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IN REPLY REFER TO:
2800/1785 (911)



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
State Office
555 Cordova Street
Anchorage, Alaska 99501

July 21, 1975

INTERIOR DISTRICT
AUG 4 21 PM 1975
DEPT. OF HIGHWAYS

Mr. Walter B. Parker
Commissioner
Department of Highways
State of Alaska
P.O. Box 1467
Juneau, Alaska 99801

Dear Mr. Parker:

As you know, the Bureau of Land Management is responsible for the granting of rights-of-way across most federal lands in Alaska. We have, in the past, experienced the construction of power transmission and distribution lines within highway rights-of-way without the benefit of a utility right-of-way grant being issued by this agency. We now have an amendment of the right-of-way regulations (Title 43, Code of Federal Regulations, Part 2820) that will clarify BLM's position on this situation.

On November 7, 1974, amendments to the right-of-way regulations were published in the Federal Register (39 F.R. 39440). The regulations became effective on December 9, 1974.

These amendments restrict the use of granted highway rights-of-way to use for highway purposes only. They also provide that separate applications must be made under pertinent statutes and regulations in order to obtain authorization to use the lands within such rights-of-way for other purposes.

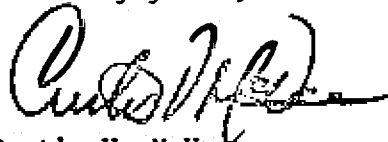
The granting of such additional rights-of-way within highway rights-of-way is now under the jurisdiction of this Bureau. We will, nevertheless, consider any objections or stipulations submitted by the applicant from the highway right-of-way holder. This will give us better control over any proposed additional uses within the highway grant, and will avoid some of the problems we have had with such uses or proposed uses in the past.

UTILITY TO
GO DIRECT
TO B.L.M.
FIRST?

We have enclosed a copy of the new regulations as they appeared in the Federal Register. We are sending similar information to the utility companies.

In view of the increasing use of transportation corridors, it is important that we all work together in the future to reduce conflicts and provide for wise use of land resources within these corridors.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Curtis V. McVee". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Curtis V. McVee
State Director

Enclosure:
Cy. 39 F.R. 39440

RULES AND REGULATIONS

...ation, the supplies may be reinspected at destination for conformance with contract specifications.

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948 (42 U.S.C. 2201); sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390 (40 U.S.C. 486))

Effective date. This amendment is effective November 7, 1974.

Dated at Germantown, Maryland this 31st day of October, 1974

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH, Director, Division of Contracts.

Title 43—Public Lands Interior CHAPTER II—BUREAU OF LAND MANAGEMENT

SUBCHAPTER B—LAND RESOURCE MANAGEMENT (2000) [Circular No. 2364]

PART 2820—ROADS AND HIGHWAYS Additional Use of Highway Right-of-Way

On page 10379 of the FEDERAL REGISTER of May 20, 1972, there was published a notice and text of a proposed amendment to Part 2820 of Title 43, Code of Federal Regulations. The purpose of the amendment is to delete those provisions of the Code of Federal Regulations whereby holders of highway rights-of-way granted under Title 23 U.S.C. and R.S. 2477 may grant other parties right-of-way within the highway right-of-way. Under the proposed amendment, such additional uses of highway rights-of-way would be granted by the government. Interested parties were given until June 26, 1972, within which to submit comments, suggestions, or objections to the proposed amendment. Fifteen comments were received. Most opposed the amendment stating that it will complicate historic methods for acquiring use of lands and questioning the Secretary's authority to restrict use of rights-of-way granted under R.S. 2477. One respondent stipulated that if the rights of the highway right-of-way holder were protected they had no objection.

In response to the comments, the following changes have been made:

(1) Rights-of-way granted for non-highway purposes will be subject to the highway grant. Any future relocation or change of the additional right-of-way made necessary by virtue of changes in the highway use will be accomplished at the expense of the additional right-of-way holder.

