

Categorical Exclusion (CX) Documentation Format for Actions Other Than Hazardous Fuels and Fire Rehabilitation Actions

Arizona Public Service (APS) DOI-BLM-AZ-P010-2010-0032-CX

A. Background

BLM Office: Hassayampa Field Office
Lease/Serial/Case File No.: AZAR-16973

Proposed Action Title/Type: APS Power Line Renewal and Conversion of Authorization Under the Federal Land Policy Management Act (FLPMA)

Location of Proposed Action: Gila & Salt River Meridian, T. 16 N., R. 1 E., Sec. 21 SE $\frac{1}{4}$ NE $\frac{1}{4}$; and 15 N., R. 2 W., Sec. 12, S2SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.

Description of Proposed Action: APS would like to renew their right to operate, maintain, and terminate an existing 230 kV power line, located partially on both state (excepting and reserving) and public land, under the Federal Land Policy Management Act. If authorized, the grant would become effective January 13, 2008 and expire January 14, 2038.

B. Land Use Plan Conformance

Land Use Plan (LUP) Name: Bureau of Land Management (BLM) Bradshaw-Harquahala Approved Record of Decision/Resource Management Plan (RMP)
Date Approved/Amended: 4/1/2010

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

Under the Approved Resource Management Plan, Decisions Applicable to the Entire Planning Area, Land Health Standards, Lands and Realty Management, Land Use Authorizations, LR-24 states:

"Continue to issue land use authorizations (rights-of-way, leases, permits, easements) on a case-by-case basis and in accordance with resource management prescriptions in this land use plan."

The proposed action is subject to the above RMP and has been reviewed to determine conformity to the terms and conditions required by 43 Code of Federal Regulations (CFR) 1610.5-3, BLM Manual Handbook 1601-1 IV. C(2). Authority for authorizing ROWs, on public land (administered by the BLM), is granted by the Federal Land Policy and Management Act of 1976, (90 Stat. 2776; 43 U.S.C. 1761) and is reflected in Title 43, CFR, Part 2800. It is also authorized under Washington Office Information Bulletin 98-23, as well as contained in BLM Manual section 2860 and the BLM Handbook 2801-1, Plan of Development.

The terms used in this CX conform to the definitions listed in the April 22, 2005, Federal Register notice “Rights-of-Way, Principles and Procedures: Rights-of-Way Under the Federal Land Policy and Management Act and the Mineral Leasing Act”, clarifications provided in BLM Handbook H-2860-1, as well as Title 43, United States (U.S.) Code of Federal Regulations (CFR), Part 2800. In the event of a conflict between the plan and these sources, the Federal Register notice and the BLM Handbook will govern.

C: Compliance with NEPA: The Proposed Action is categorically excluded from further documentation [i.e., Environmental Analysis (EA), Environmental Impact Statement (EIS)] under the National Environmental Policy Act (NEPA) in accordance with 516 DM 2, Appendix 1, or 516 DM 11.9 Appendix 4, E(9) states:

“Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.”

This CX is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

The power line is already in existence and there are no additional rights being conveyed beyond those in the original grant therefore, additional specialist comments are not required or provided.

CRITERIA	Comment (YES/NO)	Staff Initial
1. Have significant impacts on public health and safety?	<u>NO</u>	<u>HC</u>
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?	<u>NO</u>	<u>HC</u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	<u>NO</u>	<u>HC</u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	<u>NO</u>	<u>HC</u>
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	<u>NO</u>	<u>HC</u>

6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects? NO HC
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office? NO HC
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species? NO HC
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment? NO HC
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)? NO HC
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)? NO HC
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)? NO HC

HC = Hillary Conner, Realty Specialist

EXISTING EA/EIS REVIEW FOR ADMINISTRATIVE DETERMINATION

This proposed action is addressed in the following existing BLM EA/EIS: None

This document has been reviewed against the following EA/EIS criteria to determine if it covers the proposed action.

1. The proposed action is a feature of, or essentially the same as, the alternative selected and analyzed in the existing document.
2. A reasonable range of alternatives was analyzed in the existing document.
3. There has been no significant change in circumstances or significant new information germane to the proposed action.
4. The methodology/analytical approach previously used is appropriate for the proposed action.

Contact Person

For additional information concerning this CX review, contact: Hillary Conner, Realty Specialist, at 623-580-5649, or BLM Hassayampa Field Office (HFO), located at 21605 N. 7th Avenue Phoenix, Arizona, 85027.

Note: A separate decision document must be prepared for the action covered by the CX. See Attachment 1.

Approval and Decision Attachment 1

Compliance and assignment of responsibility: Lands & Realty Program

Monitoring and assignment of responsibility: Lands & Realty Program

Review:

We have determined that the proposal is in accordance with the CX criteria and that it would not involve any significant environmental effects. Therefore, it is categorically excluded from further environmental review.

Prepared by: /S/ Hillary Conner **Date:** 9 / 2 4 / 2 0 1 0

Hillary Conner
Realty Specialist

Reviewed by: /S/ Leah Baker **Date:** 9 / 2 8 / 2 0 1 0

Leah Baker
Planning & Environmental Coordinator

Reviewed by: /S/ Jim Andersen **Date:** 9/24/2010

Jim Andersen
Lands & Realty Team Lead

Project Description:

The proposed action is to renew APS ROW grant AZAR-16973. On January 14, 1958, APS was granted the right to construct, operate, and maintain an electric transmission power line, for a 50 year term. The grant was issued pursuant to the Act of 1911. Proof of construction was accepted, by BLM, on November 6, 1961. Grant AZAR-16973 has never been amended. The existing use is for a 230 kV power line that measures .716 miles (3780.48 feet) long and 100 feet wide, totaling 8.7 acres, more or less. On January 8, 1969, selected lands impacting the power line were transferred out of Federal ownership. Specifically, the lands located at the Gila & Salt River Meridian, Township 15 North, Range 2 West, Section 12, were selected by the State of Arizona through an Indemnity Selection. However, these lands were issued as “excepting and reserving” to the U.S., meaning the BLM would continue management of the APS power line. If renewed, the grant will be issued pursuant to Title V of the Federal Land Policy and Management (FLPMA) of October 21, 1976 (90 Stat. 2776; 43 United States Code 1761), for a 30 year term.

