

0031



IN REPLY
REFER TO:
3450
(U-066)

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Moab District
P. O. Box 970
Moab, Utah 84532

File: ACT/007/006
Folder # 3, 4

1984 AUG 10 11 30 AM
RECEIVED

AUG 2 1984

DIVISION OF OIL
GAS & MINING

AUG 9 1984

Memorandum

To: Center Administrator, OSM, Denver

Attention: Dave Maxwell

From: ~~ACT~~ District Manager, Moab

Subject: Unit Train Loadout Technical Review Response (July 5, 1984);
Plateau Mining

We have reviewed subject submittal for a project associated with the Starpoint Mines. Use of the Federal surface estate within the project area has been approved by the BLM through a right-of-way which was issued April 10, 1984. A copy of the agreement is enclosed. Stipulations therein address all of our concerns. Stipulations of your approval of the subject submittal should be consistent with our right-of-way agreement. With the expectation that your stipulations will not conflict with ours, this is our final concurrence letter.

Enclosure:
Right-of-way U-52409

2890
U-52409
(U-066)

Moab District
Price River Resource Area
P. O. Drawer AB
Price, Utah 84501

RIGHT-OF-WAY

U-52409

Section A

1. There is hereby granted, pursuant to Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761), a nonexclusive, nonpossessory right-of-way to:

Getty Minerals Marketing Incorporated
P. O. Box 7900
Salt Lake City, UT 84107

In case of change of address the Holder shall immediately notify the Authorized Officer.

2. To use, subject to terms and conditions set out below, the following described Public Land.

Salt Lake Base and Meridian, Utah
Township 15 South, Range 8 East,
Section 15, NE $\frac{1}{4}$

3. Description of the right-of-way facility and purpose:

The right-of-way is for an access road, conveyor, sedimentation pond, diversion ditches and culverts, associated with a unit train loadout facility. The right-of-way contains 25.19 acres.

A map showing the location of the right-of-way over the above described public land is attached hereto as "Exhibit A".

TERMS AND CONDITIONS

Section B

1. The right-of-way Holder agrees to comply with all the applicable regulations contained in 43 CFR 2800.

2. This grant is subject to all valid rights existing on the effective date of this grant.

3. 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 substances) in all activities/operations under this grant. The holder shall obtain from the Authorized Officer approval of a written plan prior to the use of such substances. 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 for storage and disposal of containers; and other information that the Authorized Officer may require. The plan should be submitted no later than December 1 or any calendar year that covers the proposed activities for the next fiscal year (i.e., December 1, 1983 deadline for a fiscal year 1985 action). Emergency use of pesticides may occur. The use of substances on or near the right-of-way 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.

4. The holder agrees not to exclude any person from participating in employment or procurement activity connected with this grant on the grounds of race, creed, color, national origin or sex, and to ensure against such exclusions, the holder further agrees to develop and submit to the proper reviewing official specific goals and time tables 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 practices connected with this grant. Affirmative action will be taken by the holder to assure all minorities or women applicants 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.

5. There is hereby reserved to the Secretary of the Interior, or his lawful delegate, the right to grant additional rights-of-way or permits for compatible uses on, over, under or adjacent to the land involved in this grant.

6. If the right-of-way Holder violates any of the terms and conditions to this grant, the authorized officer, after giving written notice may declare this grant terminated.

7. The holder acknowledges and agrees that the grant of this right-of-way is subject to the express condition that the exercise thereof will not interfere with the management, administration or disposal by the United States of the lands affected thereby, or the full and safe utilization thereof by the United States, for necessary operations incident to such management, administration or disposal. The holder agrees and consents to the occupancy and use by the United States, its grantees, permittees or lessees of any part of the right-of-way not actually occupied or required by the project for purposes which are not in conflict with holder's use of the right-of-way.

8. The right-of-way shall be relinquished to the United States if the authorized uses are no longer needed.

9. The holder shall construct and maintain right-of-way facilities and structures in strict conformity with the descriptive and technical data which it has heretofore furnished the Bureau of Land Management in connection with its application. Activities which are not in accord with such data may not be initiated without the prior written approval of the Authorized Officer. Approval of variances will not be given unless the need therefore is fully justified by the holder.

10. If at any time hereafter the holder wishes to reconstruct, remodel or relocate any portion of the right-of-way hereby granted, or any of the improvements thereon, the prior written approval of the Authorized Officer must be obtained. No such approval will be given unless the request is fully justified by the holder and is authorized by law. Where necessary, the holder shall make application under appropriate regulations.