(2) Prior to the granting of an additional right-of-way the applicant therefore will submit to the Authorized Officer a written statement from the highway right-of-way grantee indicating any objections it may have thereto, and such stipulations as it considers desirable for the additional right-of-way.

In § 2822.2-2, as set forth in the notice of proposed rulemaking, the last sentence

is revised to include reference to paragraph (b) of § 2801.1-5. This provision had been omitted inadvertently from the 1970 recodification. The last sentence of § 2822.2-2 is revised to read: "Grants under R.S. 2477 are made subject to the provisions of § 2801.1-5 (b), (c), (d), (e), (i), and (k) of this chapter." This amendment is hereby adopted as set forth below and shall become effective December 9, 1974.

1. Section 2821.6 is revised to read as follows:

§ 2821.6 Additional rights-of-way within highway rights-of-way.

A right-of-way granted under this subpart confers upon the grantee the right to use the lands within the right-of-way for highway purposes only. Separate application must be made under pertinent statutes and regulations in order to obtain authorization to use the lands within such rights-of-way for other purposes. Additional rights-of-way will be subject to the highway right-of-way. Future relocation or change of the additional right-of-way made necessary by the highway use will be accomplished at the expense of the additional right-of-way grantee. Prior to the granting of an additional right-of-way the applicant therefore will submit to the Authorized Officer a written statement from the highway right-of-way grantee indicating any objections it may have thereto, and such stipulations as it considers desirable for the additional right-of-way.

2. Section 2822.1-2(b) is revised as follows:

§ 2822.1-2 Procedure when reserved land is involved; rights-of-way over revested and reconveyed lands.

(b) Revocation or modification of withdrawal. Where reserved lands are involved, no rights to establish or construct the highway may be acquired before the reservation is revoked or modified to permit construction of the highway, subject to terms and conditions, if any, as may be deemed reasonable and necessary for the adequate protection and utilization of the reserve and for the protection of the natural resources and the environment.

3. Sections 2822.2, 2822.2-1, and 2822.2-2 are revised to read as follows:

§ 2822.2 Nature of interest.

§ 2822.2-1 Effective date of grant.

Grants of rights-of-way under P.S. 2477 are effective upon construction or establishment of highways in accordance with the State laws over public lands that are not reserved for public uses.

§ 2822.2-2 Extent of grant.

A right-of-way granted pursuant to R.S. 2477 confers upon the grantee the right to use the lands within the right-of-way for highway purposes only. Separate application must be made under pertinent statutes and regulations in order to obtain authorization to use the lands

within such rights-of-way for other purposes. Additional rights-of-way will be subject to the highway right-of-way. Future relocation or change of the additional right-of-way made necessary by the highway use will be accomplished at the expense of the additional right-of-way grantee. Prior to the granting of an additional right-of-way the applicant therefore will submit to the Authorized Officer a written statement from the highway right-of-way grantee indicating any objections it may have thereto, and such stipulations as it considers desirable for the additional right-of-way. Grants under R.S. 2477 are made subject to the provisions of § 2801.1-5 (b), (c), (d), (e), (i), and (k) of this chapter.

JACK O. HORTON, Assistant Secretary of the Interior.

OCTOBER 29, 1974.

[FR Doc.74-26107 Filed 11-6-74;8:45 am]

APPENDIX—PUBLIC LAND ORDERS [Public Land Order 5441]

[Riverside 2127]

CALIFORNIA

Modification of Public Land Order No. 3221

By virtue of the authority vested in the President and pursuant to Executive Order No. 11355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

Public Land Order No. 3221 of September 4, 1943, reserving lands under the jurisdiction of the Department of the Interior for use of the Forest Service, United States Department of Agriculture, as a field testing area in connection with the Western Forest Fire Research Laboratory, is hereby modified to the extent necessary to permit the location of a right-of-way under section 2477, U.S. Revised Statutes, 43 U.S.C. 932 (1970), by Riverside County, California, over the following described lands, as delineated on a map on file with the Bureau of Land Management in Riverside 2127, for construction of a public road

SAN BERNARDINO MERIDIAN

T. 3 S., R. 1 E. Sec. 36, SW 1/4 SW 1/4. T. 4 S., R. 1 E., Sec. 2, lots 2 and 3.

Containing approximately 8.89 acres in Riverside County.