Decision:

Based on a review of the project described above and field office staff recommendations, I have determined that the project is in conformance with the LUP and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed, with the following stipulations.

Approved By: /S/ Jim Andersen

Date: 9/28/10

Steve Cohn
Hassayampa Field Manager

STANDARD STIPULATIONS

1. All applicable regulations in accordance with 43 CFR 2800.
2. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the holder or any person working on the holder's behalf, on public or federal land, shall be immediately reported to the BLM AO, HFO Field Manager, Steve Cohn, at (623) 580-5530. The holder shall suspend all operations in the immediate area of such discovery, until written authorization to proceed, is issued by the AO. An evaluation of the discovery will be made to the AO, to determine the appropriate actions, to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of the evaluation and any decision, as to the proper mitigation measures, will be made by the AO after consulting with the holder.
3. In the event that the public land underlying the ROW encompassed in this ROW or a portion thereof, is conveyed out of Federal ownership, and administration of the ROW or the land underlying the ROW is not being reserved to the U.S. in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the U.S. in the patent/deed, the U.S. 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)(2880), including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for 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 U.S. in all matters relating to the ROW, 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.
4. It is against State law to collect desert tortoise from the wild. If tortoises are found in the

project area, they shall be removed from the area and released, in the shade, unharmed. When moving a tortoise, approach the tortoise from the end of the shell with the head. Note the direction the tortoise was heading and carefully carry it no more than 150 feet and release it in the direction that it was heading. If possible place the tortoise in the shade. Carry the tortoise upright, in its normal walking position. Do not tip it from side to side or upside down. If a tortoise becomes frightened, it may empty its bladder as a defense mechanism. The loss of bladder fluids can place the tortoise under additional stress as they store water in the bladder for use during the dry times of year.

5. 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.
6. The holder will utilize the existing road for access to the site. Conformance with the general stipulations as it pertains to the use of the existing road (i.e., "Natural vegetation shall be cleared only when necessary to provide suitable access for construction, operation and maintenance of the system.").
7. Failure of the holder to comply with applicable law or any provision of this lease shall constitute ground for suspension or termination thereof.
8. The holder shall, at all times, operate its equipment in such a manner so as not to cause interference with the operations of existing (or senior) users in the vicinity. If such interference results from the holder's operations, the holder will promptly (at its' own expense) modify the equipment and operations or shut down, if necessary, to eliminate or reduce the interference.
9. The holder shall take measures necessary to ensure airborne pollutant concentrations (mainly dust) meet all Arizona and federal ambient air quality standards through construction and once completed.
10. All terms and conditions of the original grant/lease continue to apply and are incorporated into and made a part of these stipulations as fully and effectively as if they were set forth herein in their entirety.
11. The holder agrees not to exclude any person from participating in employment of procurement activity connected with this grant on the grounds of race, creed, color, national origin, and sex, and to ensure against such exclusions, the holder further agrees to develop and submit to the proper reviewing official specific goals and timetables with respect to minority and female participation in employment and procurement activity connected with this grant. The holder will take affirmative action to utilize business enterprises owned and controlled by minorities or women in its procurement practice connected with this grant. Affirmative action will be taken by the holder to assure all minorities or women applicant(s) full consideration of all employment opportunities connected with this grant. The holder also agrees to post in conspicuous places on its premises which are available to contractors, subcontractors, employees, and other interested individuals, notices which set forth equal opportunity terms; and to notify interested individuals, such as bidders, contractors, purchasers, and labor unions or representatives of workers with whom it has collective bargaining agreements, of the holder's equal opportunity obligations.
12. The holder shall comply with the applicable Federal and State laws and regulations

concerning the use of pesticides (i.e., insecticides, herbicides, fungicides, rodenticides, and other similar substance) in all activities/operations under this grant. The holder shall obtain from the AO approval of written plan prior to the use of such substance. The plan must provide the type and quantity of material to be used; the pest, insect, fungus, etc., to be controlled; the method of application; the location of or storage and disposal of containers; and other information that the AO may require. The plan should be submitted no later than December 1 of any calendar year that covers the proposed activities for the fiscal year (i.e., December 1 deadline for the Federal fiscal year beginning the following October 1). If need for emergency use of pesticides is identified, the use must be approved by the AO. The use of substance on or near the ROW shall be in accordance with the approved plan. A pesticide shall not be used if the Secretary of the Interior has prohibited its use. A pesticide shall be used only in accordance with its registered uses and within other limitations if the Secretary has imposed limitations. Pesticides shall not be permanently stored on public lands authorized for use under this grant.

13. If facilities authorized for construction under this ROW grant uses any hazardous material such as Polychlorinated Biphenyls (PCBs), such use shall be in a totally enclosed or controlled manner in accordance with provisions of the Toxic Substances Control Act of 1976 as amended (see 40 CFR Part 761). Additionally, any release or spill of hazardous material such as PCBs (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR Part 117 shall be reported 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 hazardous material shall be furnished to the AO within five working days of the occurrence of the spill or release.