



Right-of-Way Authority, Process & Approval for TTP Projects

Sheri Bozic, Director, Planning, Development & Transportation, Pueblo of Jemez

Joe Sanchez, PE, Native American Services Director, NV5

August 25, 2022

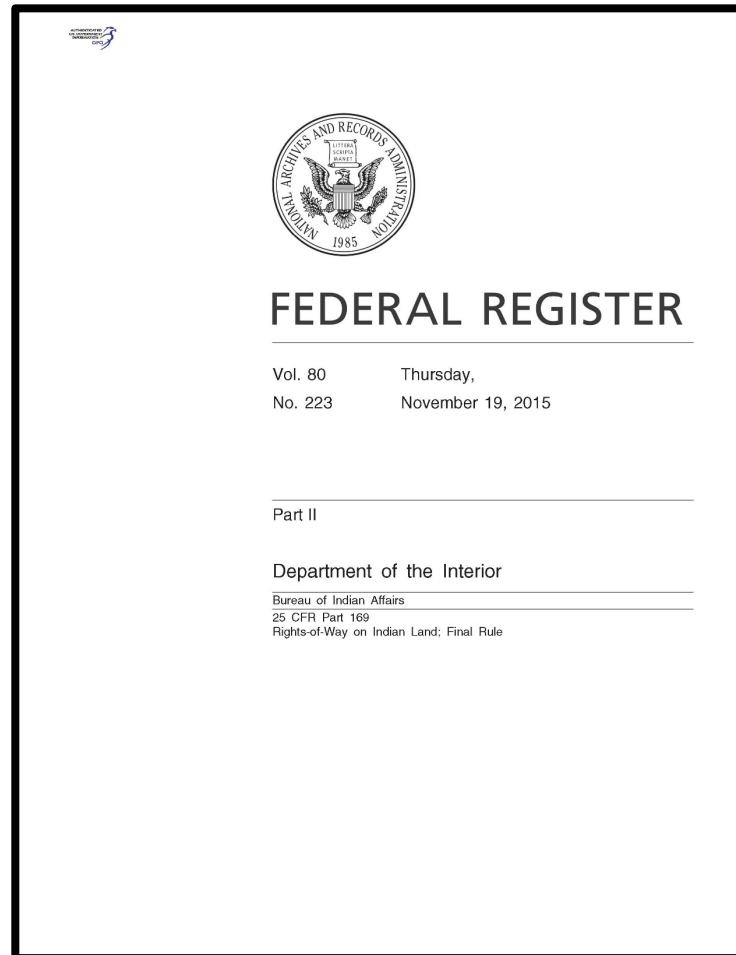


Outline

- **Authority**
- **TTP Contract Types**
- **Process**
- **Approval**
- **Schedule & Timing**
- **Special Circumstances**
- **Challenges & Successes**
- **Resources**

