



Rights of Way Division
Rights-of-way Easement Procedures

Processing Procedures:

1. Applicant requests permission to conduct cadastral survey. If conducting an onsite cultural or biological survey applicant must obtain a Right of Entry permit prior to entering State Trust Lands.
2. Applicant submits an application, fees and all required items listed below.
3. SLO staff will mail a letter of pending application to all pertinent surface lessees.
4. Onsite inspection will be performed by SLO field staff and they will prepare a report of findings.
5. Completed easements are sent to the applicant for their signature. Additional funds may be requested as applicable. ***Construction cannot begin until the easement is signed by the Commissioner.***
6. Applicant returns signed easement and funds (if requested) within thirty days.
7. Signed easements routed to the Commissioner for approval and signature.
8. Approved easements mailed/emailed to applicant.

Required with Application:

1. Authorization letter to conduct cadastral survey on State Trust Land.
2. Right of Entry permit as needed to conduct onsite cultural or biological surveys.
3. Cover Letter: Identify to whom all correspondence should be directed to.
4. As applicable, Letter of Authorization for agent.
5. Completed application duly signed and notarized.
6. Appropriate application fee.
7. Survey Plat: Registered land surveyor's centerline survey and associated ArcGIS shapefiles. Legal description must indicate the number of rods and acreage per qtr/qtr aliquot tract of land applied for. (See Survey Requirements)
8. Cultural Resource Protection acknowledgement.

Additional Information:

1. Term 35 years or less
2. Application Fees: \$250.00 non-refundable
3. Amendment fee is \$200.00. Amended plat must be submitted to reflect changes. Same processing procedures apply.
4. Rent is typically based on applicable Price Schedules.
5. Damage Bond Requirements: \$500.00 for single easement coverage and \$2,500.00 for blanket coverage (more than one right of way easement).
6. Reclamation Bond for Produced/Treated Water Lines: \$25,000 single coverage and \$250,000 for blanket coverage.
7. Right-of-way route must be staked and flagged prior to field inspection.
8. ArcGIS Shapefiles must be provided according to Survey Requirements no later than 5 days following SLO receipt of application.



Stephanie Garcia Richard
Commissioner of Public Lands
State of New Mexico
RIGHTS-OF-WAY DIVISION

Melissa Armijo - Rights-of-way Leasing Manager

505.827.5728

marmijo@slo.state.nm.us

Patricia Esquibel – Rights-of way Lease Analyst

505.827.5734

pesquibel@slo.state.nm.us

Philip Garcia – Rights-of-way Lease Analyst

505.827.5751

pgarcia@slo.state.nm.us

Barbara Griego – Executive Assistant (Outfitter Guide Permits, Recreational Access Permits)

505.827.5784

bgriego@slo.state.nm.us

Nick Jaramillo – Rights-of-way Lease Analyst

505.827.5773

njaramillo@slo.state.nm.us

Amy Velazquez– Rights-of-way Lease Analyst (Rights-of Entry)

505.827.5789

avelazquez@slo.state.nm.us

Anthony Vigil – Rights-of-way Lease Analyst (Permission to survey, Rights-of-Entry)

505.827.5710

avigil@slo.state.nm.us

Additional Numbers:

Administrative Services - 505.827.5700

Records Management – 505.827.5721

Field Operations – 505.827.5851

Agricultural Leasing – 505.827.5732

www.nmstatelands.org



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State of New Mexico

Guidelines for Permission to Survey

Request for permission to survey on New Mexico State Trust Lands must be submitted on company letterhead and contain the following information:

- Applicant's name
- Applicant's address
- Applicant's phone number
- Applicant's email address
- Date of application
- Describe the proposed project
- Date of proposed survey
- General location i.e. county, next to highway
- Legal description of proposed survey area (give section, township and range and qtr./qtr. aliquot description)
- Insert the following required text into the body of your letter,

"The undersigned applicant indemnifies and holds harmless the commissioner, his agents and employees, and any authorized lessees of the state of New Mexico, against any and all liability for loss of life, personal injury and property damage due to survey or related activities of the applicant, or by employees, contractors or subcontractors of the applicant."

Send the completed request to the attention of Anthony Vigil, Management Analyst, 310 Old Santa Fe Trail, Santa Fe, NM 87501 or P.O. Box 1148, Santa Fe, NM 87504. The request may also be emailed to AVigil@slo.state.nm.us. For additional information or questions, please call Anthony at (505) 827-5710.

Survey Plats and Legal Description Requirements.

1. *Survey plats must show ties to PLSS corners (second division level or higher).*
2. Survey plats must include a legal description with the metes and bounds descriptions for each parcel, right-of-way, or easement.
3. Survey plats must show the land surveyed in aliquot parts, and for any partial quarter-quarter section, lot or partial lot included.
4. *Survey plats must show the acreage in each such partial quarter-quarter section, lot, or partial lot.*
5. The survey must identify every point where a proposed right-of-way enters or leaves state trust land.
6. The survey plat must depict all rights-of-way and easements that affect the land being surveyed.
7. All plats are to be drawn in the appropriate zone of the *New Mexico State Plane Coordinate System, North American Datum 1983.*

Surveys that do not comply with these requirements will be rejected.

In addition to a survey, the Commissioner of Public Lands may require an Improvement Location Report to be prepared in accordance with NMAC Section 12.8.2.10. If a parcel to be surveyed lies in an area not covered by the Public Land Survey System (PLSS) (e.g., land grants), then a PLSS framework must be projected onto the lands in question. The results of all surveys must be reported within the framework of the PLSS to the second division (see items 1 through 4 listed above).

Electronic Format.

In addition to a physical plat, a digital file containing centerlines for Rights-Of-Ways and/or boundary lines for parcels or leased areas (including ROWs) must be included. The digital file shall contain all of the requirements in 19.2.10.12A NMAC. *The data must be drawn to scale and projected in the appropriate zone for the New Mexico State Plane Coordinate System, NAD83.* **The plat will not be approved until the spatial data has been submitted by the surveyor and is georeferenced correctly.**

Any of the formats listed below will be accepted. Only one digital file needs to be submitted.

****Acceptable CAD formats:** AutoCAD *dwg* and *dxf* formats or Microstation *dgn* format containing line features for centerlines and/or boundary area outlines.

OR

Acceptable GIS formats: shapefiles or personal/file geodatabases (ESRI) containing a line feature class for centerlines and/or boundary area outlines. ESRI COGO traverse files are also acceptable. Projection information must be included (e.g., *.prj* file).

****Preferred format.**



For further information, please contact:
Land Office Geographic Information Center
New Mexico State Land Office
LOGIC@slo.state.nm.us

July 19, 2017



Stephanie Garcia Richard
Commissioner of Public Lands
State of New Mexico

T & E AND CULTURAL RESOURCES NOTICE TO APPLICANTS

Prior to approval of any application, all applicants requesting permission to conduct any project or activity on state trust land must acknowledge receipt and acceptance of the following instruction and notification:

Lessees are expected to know and abide by the laws related both to threatened and endangered species, and to the protection of cultural properties.

