored out of direct sunlight in manufacturer's provided containers. Spill of dry tablets shall be promptly replaced in manufacturer's type containers by personnel using appropriate PPE.
- mm. OHV proliferation shall be mitigated by placing standard BLM "Limited Use Area" signs at least every 1/4 mile along alternating sides of the right-of-way to deter unauthorized OHV.

Chairman

Title)

August 4, 2008

(Date)

(Signature of Authorized Officer)

(Effective Date of Grant)

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

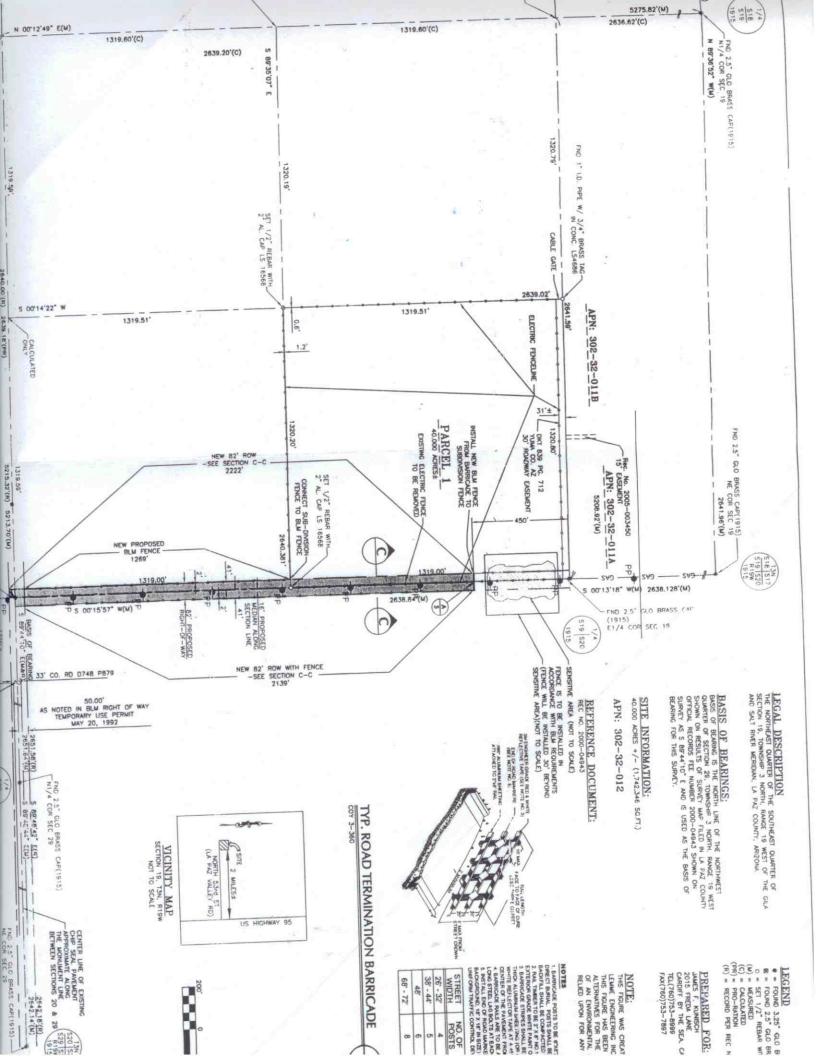
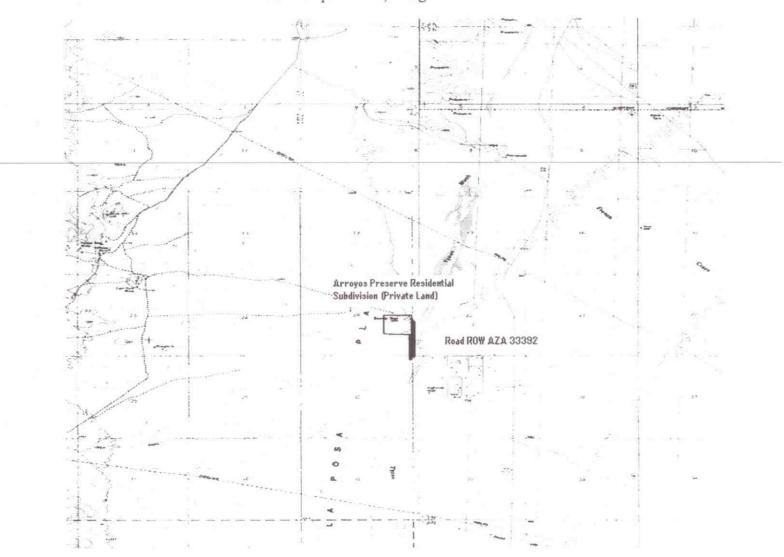


EXHIBIT B AZA 33392 La Paz County

### Gila and Salt River Meridian, La Paz County, Arizona,

Township 3 North, Range 19 West



Form 1842-1 (September 2005)

## 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

IE VOLLAPPEAL	THE FOLLOWING	PROCEDURES MI	JST BE FOLLOWED

NOTICE OF 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 Yuma Field Office 2555 Gila Ridge Road Yuma, AZ 85365

WITH COPY TO SOLICITOR Field Solicitor

U.S. Department of the Interior Sandra Day O'Connor US Courthouse, Room 404 401 West Washington Street, Space 44

Phoenix, AZ 85003-2151

3. STATEMNET OF REASONS

Within 30 days after filing the Notice of Appeal, file a complete statement of 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 North 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

Field Solicitor

U.S. Department of the Interior Sandra Day O'Connor US Courthouse, Room 404 401 West Washington Street, Space 44

Phoenix, AZ 85003-2151

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). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240

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 North Quincy Street, NS 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 VFR 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 2804.1). 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 the 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 other 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 practices involving appeals.

#### 43 CFR SUBPART 182 - GENERAL INFORMATION

Sec 1821.10: Where are BLM office located?

(a) In addition of 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

(Form 1842-1; September 2005)