11. The holder shall comply with all State and Federal regulations and laws pertaining to water quality, public health and safety, and environmental protection. Compliance shall be made with State standards when those standards are more stringent than Federal Standards.

12. The holder shall comply with applicable Federal and State laws and regulations issued thereunder, existing or hereafter enacted or promulgated, affecting in any manner construction, operation, maintenance or termination of facilities located on the right-of-way to include all applicable regulations in 30 CFR Chapter VII and regulations developed to implement the Coal Mining Reclamation Act of 1978 (U.C.A. 40-10-1 et. seq.) Chapter I Parts U.M.C. 700-845.

13. Topsoil shall be removed and stockpiled from all areas to be disturbed before any surface disturbance occurs. The performance guidelines outlined in 30 CFR 816.22 shall be followed in the removal of topsoil.

14. All topsoil removed for storage shall be stockpiled on the right-of-way and protected from wind and water erosion, unnecessary compaction and contaminants. Immediately following stockpiling, topsoil shall be seeded with a quick growing cover plant and a permanent perennial plant to protect the soil until reclamation operations begin. When reclamation operations commence, topsoil shall be evenly distributed over the final prepared site. Soil nutrients or other amendments may be required if, in final reclamation, soil test results so determine.
15. Discharge of water from areas impacted by surface disturbance on the right-of-way shall be made in compliance with all Federal and State laws and regulations.
16. The holder shall remove and dispose of all waste material including trash, oil, grease, chemicals and similar substances in accordance with local, State and Federal laws and regulations. Under no circumstances shall waste material be disposed of on public lands without the written approval of the Authorized Officer.
17. All structures constructed on the right-of-way shall be painted, utilizing a nonobstrusive color approved by the Authorized Officer.
18. The holder shall seed all areas disturbed by construction operations not required for operation or maintenance of the facility.
19. All disturbed areas shall be seeded or planted to achieve a permanent vegetative cover. The seeding/plant mixture will be developed by the holder and authorized BLM official in conjunction with recommendations made by the Utah Division of Oil, Gas and Mining. Seeding and planting shall take place from mid October through November unless supplemental irrigation is used. The holder shall apply a suitable mulch on all disturbed areas to control erosion and to promote germination of seeds and growth of plants. Mulch shall be mechanically or chemically anchored to the soil surface. If straw or hay is used as mulch, the rate of application shall be at least 1.5 tons per acre.
20. The holder shall install permanent monuments at each corner of the right-of-way. Each monument shall have the survey bearing and right-of-way number inscribed on a brass cap. Monument specifications are attached.
21. The Holder shall submit to the Authorized Officer a report verifying the success of wildlife mitigation efforts. The report shall discuss the success of seeding and planting of transplant stock as well as the improvement in shrub density and vegetative production. Additional measures may be required to mitigate impacts to mule deer critical winter range, if current efforts appear unsuccessful.
22. Upon termination of the right-of-way all structures shall be removed and the site restored to as natural a state insofar as possible, subject to the approval of the Authorized Officer.

23. The Holder shall initiate construction startup between May 15 and November 1, to mitigate impacts to mule deer. It is also recommended that construction be conducted between these dates for the same purpose.

24. At least 30 days prior to construction, the holder shall schedule a preconstruction conference with the Authorized Officer. The purpose of this conference is to review the terms and conditions of the grant.

25. When all development has been completed, a joint compliance check of the right-of-way shall be made by the holder and the Authorized Officer to determine compliance with the terms and conditions of this grant. The holder shall perform at his own expense any required modifications or reclamation work needed to comply with the terms of the grant.

26. The right-of-way shall be relinquished to the United States if the authorized uses are no longer needed.

27. Rental: \$25 advance rental deposit is required pending the determination of fair market rental value of uses authorized by this grant. This right-of-way is not in force until the Holder has paid the stipulated rental deposit.

28. Term of the Grant: 20 years.

a. This right-of-way grant shall terminate 20 (twenty) years from the effective date of this grant unless prior thereto it is relinquished, abandoned, terminated, or otherwise modified pursuant to the terms and conditions of this grant or of any applicable Federal law or regulation.

b. This grant may be renewed so long as it is still being used for the purposes granted, and is operated and maintained in accordance with all the provisions of this grant and pursuant to the regulations under which it is granted. If renewed the right-of-way will be subject to regulations existing at the time of renewal, and such other terms and conditions deemed necessary to protect the public interest.

c. This grant is subject to review at the end of 20 years from the date of execution, and at regular intervals thereafter not to exceed 10 years.