Threatened and Endangered Species

Plant and animal species may be listed with various state and federal agencies as threatened or endangered. Each agency designation carries specific prohibitions against “take” which may result in distinct regulatory impacts on land use within the range of each species. “Take” is defined and interpreted differently across jurisdictional boundaries. **It is the lessee’s obligation to know, understand and abide by the laws related to threatened and endangered species.**

Protection of Cultural Resources

The New Mexico Historic Preservation Division maintains records of all cultural resource surveys through its Archaeological Records Management Section (ARMS). **An ARMS Inspection of Records in compliance with NMAC 4.10.15.9 will be included with all applications.**

To minimize processing delays, **applicants are strongly encouraged to supply an ARMS Inspection with their applications.** If no ARMS Inspection is provided by the applicant, the Land Office will provide the ARMS Inspection in the order applications are received.

NMSA 1978, § 18-6-9(A) states “Any person who knowingly excavates, injures or destroys cultural property located on state land without a permit is guilty of criminal damage to property.” Further, NMSA 1978, § 18-6-9(B) states “Any person who solicits, employs or counsels another person to excavate injure or destroy cultural property located on state land without a permit is guilty of criminal damage to property.”

Applicants and lessees should always exercise **due caution** to ensure that cultural properties are not inadvertently excavated, injured or destroyed by any person. The State Land Office recommends that a survey be conducted to current standards, as defined by NMAC 4.10.15, prior to any activity in the proposed project area. If a survey is produced in conjunction with the application, the applicant will design the project so as to avoid any cultural properties found by the survey.



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As a condition of this permit and pursuant to NMAC 19.2.10.20, any project or lease activities that reveal or result in discovery of a previously undocumented significant cultural property or archaeological site on state trust land shall result in immediate cessation of activities and **immediate notification of the State Land Office and SHPO**. Activities shall remain suspended until SHPO and the State Land Office approve resumption of activities.

In addition, if any project or lease activity results in damages to cultural property on state trust land, the State Land Office must be notified immediately and the responsible party will be required to provide an archaeological damage assessment. The responsible party will be held liable for the cost of the damage assessment, plus the remediation value of said property, as determined by that damage assessment.

Furthermore, if activity is conducted without the benefit of a survey and any cultural property is damaged in the process, the lessee will be **subject to a fine of no less than \$100,000.00** at the discretion of the Commissioner of Public Lands. The lessee will also be held liable for the cost of an archaeological damage assessment, plus the remediation value of said property as determined by that damage assessment.

For further information, please contact
New Mexico Historic Preservation Division: 505-827-6320; or
New Mexico State Land Office:

Commercial Resources 505-827-5424
ROW Division: 505-827-5789
Oil & Gas Division: 505-827-5774
Mineral Leasing Division: 505-827-5750
Agricultural Leasing: 505-827-5732
Field Operations Division: 505-827-5856



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Commissioner of Public Lands
State of New Mexico

**New Mexico State Land Office - Instructions for Compliance
Cultural Resources Protection Policy**

Applicants acknowledge receipt and acceptance of the New Mexico State Land Office ("NMSLO") "T & E and Cultural Resources Notice to Applicants" by signing the acknowledgment contained in the application form. "The Notice" is part of the application packet.

Archaeological Surveys

1. Applicants and lessees should always exercise due caution to ensure that cultural properties are not inadvertently excavated, injured or destroyed by any person. To that end, the NMSLO strongly recommends that an archaeological survey be conducted to current standards for the area of potential effect ("APE") in compliance with 4.10.15 NMAC at <http://164.64.110.239/nmac/parts/title04/04.010.0015.htm>.
2. If a survey is produced in conjunction with the application, applicants will be expected to design the project so as to avoid any cultural properties found by the survey. If cultural properties are discovered within the APE, the survey must include avoidance and protection measures.
3. If an archaeological survey is conducted, the applicant should provide the survey with the application, in a sealed envelope marked "Confidential" and attached to the NMSLO Cultural Resources Cover Sheet. If the survey is in progress at the time the application is submitted, a Notification of Intent to Conduct an Archaeological Survey pursuant to 4.10.8.17(C) NMAC <http://164.64.110.239/nmac/parts/title04/04.010.0008.htm> will suffice.
4. Only surveys from permitted archaeological consulting firms will be accepted. The list of permitted firms is available at: <http://www.nmhistoricpreservation.org/documents/archaeological-permits.html>

Scroll down past the headings for "SHPO Directory Forms" and "Permit Applications" to "Consultants Lists." Click on the Word document titled "Cultural Resource Consultants." The list is arranged by county of location. Proximity will be a factor in estimated costs. Because costs vary, the NMSLO encourages you to contact more than one firm.

The consulting firm will ask for supporting documentation. This may include a description of the project along with ArcGIS shape files, CAD drawings, plats, or accurate depictions on USGS 1:24000 quadrangles.

5. The applicant must provide the NMSLO with two copies of the completed survey. If the application is already in process when the survey is completed, the survey with cover sheet should be delivered directly to the NMSLO archaeologist at the address provided below:

David Eck, Trust Land Archaeologist
New Mexico State Land Office
P.O. Box 1148



Stephanie Garcia Richard
Commissioner of Public Lands
State of New Mexico

310 Old Santa Fe Trail
Santa Fe, New Mexico 87504
(505) 827-5857 (voice) deck@slo.state.nm.us
(505) 827-5873 (fax) <http://nmstatelands.org/>

ARMS Review

1. If an archaeological survey is not provided with the application, an Archaeological Records Management Section Inspection (ARMS Inspection) in accordance with 4.10.15.9 NMAC is required. If the applicant is unable to provide an ARMS Inspection, the Land Office will provide the Inspection in the order in which applications are received.
2. Only ARMS Inspections from permitted archaeological consulting firms will be accepted. The list of permitted firms is described above.
3. ARMS Inspections should be provided in a sealed envelope marked "Confidential" and attached to the NMSLO Cultural Resources Cover Sheet with the application.
4. At a minimum, the ARMS Inspection is a records review and should:
 - a. query the New Mexico Cultural Resource Information System ("NMCRIS") database and map server to identify previously recorded sites within 500 meters of the area of potential effect (APE) and previous archaeological surveys within 500 meters of the APE;
 - b. include a copy of the NMCRIS map server map and provide copies of the archaeological site record forms for all cultural properties in the APE;
 - c. review national and state register property files, and provide copies of documents for all such cultural properties that may be directly or indirectly affected by the project;
 - d. examine historic cultural properties inventory (HCPI) forms, and provide copies of documents for any such cultural properties within the APE;
 - e. review other archival sources (General Land Office ("GLO"), county records, state lease records, etc.) and summarize all archival information in tabular form -- sorted by site, activity, property, and register number(s);
 - f. note any previous surveys conducted more than 10 years ago that may be inadequate or insufficient by current standards;
 - g. summarize the findings into one of three results:
 - (A) ____ *The entire area of potential effect or project area has been previously surveyed to current standards and **no cultural properties were found** within the survey area.*
 - (B) ____ *The entire area of potential effect or project area has been previously surveyed to current standards and **cultural properties were found** within the survey area.*
 - (C) ____ *The entire area of potential effect or project area has **not** been previously surveyed.*
 - h. if the ARMS Inspection result shows the presence of cultural properties within the APE (result B above), devise avoidance and protection measures for the project.



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NMSLO Cultural Resources Cover Sheet
Confidential Exhibit _____.

Exhibit Type (check one):

_____ Archaeological Survey

_____ ARMS Review

_____ Other (describe): _____

NMCRIS Activity No. (if any): _____

Section/Township/Range: _____

Cultural Resources Report/Exhibit Title:

Cultural Resources Consultant:

Project Proponent (Applicant):

Applicant Project Title/Description:

If Archaeological Survey, avoidance and protection measures have been devised.

