



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Central Coast Field Office

940-2nd Avenue

Marina, California 93933-6009

<http://www.blm.gov/ca/hollister>



August 24, 2016

In Reply Refer To:
2800 (P)
CACA-048028-01
CA-190.35

Certified Mail: 7015 1730 0000 2740 2070
Return Receipt Requested

County of Monterey, Resources Management Agency
Carl Holm, Director
Monterey County Government Center
168 W. Alisal Street, 2nd Floor
Salinas, Ca 93901

Dear Mr. Holm,

It is our understanding that the Monterey County Parks Department has been folded into the Resources Management Agency. As such, this letter is in follow-up to County of Monterey, Parks Department's short term right-of-way (ROW) grant, CACA-048028-01, that is due to expire December 31, 2016.

This short term ROW facilitates the County's efforts to remedy damage to the Fort Ord National Monument near turn 6 of Laguna Seca Recreation Area and stabilize erosion caused from storm water discharge. Per the ROW grant, the following required stipulations have not been met: Prior to June 30, 2016, the Holder shall provide the following to the BLM Authorized Officer:

- A new SF299 right-of-way application which should include a plan of development for the new system for the storm water diversion outlet based on information received from the geotechnical report.
- An acceptable termination and rehabilitation plan. This plan shall be prepared by the holder and shall include, but is not limited to, removal of the existing facilities, drainage structures, or surface material, recontouring, topsoiling, or

revegetation. The Authorized Officer must approve the plan in writing prior to the holder's commencement of any termination activities.

As a condition of the ROW, the County contracted with Cotton, Shires and Associates, Inc. (CSAI) and was provided mitigation alternatives to consider when preparing a termination and rehabilitation plan. Within an email from John Akeman dated August 16, 2016, we understand that the County is proposing to redirect storm drainage off the National Monument. As such, please prepare a more detailed proposal with your contractor on how the County intends to terminate and rehabilitate the existing drainage facilities located on BLM lands for our consideration. This plan should provide a more definitive explanation of the County's proposed course of action on dealing with the main gully and side gully hazards identified within the CSAI report.

Sincerely,



Rick Cooper
Central Coast Field Manager

Enclosure: CACA-048028-01 ROW Grant

cc: Nick Chiulos, Assistant County Administrative Officer
John Akeman, Park Planning Manager
Kathleen Lee, Chief of Staff, Supervisor Potter
Alec Arego, District Director for Sam Farr

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT**

SERIAL NUMBER CACA 048028-01

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

- a. By this instrument, the holder:

County of Monterey, Parks Department
P.O. Box 5249
Salinas, CA 93915

Receives a right to construct, operate, maintain, and terminate a temporary emergency erosion control stabilization project for a failing drainage and culvert system previously authorized under case #CACA-048028. Project is located on public lands described as follows:

Mount Diablo Meridian, California

T.15S., R.2E., sec. 33.

36°, 34'48.16" North; 121°, 44'57.03" West – Beginning Point.

36°, 34'48.22" North; 121°, 44'50.14" West – Ending Point.

Monterey County

- b. The right-of-way or permit area granted herein for temporary emergency erosion project is 1' width by 600' length. Total right-of-way area granted contains 0.014 acres, more or less.
 - c. This instrument shall terminate December 31, 2016, 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. The instrument may 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 expiration, or prior termination, of the grant.

3. Rental:

Holder, as a County Government agency, you are exempt from payment of rental under the provisions of 43 CFR 2806.14 (b).

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 holders compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 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 - Project Description 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.

Additional Terms and Conditions

Stipulations

- 1) The right-of-way (ROW) is issued subject to valid existing rights. Gates are not permitted to be constructed on BLM land.
- 2) The ROW holder shall indemnify the United States against any liability for damage to life or property arising from the use of public lands under this grant.

- 3) The ROW holder shall promptly provide written notification of an address change to the Authorized Officer.
- 4) The ROW holder shall conduct all activities associated with the maintenance, operation, and termination of the ROW within the authorized limits of the ROW.