JACK O. HORTON, Assistant Secretary of the Interior.

NOVEMBER 1, 1974.

[FR Doc.74-26102 Filed 11-6-74;8:45 am]

Title 49—Transportation SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-89]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation to the Commandant, U.S. Coast Guard

The purpose of this amendment is to delegate to the Commandant of the

notify the applicant and the authorized officer of the Bureau of Public Roads either (1) that the approval of the application would be contrary to the public interest or inconsistent with the purposes for which the lands or materials have been reserved or (2) that he proposes to grant the right-of-way under the regulations of this part, subject to said regulations and to such conditions which he indicates in his notice.

§ 2821.5 Terms and conditions of allowance.

Grants of rights-of-way under Title 23, United States Code, by the authorized officer of the Bureau of Land Management will be made to the appropriate State highway department or to its nominee and based upon considerations of adequate protection and utilization of Federal lands and interests in lands will be subject to (1) all the pertinent regulations of this part except those which the authorized officer, upon formal request of the applicant may modify or dispense with, in whole or in part, upon a finding that it is in the public interest and in conformity with the purposes of Title 23, United States Code, and (2) any conditions which he deems necessary. Grants of highway rights-of-way under this subpart may include an appropriation and release to the State or its nominee of all rights of the United States, as owner of underlying and abutting lands, to cross over or gain access to the highway from its lands crossed by or abutting the right-of-way, subject to such terms and conditions and for such duration as the authorized officer of the Bureau of Land Management deems appropriate.

§ 2821.6 Additional rights-of-way within highway rights-of-way.

§ 2821.6-1 General.

No application under the regulations of this part is required for a right-of-way within the limits of a highway right-of-way granted pursuant to Title 23, United States Code, for facilities usual to a highway, except (a) where terms of the grant or a provision of law specifically requires the filing of an application for a right-of-way, (b) where the right-of-way is for electric transmission facilities which are designed for operation at a nominal voltage of 33 KV or above or for conversion to such operation or (c) where the right-of-way is for oil or gas pipe-

lines which are part of a pipeline crossing other public lands, or if not part of such a pipeline, which are more than two miles long. When an application is not required under the provisions of this subparagraph, qualified persons may appropriate rights-of-way for such usual highway facilities with the consent of the holder of the highway right-of-way, which holder will be responsible for compliance with § 2801.1-5, in connection with the construction and maintenance of such facilities.

§ 2821.6-2 Terms of grant.

Except as modified by § 2821.6-1 of this subpart, rights-of-way within the limits of a highway right-of-way granted pursuant to Title 23, United States Code, and applications for such rights-of-way, are subject to all the regulations of this part pertaining to such rights-of-way.

(43 U.S.C. 1371)

Subpart 2822—Roads Over Public Lands Under R.S. 2477

Source: The provisions of this Subpart 2822 appear at 35 F.R. 9646, June 13, 1970, unless otherwise noted.

§ 2822.0-3 Authority.

R.S. 2477 (43 U.S.C. 932), grants rights-of-way for the construction of highways over public lands, not reserved for public uses.

§ 2822.1 Applications.

§ 2822.1-1 For unreserved public lands.

No application should be filed under R.S. 2477, as no action on the part of the Government is necessary.

§ 2822.1-2 Procedure when reserved land is involved; rights-of-way over revested and reconveyed lands.

(a) *Showing Required.* When a right-of-way is desired for the construction of a highway under R.S. 2477 over public land reserved for public uses, and such reserved land is under the jurisdiction of the Department of the Interior, and when a right-of-way is desired for the construction of a highway under R.S. 2477 over the Revested and Reconveyed Lands, an application should be made in accordance with § 2802.1. Such application should be accompanied by a map, drawn on tracing linen, with two print copies thereof, showing the location of the proposed highway with relation to the smallest legal subdivisions of the lands affected.