Yes _____ No _____ N/A _____

If ARMS Inspection, please summarize results:

(A)____ The entire area of potential effect or project area has been previously surveyed to current standards and **no cultural properties were found** within the survey area.

(B)____ The entire area of potential effect or project area has been previously surveyed to current standards and **cultural properties were found** within the survey area.

(C)____ The entire area of potential effect or project area **has not been previously surveyed**.

For agency use only:

NMSLO Lease No.: _____

Lease Analyst: _____

Exhibit Routed to Field Operations Division: _____

Date

NEW MEXICO STATE LAND OFFICE

Road Right-of-Way Price Schedule

Base Cost Per Rod for 35 years*

Geographic Location	Road up to 30'	
	New	Existing**
State Wide	\$30.00	\$20.00

****Commissioner retains the authority to use market value for any and all rights-of-way.***

***** Upgrading an existing road in any manner converts the road to a new road.***

Minimum Price for Rights-of-Way: \$200.00

Cost Adjustment for Additional Width: \$1.00 per additional foot over 30'

Rod: 16.5 Linear Feet

Lesser terms are subject to base cost adjustment.

Base Cost Adjustment for Term

(Multiply base cost determined above by appropriate factor.)

Term (years)	Factor
5 or less	0.3791
6 to 10	0.6145
11 to 15	0.7606
16 to 20	0.8514
21 to 25	0.9077
26 to 30	0.9427
31 to 34	0.9644
35	1

NEW MEXICO STATE LAND OFFICE
Electric Line 115Kv or less Right-of-Way Price Schedule
Base Cost Per Rod for 35 years*

Geographic Location	ROW width			
	Up to 20'	21' to 50'	51' to 100'	> 100'
Urban 1	> of \$60.00 or FMV	> of \$75.00 or FMV	> of \$90.00 or FMV	> of \$110.00 or FMV
Urban 2	\$29.50	\$44.00	\$59.00	> of \$90.00 or FMV
Rural 1	\$5.00	\$9.00	\$12.00	> of \$25.00 or FMV
Rural 2	\$2.50	\$5.00	\$6.25	> of \$15.00 or FMV

****Commissioner retains the authority to use market value for any and all rights-of-way.
For lines over 115Kv please contact the NMSLO for pricing.***

Minimum Price for Rights-of-Way: \$75.00

Urban 1

Albuquerque, Farmington, Hobbs, Las Cruces, Rio Rancho, Roswell, Santa Fe, and all other incorporated communities with a population of 40,000 or more.

Urban 2

Alamogordo, Artesia, Belen, Carlsbad, Clayton, Clovis, Deming, Espanola, Gallup, Grants, Las Vegas, Lordsburg, Lovington, Moriarty, Portales, Raton, Santa Rosa, Silver City, Socorro, Truth or Consequences, Tucumcari, and all other incorporated communities with a population of 5,000 or more but less than 40,000.

Rural 1

Incorporated communities with a population of less than 5,000.

Rural 2

Unincorporated areas.

Temporary Construction Space: Up to 20' additional width granted during initial construction and maintenance, this excludes any remediation phase. Not to exceed 180 days.

Rod: 16.5 Linear Feet

FMV: Fair Market Value

Lesser terms are subject to base cost adjustment.

Base Cost Adjustment for Term

(Multiply base cost determined above by appropriate factor.)

Term (years)	Factor
5 or less	0.3791
6 to 10	0.6145
11 to 15	0.7606
16 to 20	0.8514
21 to 25	0.9077
26 to 30	0.9427
31 to 34	0.9644
35	1

NEW MEXICO STATE LAND OFFICE
Pipeline Right-of-Way Price Schedule
Base Cost Per Rod for 35 years*

Geographic Location	Hydrocarbon Pipeline Right-of-Way width up to 30'	
NE Quadrant, SW Quadrant Central	Up to 12¾" OD	> 12¾" OD
	\$65.00	\$75.00
NW Quadrant, SE Quadrant	\$40.00	\$75.00
Geographic Location	Water Pipeline Right-of-Way width up to 30'	
NE Quadrant, SW Quadrant Central	Up to 12¾" OD	> 12¾" OD
	\$65.00	\$75.00
NW Quadrant, SE Quadrant	\$40.00	\$75.00

**Commissioner retains the authority to use market value for any and all rights-of-way.*

Minimum Price for Rights-of-Way: \$350.00

NE Quadrant: Colfax, Guadalupe, Harding, Mora, Quay, San Miguel, Taos, Union.

SE Quadrant: Chavez, Curry, De Baca, Eddy, Lea, Lincoln, Otero, Roosevelt.

SW Quadrant: Catron, Dona Ana, Grant, Hidalgo, Luna, Sierra, Socorro.

NW Quadrant: Cibola, McKinley, Rio Arriba, San Juan, Sandoval, Valencia.

Central: Bernalillo, Santa Fe, Tarrant.

Temporary Construction Space: Up to 20' additional width granted during initial construction and maintenance, this excludes any remediation phase. Not to exceed 180 days.

Additional Lines Within the Base Right-of-Way: 1/2 of the base cost

Cost Adjustment for Additional Width: \$1.00 per additional foot over 30'

Rod: 16.5 Linear Feet

Lesser terms are available for above ground pipelines not to exceed 12 ¾" OD.

Short Term Above Ground NE, SW & Central Quadrant

Term (years)	Price/Rod
5 or less	\$8.00
6 to 10	\$17.00

Short Term Above Ground NW & SE Quadrant

Term (years)	Price/Rod
5 or less	\$5.00
6 to 10	\$11.00

NEW MEXICO STATE LAND OFFICE
Telecommunication Right of Way Price Schedule

Base Cost Per Rod for 35 years*

Geographic Location	First conduit, buried line or overhead line	Each additional conduit, buried or overhead line
Urban 1	> of \$30.00 or FMV	> of \$20.00 or FMV
Urban 2	\$19.00	\$13.00
Rural	\$5.75	\$3.00

****Commissioner retains authority to use market value for any and all rights-of-way.***

Minimum Price for Rights-of-Way: \$100.00

Urban 1

Albuquerque, Farmington, Hobbs, Las Cruces, Rio Rancho, Roswell, Santa Fe, and all other incorporated communities with a population of 40,000 or more.

Urban 2

Alamogordo, Artesia, Belen, Carlsbad, Clayton, Clovis, Deming, Espanola, Gallup, Grants, Las Vegas, Lordsburg, Lovington, Moriarty, Portales, Raton, Santa Rosa, Silver City, Socorro, Truth or Consequences, Tucumcari, and all other incorporated communities with a population of 5,000 or more but less than 40,000.

Rural

Unincorporated and incorporated areas with a population of less than 5,000.

Cost Adjustment for Additional Width: Add 1% to the term-adjusted base cost for each foot more than the standard 10 foot width; subtract 1% from the term adjustment base cost for each foot less than the standard 10 foot width.

Booster Site and Directly Associated Facilities: For each booster site or other directly associated facility, add \$100.00 per square foot of the site to the cost of the right-of-way. Modify the base cost by the applicable term factor if less than a 35-year term. Any other improvements, equipment or facility not directly necessary to the permitted use (such as towers, buildings, storage areas and the like) must be authorized under a state land office business lease.

Rod: 16.5 Linear Feet

FMV: Fair Market Value

Lesser terms are subject to base cost adjustment.