No deviation from the defined proposed route shall be allowed unless properly submitted to and approved by the BLM's Authorized Officer.

- 5) The ROW holder shall not initiate any new construction or other surface disturbing activity outside of the existing ROW without the prior written authorization of the Authorized Officer.
- 6) **PESTICIDES:** The holder is responsible for weed control on disturbed areas within the limits of the right-of-way. The holder will consult with the Authorized Officer for planning acceptable weed control measures on all noxious weed infestations within the limits of the right-of-way. The use of pesticides shall comply with Federal and state laws governing their proper usage, storage and disposal, and any limitations imposed by the Secretary of the Interior.

Prior to the use of pesticides, the holder will obtain from the authorized officer (AO) written approval of a Plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposed-of containers, and any other information deemed necessary by the AO. Emergency use of pesticides shall be approved in writing by the AO prior to such use.

All construction equipment to be used in connection with this project will first be cleaned thoroughly to minimize the introduction of new noxious weed species to the area.

- 7) The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976 as amended, 15 USC 2601 et seq. (1982) with regards to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way 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 (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 toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

The holder of right-of-way grant CACA 048028-01 agrees to indemnify the United States against any liability or alleged claim arising from the release of any toxic substances on the right-of-way or resulting from activity on or the occupancy of the right-of-way.

- 8) Any cultural and/or paleontological resource (historical 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 measure will be made by the Authorized Officer after consulting with the ROW holder.
- 9) The holder shall check the facility daily during storm events and at a minimum three times per week to insure that it is operational.
- 10) The holder must enter into a contractual agreement for the geotechnical investigation of the site by July 31, 2015 and obtain a completed geotechnical report by December 4, 2015. The holder shall provide such contract and report to the BLM Authorized Officer upon request.
- 11) The holder agrees to participate in monthly conference calls with the Fort Ord National Monument Manager to discuss the status of the geotechnical contract work and communicate any issues/concerns that are delaying the completion of the project.
- 12) The holder shall comply with reporting requirements. Reports should describe the status of the project, any delays and updated dates for the completion date of the project.

Report dates are as follows:

September 4, 2015

October 23, 2015

December 4, 2015 (Completion Report)

Submit reports to:

Bureau of Land Management

Attn: Field Manager

20 Hamilton Court

Hollister, CA 95023

- 13) Prior to June 30, 2016, the Holder shall provide the following to the BLM Authorized Officer :

- A new SF299 right-of-way application which should include a plan of development for the new system for the storm water diversion outlet based on information received from the geotechnical report
- An acceptable termination and rehabilitation plan. This plan shall be prepared by the holder and shall include, but is not limited to, removal of the existing facilities, drainage structures, or surface material, recontouring, topsoiling, or revegetation. The Authorized Officer must approve the plan in writing prior to the holder's commencement of any termination activities.

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

(Signature of Holder)

(Title)

(Date)

(Signature of Authorized Officer)

(Title)

(Effective Date of Grant)

Exhibit A
11/26/2012

Drain Line Repair at Turn 6- Project Description:

Our selected contractor, Blaze Engineering Inc. (Blaze), will install a new 600-linear foot drainage line out of the existing drain box using 12" HDPE culvert pipe. The line will be installed underground at the drain box to accommodate the nearby trail, emerging near the adjacent set of oak trees down-slope and out-of-site of the trail. The above ground section of pipe will be staked to prevent it from moving. The drain line will be terminated near the bottom of the eroded area, a tee will be installed (end of pipe) to dissipate the water and gabion (rocks) will be placed by the tee to further dissipate the water to lessen further erosion. Blaze has discussed the project with Whitson Engineers who have done extensive work at the Laguna Seca site including the engineering for original drain system and has met on site to discuss the proposed drain line repair project with staff members representing BLM, Monterey Co. Parks and SCRAMP.