First Base Cost Adjustment for Term

(Multiply base cost determined above by appropriate factor.)

Term (years)	Factor
5 or less	0.3791
6 to 10	0.6145
11 to 15	0.7606
16 to 20	0.8514
21 to 25	0.9077
26 to 30	0.9427
31 to 34	0.9644
35	1

NEW MEXICO STATE LAND OFFICE

Right-of-Entry Price Schedule

Base Cost is for 180 days and for 320 linear rods as applicable

Type	Base Cost	Price/Rod over 320 Rods
Produced/Treated Water Line Placement	\$1000.00	\$4.00
Fresh Water Placement	\$500.00	\$2.00
GeoTechnical Access	\$500.00	n/a
Environmental/Cultural Survey Access	\$500.00	n/a
Filming Access	Variable Daily Rate Call for Pricing	n/a
Standard Access	\$500.00	n/a

The granting of this permit does not allow access across lands belonging to others.

Application Fee: \$50.00

NMSLO authorization applies only to NM State Trust Lands. If the proposed activity will cross lands managed by a private party or other agency jurisdiction, it is the applicant's responsibility to obtain any necessary permits and approvals.

Temporary surface line(s) must be labeled to identify the operator of the lines(s). The label should include, at a minimum, the name of the company, applicable contact information and line content. The labels should be placed at the beginning, ending and every 2,500 feet in between. Pipelines must be spaced a minimum of 12 inches apart from existing surface pipelines to allow for livestock to cross. If the minimum line spacing cannot be met to allow livestock to cross, berms 3 feet in width must be placed in areas where established cattle trails exist, but no less than every tenth of a mile.

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 2 STATE TRUST LANDS
PART 10 EASEMENTS AND RIGHTS OF WAY

19.2.10.1 ISSUING AGENCY: Commissioner of Public Lands - New Mexico State Land Office.
 [19.2.10.1 NMAC - Rp, 19.2.10.1 NMAC, 06/30/04]

19.2.10.2 SCOPE: This part covers all easements and rights of way granted over, upon, through, or across, trust lands for pipelines, public highways, railroads, tramways, telegraph, fiber optic, telephone and power lines, irrigation works, mining, logging, and for other purposes, except easements or rights of way granted in a lease, or salt water disposal easements covered by 19.2.11 NMAC, or water easements covered by 19.2.12 NMAC.
 [19.2.10.2 NMAC - Rp, 19.2.10.2 NMAC, 06/30/04]

19.2.10.3 STATUTORY AUTHORITY: N.M. Const., Art. XIII; NMSA 1978 Sections 19-1-1 and 19-7-57. The authority to promulgate this part is found in Section 19-1-2 NMSA 1978.
 [19.2.10.3 NMAC - Rp, 19.2.10.3 NMAC, 06/30/04]

19.2.10.4 DURATION: Permanent, unless otherwise provided in a specific section of this part.
 [19.2.10.4 NMAC - Rp, 19.2.10.4 NMAC, 06/30/04]

19.2.10.5 EFFECTIVE DATE: June 30, 2004, unless a later date is cited at the end of a section.
 [19.2.10.5 NMAC - Rp, 19.2.10.5 NMAC, 06/30/04]

19.2.10.6 OBJECTIVE: The objective of this part is to provide for the orderly and lawful administration and the appropriate granting of easements and rights of way on trust lands.
 [19.2.10.6 NMAC - Rp, 19.2.10.6 NMAC, 06/30/04]

19.2.10.7 DEFINITIONS:

A. “Appraisal” means an appraisal as defined in Section 61-30-3A NMSA 1978.

B. “Commissioner” means the New Mexico commissioner of public lands, and his appointees under Section 19-1-7 NMSA 1978, acting within the scope of their authority. The commissioner may delegate to state land office staff the performance of functions required of the commissioner under this part.

C. “Easement” means a right or privilege granted by the commissioner, to use a defined area of trust lands for a prescribed purpose and time, which right can be terminated as provided in this part.

D. “Right of way” means a right or privilege granted by the commissioner, to pass over, upon, through, or across, a defined area of trust lands for a prescribed purpose and time, which right can be terminated as provided in this part.

E. “Fair market value” means the value that a willing buyer would pay a willing seller for a right of way or easement in the open market as set forth in a price schedule adopted by the commissioner or as otherwise determined, in the commissioner’s discretion, by an appraisal or field inspection.

F. “Fee schedule” means a schedule adopted by the commissioner showing fees and costs that must be paid for performance of certain administrative functions identified in this Part 10. A fee schedule is subject to change from time to time without notice, and is available upon request. All fees, unless otherwise specified in this Part 10, shall be non-refundable.

G. “Field inspection” means an on-site inspection of a right of way or easement, made by authorized state land office personnel, which, if required under the price schedule or otherwise appropriate, may include specialized services such as market analysis or a determination of fair market value.

H. “Price schedule” means a schedule, adopted by the commissioner pursuant to this Part 10,

showing the consideration due for the acquisition of an easement or right of way, which schedule shall be reviewed periodically by the commissioner and revised by him, when he deems it necessary, to reflect changes in the fair market value of easements and rights of way. A price schedule may incorporate varying considerations to account for the different uses, sizes, and locations, of easements and rights of way. The adoption of a price schedule and any revision thereof shall be preceded by reasonable public notice and the opportunity for public comment. Public notice shall consist of publication on the state land office website, and such other means as the commissioner may determine are appropriate, including but not limited to direct notification by mailing or electronic means to known interested parties. The time permitted for public comment shall be determined by the commissioner in his discretion.

I. “Purchase contract lands” means trust lands being purchased under a contract.

J. “State land office” means the New Mexico state land office.

K. “Trust” means the trust created by the New Mexico Enabling Act and administered by the commissioner.

L. “Trust lands” means those lands, their natural products and all rights, privileges, or assets, which are derived from them, and which are under the care, custody, and control of the commissioner.

[19.2.10.7 NMAC - Rp, 19.2.10.7 NMAC, 06/30/04]

19.2.10.8 NO RIGHTS TO BE OBTAINED BY PRESCRIPTION: Easements or rights of way on trust lands may be acquired only by application and grant made in compliance with this part and applicable laws. No easement, right of way, or other interest in trust lands may be acquired by prescription, or pursuant to any other legal doctrine, except as provided by statute.

[19.2.10.8 NMAC - Rp, 19.2.10.8 NMAC, 06/30/04]

19.2.10.9 TRESPASS:

A. Any use of trust lands for right of way or easement purposes prior to the grant of a right of way or easement as provided by this Part 10 shall constitute an unauthorized use of such lands and will be deemed a trespass. The use of trust lands for easement or right of way purposes, if based upon any approval by any means other than as provided for in this Part 10, will likewise be deemed a trespass. However, in extenuating circumstances and for good cause shown, the commissioner may, in his discretion and upon written request, waive the trespass penalties set out below when the trespass consists of an inadvertent failure to obtain or renew an easement or right of way and that failure is promptly corrected when discovered.

B. Upon notification or determination that an unauthorized use exists, the commissioner shall initiate criminal or civil trespass sanctions, or both, against the unauthorized user; provided, however, that prior to the initiation of such action, the commissioner may attempt to remedy the trespass non-judicially by such means as he deems best including, but not limited to: 1) offering the unauthorized user the opportunity to terminate the unauthorized use, restore the lands to their condition prior to the unauthorized use, and pay the pro-rated fair market value of the unauthorized use through the date of termination; or, 2) offering to ratify the unauthorized use upon receipt of the required consideration plus the applicable trespass penalty set forth in Subsection D of 19.2.10.9 NMAC below. The commissioner shall not initiate or otherwise pursue criminal or civil trespass sanctions against an unauthorized user if that unauthorized user accepts and complies with any non-judicial remedy offered by the commissioner to remedy the unauthorized use.

C. All time limitations imposed upon an unauthorized user by the commissioner when offering non-judicial remedies shall be reasonable, but in no case shall any such limit be less than 10 days nor more than 60 days.

D. Trespass penalties: All trespass penalties are due in addition to the consideration due under 19.2.10.15 NMAC below.

(1) An unauthorized user must pay the following trespass penalty:

- (a)** for the first occurrence of unauthorized use, 100% of the applicable fair market value;
- (b)** for the second occurrence, 500% of the applicable fair market value;
- (c)** for the third occurrence, 1000% of the applicable fair market value;

(d) for the fourth and subsequent occurrences, 1000% of the applicable fair market value and the grant of easement or right of way is limited to a maximum 5-year term at the applicable fair market value for a 35-year term;

(2) Any occurrence of trespass preceded by 5 years of non-occurrence by the party in trespass will be treated as a first occurrence.

(3) In the commissioner's sole discretion, applicable trespass penalties will be reduced by no more than 50% if the trespass is self-reported before the commissioner learns of it from any other source.

(4) The trespass penalties described above apply only to unauthorized uses that commence on or after February 28, 2002. The trespass penalty for an unauthorized use that commenced prior to that date is 100% of the fair market value.

[19.2.10.9 NMAC - Rp, 19.2.10.9 NMAC, 06/30/04]

19.2.10.10 LANDS SUBJECT TO APPLICATION: An applicant must review state land office records to determine which rights, if any, have been conveyed to or contracted for by third parties, which would limit or prohibit the commissioner's issuance of additional interests. As to lands under purchase contract, see 19.2.10.29 NMAC.

[19.2.10.10 NMAC - Rp, 19.2.10.10 NMAC, 06/30/04]

19.2.10.11 SURVEY PERMISSION: Anyone desiring to apply for an easement or right of way covering trust lands shall, prior to entry for surveying activities, file with the commissioner a written notice of intent to conduct a survey of the proposed location of such easement or right of way.

A. Such written notice, which may be in letter form, shall adequately describe the proposed project, including the purpose and general location (giving section, township and range coordinates).

B. The written notice shall contain the following agreement: "The undersigned applicant indemnifies and holds harmless the commissioner, his agents and employees, and any authorized lessees of the state of New Mexico, against any and all liability for loss of life, personal injury and property damage due to survey or related activities of the applicant, or by employees, contractors or subcontractors of the applicant." In lieu of such agreement, the applicant may submit a surety bond in an amount acceptable to the commissioner.

C. Upon receipt of the notice, the commissioner shall first determine whether the requested survey is, in fact, trust lands, and if the notice and agreement are acceptable. If accepted, the applicant and any surface lessees will be notified, and the applicant will be informed of any conditions being imposed on the proposed entry by the commissioner. Failure to comply with such conditions may result in the denial of a subsequent application for a right of way or easement.

[19.2.10.11 NMAC - Rp, 19.2.10.11 NMAC, 06/30/04]

19.2.10.12 SURVEY PLAT:

A. Unless waived by the commissioner pursuant to 19.2.10.13 NMAC, each application for an easement or right of way shall include a survey plat, which describes the location (by quarter-section parts or lots, township, and range coordinates) of the proposed easement or right of way. The survey plat shall be based upon an actual survey on the ground and shall include a plat prepared in accordance with the Minimum Standards for Surveying in New Mexico as set out by the New Mexico board of registration for professional engineers and surveyors, by a professional surveyor who is registered in New Mexico or exempt from registration under the provisions of the Engineering and Surveying Practice Act, Sections 61-23-1 to -32 NMSA 1978, or its successor provisions. The survey plat shall be properly certified showing the surveyor's state of registration and registration number. The survey plat shall show the centerline of the proposed easement or right of way or, if there is no centerline, then the area of the proposed easement or right of way. The survey plat shall identify every point where the proposed easement or right of way enters or leaves state trust land, crosses a section line, fence, road, pipeline, telephone line, irrigation works, or any other visible boundary, use, or easement. The survey plat shall show the

location of all improvements in the close proximity of the easement or right of way. The survey plat shall show ties to section and quarter section corners, and measurements shall be to the nearest tenth of a foot with bearings expressed to the nearest minute. In no case shall the smallest unit of angular measurement be more than one minute. Acreage shall be computed to the nearest one hundredth of an acre and the survey plat shall show the number of acres, and the number of rods, included in the proposed easement or right of way in each legal subdivision of 40 acres, more or less.

B. When the requirement to submit a survey plat in accordance with Subsection A of 19.2.10.12 NMAC has been waived pursuant to 19.2.10.13 NMAC, then the applicant must provide to the commissioner a plat (prepared by the applicant, or his designated agent), drawn to scale, and showing the location of the easement or right of way and indicating the approximate number of acres and rods to be taken, as well as the legal description (by quarter-section parts or lots, township, and range coordinates) of the lands to be burdened by the proposed easement or right of way in the form required by Subsection A of 19.2.10.12 NMAC.

[19.2.10.12 NMAC - Rp, 19.2.10.12 NMAC, 06/30/04]

19.2.10.13 APPLICATION FORM: Written application for any grant of an easement or right of way shall be made upon forms prescribed and furnished by the commissioner. Such application shall be made under oath, and contain the following:

A. the application fee set out in the then current fee schedule;

B. the field inspection fee set out in the then current fee schedule, which fee may, in the discretion of the commissioner, be waived where the applicant is a governmental body which is prohibited by law from paying fees; and,

C. a legal description of the trust lands to be burdened by the proposed easement or right of way, together with a survey plat as provided under Subsection A of 19.2.10.12 NMAC; provided, however, that the requirement to submit a survey plat in accordance with Subsection A of 19.2.10.12 NMAC may be waived, in the discretion of the commissioner, upon a showing of good cause or undue hardship; all requests for waivers, setting forth the basis of the request, must be submitted in writing to the commissioner; in the event a waiver is granted, the applicant shall comply with the requirements set forth in Subsection B of 19.2.10.12 NMAC.

[19.2.10.13 NMAC - Rp, 19.2.10.13 NMAC, 06/30/04]

19.2.10.14 TENURE: Easements and rights of way granted under this part shall be granted for a term, which the commissioner, in his discretion, deems in the best interests of the trust. Under no circumstances will the commissioner grant an easement or right of way for a perpetual term or as a fee simple grant.

[19.2.10.14 NMAC - Rp, 19.2.10.14 NMAC, 06/30/04]

19.2.10.15 CONSIDERATION:

A. For telecommunications, electric line, and pipeline easements and rights-of-way, consideration for the grant of a right of way or easement shall be in an amount determined by the applicable price schedule unless the commissioner, in his discretion, elects to establish the price through separate field inspection or appraisal, and/or subsequent negotiation, taking into account the circumstances and damage to remaining lands; for all others, consideration shall be determined by field inspection or appraisal, and/or subsequent negotiation, or such other method as the commissioner in his discretion deems best. In each case however, unless a credit is allowed pursuant to Subsection B of 19.2.10.15 NMAC below, consideration shall not be less than the fair market value of the interest to be granted. This Section 19.2.10.15 applies to all federal, state, county, municipal, or other governmental agencies, as well as quasi-governmental bodies or organizations, as if they were private parties.

B. For gathering pipelines, salt water disposal pipelines and other pipelines not used for main transmission, the commissioner may authorize a credit of up to thirty percent (30%) of the fair market value of the interest to be granted if, after a written showing by the applicant, the commissioner, in his sole discretion, determines: 1) that the grant of an easement or right of way, with a credit, will enhance oil and gas production from

trust lands; 2) that the royalties resulting from the enhanced oil and gas production will far exceed any benefits derived from receiving fair market value from the grant of easement or right of way; and 3) that granting the credit is in the best interests of the trust. If such a credit is authorized, the grantee shall pay the fair market value less the amount of the credit.

C. An applicant for an easement or right of way may apply to use an existing right of way or easement. The application must be accompanied by: a) the written consent of the existing user for the proposed second use, if different from the applicant; and b) if a discount is being requested, an appraisal, satisfactory to the commissioner, comparing the damage to trust lands that will result from the proposed easement or right of way and the damage that would be caused by that same right of way or easement if located adjacent to the proposed one. Other factors supporting a discount may be included for the commissioner's consideration. In cases where a second use is approved by the commissioner within an existing right-of-way or easement, the commissioner may, based upon the approved appraisal, and if he deems it in the best interests of the trust, discount the consideration for the second grant by no more than twenty percent (20%).

D. No applicant may have both the Subsection B of 19.2.10.15 credit and the Subsection C of 19.2.10.15 discount above. If both are applied for, the commissioner in his discretion will determine which, if any, will be allowed.

[19.2.10.15 NMAC - Rp, 19.2.10.15 NMAC, 06/30/04]

19.2.10.16 EASEMENT OR RIGHT OF WAY DIMENSIONS: The commissioner shall determine the minimum dimensions of easements and rights of way, which determinations may be changed from time to time or waived in his discretion.

[19.2.10.16 NMAC - Rp, 19.2.10.16 NMAC, 06/30/04]

19.2.10.17 ACCESS PERMITS: The rights granted by the commissioner in any right of way or easement shall not include any right of access over, or right to use, trust lands not within the actual dimensions of the right of way or easement. If a right of way or easement is not large enough to permit vehicular or other access necessary for the maintenance, repair, or improvement, of the right of way or easement, or for other permitted activities within the right of way or easement, access in such cases must be obtained by applying for and receiving a temporary access permit from the commissioner using such form or forms, and subject to the payment of such fees and costs, as the commissioner deems in the best interests of the trust and promulgates from time to time. Temporary access permits may also be issued to prospective applicants for rights of way or easements to allow them to conduct pre-application assessments. Each entry upon trust lands without an access permit as required by 19.2.10.17 NMAC shall be a separate trespass under 19.2.10.9 NMAC above.

[19.2.10.17 NMAC - Rp, 19.2.10.17 NMAC, 06/30/04]

19.2.10.18 DAMAGE SURETY:

A. The holder of an easement or right of way is required to compensate the state or its lessee, patentee, or purchase contract holder, for the reasonable value of any measurable damage done to improvements or other property, belonging to the person claiming such damages, lawfully upon the trust lands burdened by the easement or right of way. Before an easement or right of way may be issued, the applicant shall file with the commissioner a bond or other surety in an amount determined by the commissioner to be sufficient to cover such damages; provided, however, that the commissioner, in the exercise of his discretion, may waive this requirement if the applicant agrees to furnish to the commissioner, upon request, the names and addresses of its construction contractors, and if at least one of the following additional conditions is met:

(1) each lessee, patentee or purchase contract holder of the trust lands burdened by the easement or right of way provides a written waiver of this surety bond requirement; or,

(2) the applicant is a governmental agency which is prohibited by law from posting a surety bond and lawfully assumes sole and complete contractual liability for any damages arising from or in connection with its

survey or use of the right of way or easement; or,

(3) the applicant is a governmental agency which is not immune from suit or is otherwise required by law to pay such damages and is thereby its own insurer, and lawfully assumes sole and complete contractual liability for any damages arising from or in connection with its survey or use of the right of way or easement; or,

(4) the commissioner, in his discretion, is satisfied that each lessee, patentee or contract holder will be afforded adequate protection other than through the posting of a bond or other surety by the applicant.

B. With the approval of the commissioner, a \$25,000.00 bond, or one in any other amount that is determined by the commissioner from time to time to be in the best interests of the trust, or a different surety acceptable to the commissioner, may be used for more than one easement or right of way which the grantee has executed with the commissioner.

[19.2.10.18 NMAC - Rp, 19.2.10.18 NMAC, 06/30/04]

19.2.10.19 EXPEDITED APPLICATION: Upon the request of an applicant, satisfactorily demonstrating an emergency situation, an application for an easement or right of way may be expedited as follows:

A. If the applicant does not already have one, the application may be sent to the applicant by fax or in electronic format.

B. The applicant must complete the application and return it with an offered rental and the appropriate fees.

C. A telephonic inquiry will then be made to the appropriate state land office personnel for verbal recommendations regarding the application and the proper fee per unit to be charged.

D. After evaluating the verbal recommendation from the state land office personnel, an easement or right of way will be prepared along with a request for additional rental if necessary and faxed to the applicant.

E. Upon return of the faxed and signed notarized easement, along with payment of or an acceptable agreement to pay additional rental if requested, the applicant will, within three days of receipt, be given verbal or fax approval.

[19.2.10.19 NMAC - N, 06/30/04]

[19.2.10.19 NMAC EXPEDITED APPLICATION is a new section added and replaces 19.2.10.19 NMAC CONSTRUCTION REPORTS. The old section headed CONSTRUCTION REPORTS is now 19.2.10.20 NMAC below]

19.2.10.20 CONSTRUCTION REPORTS: The holder of an easement or right of way shall notify the commissioner immediately when any historic or prehistoric ruin or monument, or any object of historical, archeological, or scientific value is discovered upon or within the easement or right of way. Upon such discovery, the holder of the easement or right of way shall immediately refrain from further use or disturbance of the discovery area, or any related areas where further discoveries are likely, until the commissioner has consented in writing to any further activity upon or use of the easement or right of way and notified such other authorities as the commissioner deems it in the best interests of the trust to notify.

[19.2.10.20 NMAC - Rp, 19.2.10.19 NMAC, 06/30/04]

19.2.10.21 AFFIDAVIT OF COMPLETION: Upon the completion of construction of any easement or right of way, the holder of the easement or right of way shall, within 60 days after completion of construction, file with the commissioner an affidavit of completion. Failure to file such affidavit in accordance with this section shall subject the easement or right of way to termination in accordance with the provisions of this part.

[19.2.10.21 NMAC - Rp, 19.2.10.20 NMAC, 06/30/04]

19.2.10.22 CONFLICT OF USE: Unless otherwise authorized in writing by the commissioner, an easement or right of way shall not be used for any other or additional purposes or by any other or additional parties except those expressly identified in the grant of easement or right of way. Unless expressly stated otherwise in the grant of

easement or right of way, the commissioner reserves the right to grant easements or rights of way to third parties over, under, upon, through, across or parallel to an existing easement or right of way; provided, however, that the commissioner shall not approve such subsequent easements or rights of way if, in his discretion, such co-use would present a safety hazard or otherwise unreasonably interfere with the existing easement or right of way. When a subsequent easement or right of way is permitted, the commissioner will require the subsequent grantee to post a bond or other surety to insure payment of damages, if any, which are done to the prior grantee's improvements and installations unless the prior grantee waives this requirement.

[19.2.10.22 NMAC - Rp, 19.2.10.21 NMAC, 06/30/04]

19.2.10.23 AMENDMENTS: Any holder of an existing easement or right of way desiring to change the use, or widen or otherwise alter the easement or right of way shall make application to do so by following the same procedure as is used in making an application for a new easement or right of way. Depending on the scope of the proposed change to the easement or right of way, the commissioner may waive certain application requirements, such as the survey plat or the application fee.

[19.2.10.23 NMAC - Rp 19.2.10.22 NMAC, 06/30/04]

19.2.10.24 ASSIGNMENT - RELINQUISHMENT: An easement or right of way may be assigned to third parties or relinquished to the state with the prior written approval of the commissioner and upon such terms and conditions as he may prescribe, and payment of the fee set out in the then current fee schedule. The commissioner may waive the relinquishment fee when relinquishment is to accommodate a request or demand of the commissioner.

[19.2.10.24 NMAC - Rp, 19.2.10.23 NMAC, 06/30/04]

19.2.10.25 RENEWAL OF EASEMENT OR RIGHT OF WAY: Prior to the expiration date of any easement or right of way heretofore or hereafter granted for a limited term of years, an application may be submitted for a renewal of the grant. If the renewal involves no change in the location or status of the original easement or right of way, the applicant may file with the application a statement under oath setting out this fact, and the commissioner, in his discretion, may extend the grant for an additional term upon payment of such additional consideration as the commissioner determines is appropriate; provided, however, that in no case shall such consideration be less than the fair market value of the interest granted unless a credit is allowed by this part.

[19.2.10.25 NMAC - Rp, 19.2.10.24 NMAC, 06/30/04]

19.2.10.26 TERMINATION OF EASEMENT OR RIGHT OF WAY: Any easement or right of way granted by the commissioner on trust land may be terminated in whole or in part for failure to comply with any term or condition of the grant or any applicable laws or regulations. Upon determination by the commissioner that an easement or right of way is subject to termination pursuant to the terms or conditions of the grant or applicable laws or regulations, the commissioner shall give the grantee a written 30-day notice at the address shown most recently in the records of the state land office, and if the grantee fails to remedy the problems set out in the notice to the satisfaction of the commissioner, then the commissioner shall issue an appropriate instrument terminating the easement or right of way, which instrument shall be placed in the public records of the state land office with a copy to the former grantee.

[19.2.10.26 NMAC - Rp, 19.2.10.25 NMAC, 06/30/04]

19.2.10.27 ABANDONMENT: Abandonment of all or part of an easement or right of way by a grantee shall consist of the non-use of all or part of a granted easement or right of way for the purposes authorized in the granting instrument for a period of one year. Upon discovering evidence of abandonment, the commissioner shall notify the grantee by written notice sent by regular mail to the grantee's last known address as shown in the records of the state land office, giving the grantee 60 days to prove that abandonment did not occur, all to the commissioner's satisfaction. Failure to do so shall result in the termination of the easement or right of way due to the failure of a

condition subsequent, and upon such termination the easement or right of way shall automatically vest in the commissioner without further action or notice required. Any non-use of a portion of an easement or right of way for a period of one year shall, at the commissioner's discretion, be deemed an abandonment of that portion so used and subject to termination.

[19.2.10.27 NMAC - Rp, 19.2.10.26 NMAC, 06/30/04]

19.2.10.28 RECLAMATION AND RESTORATION: Any person who enters upon trust lands for purposes of surveying or constructing an easement or right of way shall take all steps necessary to preserve and protect the natural environmental conditions of the land, including reclamation of disturbed areas by leveling or terracing and reasonable attempts at re-vegetation where appropriate. Re-vegetation shall include the establishment of suitable grasses and forbs in accordance with applicable state land office rules and policies. The grantee of any right of way or easement shall consult with the commissioner regarding reclamation prior to undertaking reclamation and shall make reasonable attempts at restoration.

[19.2.10.28 NMAC - Rp, 19.2.10.27 NMAC, 06/30/04]

19.2.10.29 EASEMENTS OR RIGHTS OF WAY OVER PURCHASE CONTRACT LANDS:

A. The commissioner may, on the basis of the state's legal title and subject to the terms and conditions of the applicable purchase contract, approve and record easements and rights of way over, upon, through or across purchase contract lands on the following terms and conditions:

(1) submission of an application by the easement or right of way applicant on the form prescribed by the commissioner accompanied by an original or certified copy of the easement or right of way executed between the applicant and the purchase contract holder;

(2) payment of the administrative fee set out in the then current fee schedule for the approval and recording of the easement or right of way; and,

(3) submission of a legal description of the property to be burdened by the easement or right of way, together with a survey plat as provided in 19.2.10.12 NMAC.

B. The commissioner shall reject any application and initiate necessary legal proceedings to prevent the construction of any easement or right of way or the use of any easement or right of way that will diminish or impair the state's legal title to the purchase contract lands.

[19.2.10.29 NMAC - Rp, 19.2.10.28 NMAC, 06/30/04]

19.2.10.30 INFORMAL RECONSIDERATION: Any party aggrieved by a decision related to the payment of amounts due for any easement or right of way granted or applied for under this part, may request an informal reconsideration of such decision by written request made to the commissioner. Such request shall describe the decision for which reconsideration is requested, state the grounds for reconsideration and the relief sought, and be submitted to the commissioner within 15 days after the date of the decision for which reconsideration is requested. Any such request will be reviewed and decided by the commissioner in an expeditious manner, with or without an oral presentation by the aggrieved party. The right to request informal reconsideration shall be in addition to, and not in lieu of, any right of contest available to the aggrieved party, and the filing of a request for informal reconsideration shall not extend any deadline for initiating a contest proceeding.

[19.2.10.30 NMAC - Rp, 19.2.10.29 NMAC, 06/30/04]

[The old section 19.2.10.30 NMAC PRICE SCHEDULE: TELECOMMUNICATIONS EASEMENTS AND RIGHTS OF WAY is repealed, effective 06/30/04]

HISTORY OF 19.2.10 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the State Records Center and Archives under: CPL 69-5, Rules And Regulations Concerning The Sale, Lease, And Other Disposition Of State Trust Lands, filed

09/02/69; CPL 71-2, filed 12/16/71; CPL 77-1, filed 01/07/77;
Rule 10, Relating To Easements And Rights Of Way, filed 03/11/81;
SLO Rule 10, Relating To Easements And Rights Of Way, filed 01/20/84;
SLO Rule 10, Relating To Easements And Rights Of Way, filed 08/07/85;

History of Repealed Material:

19 NMAC 3.SLO 10, Relating To Easements And Rights Of Way - Repealed, 02/28/02.

19.2.10 NMAC, Easements and Rights of Way filed 02/15/02 repealed effective 06/30/04 and replaced with 19.2.10 NMAC, Easements and Rights of Way effective 06/30/04



**Stephanie Garcia Richard
'Commissioner of Public Land**

Principal Bond # _____

**DAMAGE BOND
RIGHT-OF-WAY OR WATER LEASE**

Single Lease (Lease # _____) or Blanket Bond

KNOW ALL MEN BY THESE PRESENTS:

That _____, as Principal,
and _____, of _____
_____, a corporation organized, existing and
doing business under and by virtue of laws of the State of New Mexico, as Surety, are held and firmly bound
unto the State of New Mexico, for the use and benefits of interested holder of prior surface leases, licenses,
rights-of-way and easements, in the total sum of (\$ _____) Dollars, for the payment
of which, well and truly to be made, we bind ourselves, our heirs, successors and assigns, and each and
every one of them and us jointly and severally, firmly by these presents.

Signed with our hands and sealed with our seals this _____ day of _____,
20____.

The conditions of the foregoing obligation are such that:

WHEREAS, the said principal has heretofore or may hereafter enter into water leases or right-of-way agreements with the State of New Mexico of various dates and periods of duration, covering the land described in such leases or rights-of-way; and

WHEREAS, all or part of said lands is embraced in grazing lease, business lease, or other surface lease, or is embraced in a right-of-way, easement or license granting the holder thereof the right to go upon or cross over the surface of said land, or to construct improvements thereon, as shown by the official records of the State Land Office of the State of New Mexico.

NOW, THEREFORE, if said principal in all respects shall make good and sufficient recompense, satisfaction and/or payment unto the holder or his successors in interest of any said prior surface lease, license, or other holder of prior surface rights, for all damages to the livestock, water, crops, buildings, fences, pipelines, powerlines, or other tangible improvements on such lands as may be suffered by such prior holder or his successors in interest by reason of operations under said lease or right-of-way or for such damages as a court of competent jurisdiction may determine and fix in any action brought on this bond, then this obligation shall be null and void; otherwise to remain in full force and effect.

It is expressly understood and provided that said surface lessee and/or holder and owner of any prior surface right as designated herein, are hereby made obligees hereunder the same as if their names were written herein as such, and they, or each of them, may proceed or sue hereon, and it is further expressly understood and provided that the aggregate liability of the Surety for any claim or claims hereunder shall in no event exceed the specified total sum of this obligation.

Signed and sealed this _____ day of _____, 20____.

PERMITTEE/PRINCIPAL Signature

SURETY Signature

Printed Name and Title

Printed Name and Title

Street Address

Street Address

City, State and Zip Code

City, State and Zip Code

Note: If Principal is a corporation, affix corporate seal here.

Note: If corporate surety, affix corporate seal here.

ACKNOWLEDGMENT FORM FOR NATURAL PERSONS:

STATE OF _____)

) ss.

COUNTY OF _____)

On this _____ day of _____, 20____, before me personally appeared _____ to me known to be the person(s) described in and who executed the same as (his, her, their) free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year in this certificate first above written.

My Commission Expires

Notary Public name

Notary signature

(Notary seal)

ACKNOWLEDGMENT FORM FOR CORPORATION:

STATE OF _____)
) ss.

COUNTY OF _____)

On this _____ day of _____, 20_____, before me personally appeared _____, to me personally known, who, being by me duly sworn, did say that s/he is _____ of _____ and that this instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year in this certificate first above written.

My Commission Expires

Notary Public name

Notary signature

(Notary seal)

ACKNOWLEDGMENT FORM FOR CORPORATE SURETY:

STATE OF _____)
) ss.

COUNTY OF _____)

On this _____ day of _____, 20_____, before me personally appeared _____ to me personally known, who, being by me duly sworn, did say that s/he is _____ of _____ and that this instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year in this certificate first above written.

My Commission Expires

Notary Public name

Notary signature

(Notary seal)

(Note: Corporate surety attach power of attorney.)



**Stephanie Garcia Richard, Commissioner of Public Lands
State of New Mexico**

APPLICATION FOR RIGHT-OF-WAY EASEMENT

Dear Commissioner:

(Name of Applicant)

(Designated Field Contact Name)

(Street Address, City, State, Zip Code)

(Field Contact Phone Number)

(Contact Name, Phone Number)

(Field Contact Email Address)

hereby applies for a right-of-way easement for the construction and location of a _____

(Provide detailed information regarding the type of line; electrical, telecommunications, pipeline, road or facility. Provide O.D. for pipelines)

If a pipeline is applied for, please check the following: ☐ Buried ☐ Surface _____ P.S.I.

Project Name: _____

It is requested that the right-of-way be _____ (*must correspond with survey plat*) feet wide as indicated on the attached two copies of survey maps or plats shown in red the survey centerline and length of the right-of-way measured in rods. The legal description of the proposed right-of-way is described in aliquot 40-acre tracts (qtr. /qtr. breakdown) with a description of rods and acres shown in each aliquot part and a total of rods and acres included in the proposed right-of-way. Permission to survey is included with this application. The survey was completed within twelve months of this application, and the proposed right-of-way has been staked and flagged. *Failure to do so will result in an additional application fee.*

It is requested that the right-of-way be for a term of _____ years. (*Term may not exceed 35 years.*)

In accordance with 19.2.10.18, one of the following is enclosed to cover payment for damages that might occur to the state land improvements of a surface lessee: (*A bond may be in the form of a Surety Bond or a Letter of Credit.*)

- ☐ Single bond in the amount of \$500.00
- ☐ Right-of-way blanket bond in the amount of \$2,500.00
- ☐ Blanket right-of-way bond of \$2,500.00 is currently on file with the State Land Office
- ☐ A Mega bond, number _____ is currently on file with the State Land Office
- ☐ A waiver of property damage bond by the surface lessee is enclosed.
- ☐ Applicant requests that the bond amount for damages to the trust lands be reduced or waived by the Commissioner.

Cultural Resource Protection:

Please indicate that you (Applicant) have read the **T&E and Cultural Resources Notice to Applicants** and that you understand and agree to abide by the terms and conditions set forth therein. Yes _____ No _____

An Archaeological Survey is strongly recommended. If no survey is provided an Archaeological Records Management Section Inspection (ARMS Inspection) in accordance with NMAC 4.10.15.9 is required. If the ARMS Inspection is not provided by the applicant, the Land Office will provide the ARMS Inspection in the order applications are received.

An Archaeological Survey is attached with a cover page labeled: Yes_____ No____
Confidential Exhibit _____.

An ARMS Inspection is attached with a cover page labeled: Yes_____ No____
Confidential Exhibit _____.

The Applicant would like the NMSLO to provide the ARMS Inspection: Yes_____ No____

Shape Files:

Shape Files are required with all applications.

Shape Files for this project are available: Yes_____ No____

If yes, the NMSLO lease analyst will contact you at the address you provide:

Applicant Shape File Custodian (email contact information):_____

Pursuant to New Mexico State Land Office fee schedule, enclosed is a check in the amount of \$_____ for _____ rods (16.5 feet) at _____ per rod, plus **\$250.00** application fee.

** When you provide a check as payment, you authorize the State of New Mexico to either use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.*

Applicant

By:

Title:

Agents name and address:
(*Letter of Authorization attached*)

Phone number _____

Email Address _____

ACKNOWLEDGMENT FOR CORPORATIONS

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of

_____, 20____, by _____, _____
(Name of Officer) (Title of Officer)

of _____, a _____
(Name of Corporation Acknowledging) *(State of Incorporation)*

corporation, on behalf of said corporation.

My Commission Expires:

NOTARY PUBLIC

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____.

_____, 20____, by _____, _____

My Commission Expires:

NOTARY PUBLIC