Authority

25 CFR Part 169 - Rights-of-Way Over Indian Land

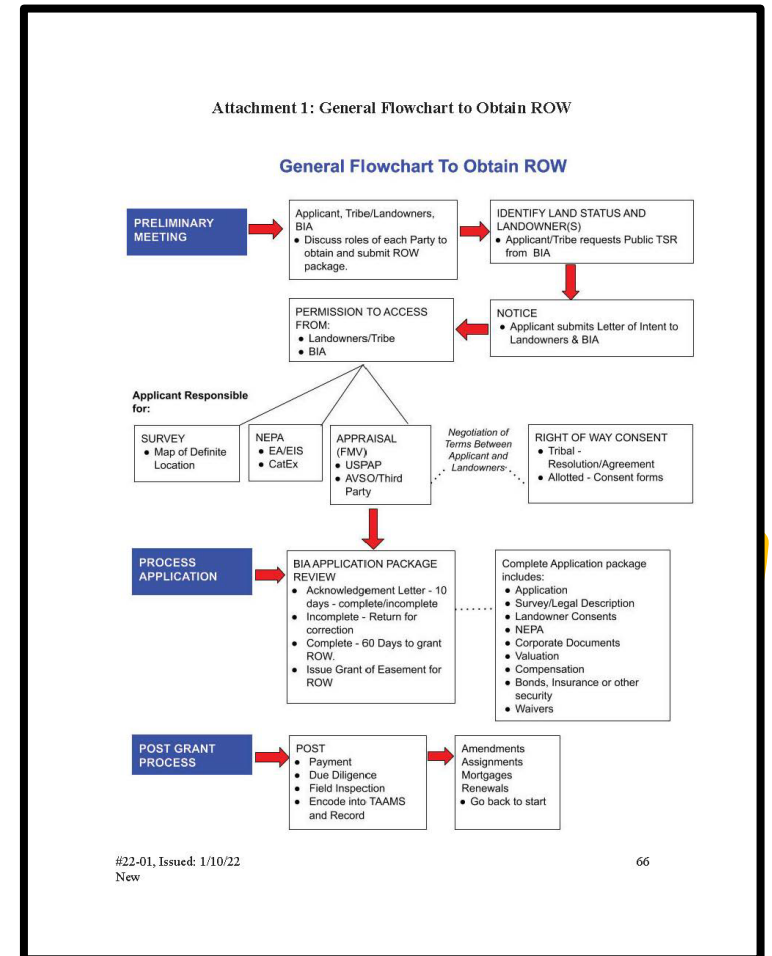
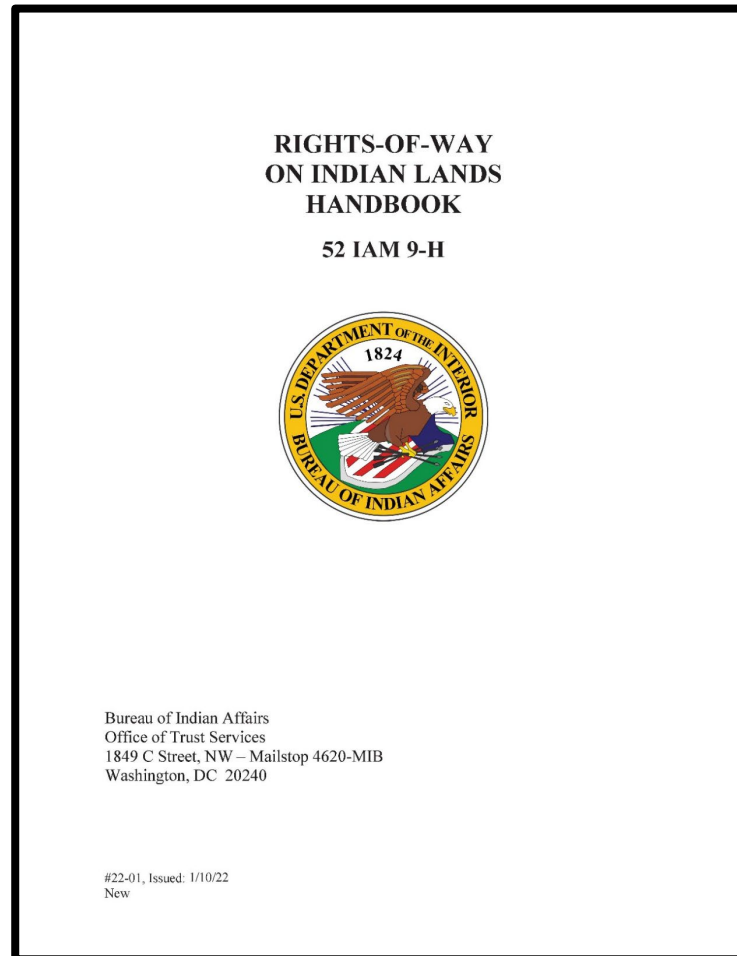


SUMMARY: This final rule comprehensively updates and streamlines the process for obtaining Bureau of Indian Affairs (BIA) grants of rights-of-way on Indian land, while supporting tribal self-determination and self-governance.



Authority

25 CFR Part 169 - Rights-of-Way Over Indian Land



Authority

25 CFR Part 169 - Rights-of-Way Over Indian Land

Rights-of-Way (ROW) Internal Checklist

Applicant: _____ Purpose: _____

Land Status: Tribal Allotment Location: _____

New Renewal Amendment Assignment Mortgage

DATE: _____ DOCUMENTATION: _____ Yes No N/A

Preliminary Documents

_____ Applicant's Letter of Intent to Obtain ROW
_____ Title Status Report, Landowner Name and Address
_____ Permission to Access Indian land
_____ from Landowner(s)
_____ Field Inspection (Photos, Maps, etc.)

Right-of-Way Application Package

_____ Acknowledgement Letter
_____ Incomplete/Complete Letter

Consent(s):

_____ Tribal Resolution
_____ Landowner(s) Consent to Grant ROW
_____ Spreadsheet – consent percentage calculation
_____ Superintendent/Regional Director per 25 CFR 169.108

Map(s):

_____ Survey Plat/Legal Description/Map of Definite Location
_____ BILS LDR

Environmental Compliance:

_____ Categorical Exclusion (CatEX)
_____ Environmental Assessment (EA)
_____ Finding of No Significant Impact (FONSI)
_____ Environmental Impact Statement (EIS)
_____ Record of Decision (ROD)
_____ NHPA Section 106

Valuation:

_____ Valuation Report Received
_____ Valuation Review requested (AVIS)
_____ Certification of Valuation Review by (AVSO)
_____ Fair Market Value
_____ Applicant's Offer
_____ Letter(s) – Landowner Notification of FMV

Corporate Documents:

_____ Authority of Officers to Execute Documents
_____ Articles of Partnership or Association
_____ State Certified Corporate Charter
_____ License to do Business (Tribe and/or State)

Waivers:

_____ Valuation (Appraisal, market analysis, etc.)
_____ Bond(s), insurance, and/or alternative form of security
_____ Compensation

Decision

_____ Findings and Recommendation Report for Decision
_____ Letter - Notice of Intent to Grant b/c Landowners So
Numerous (if applicable)
_____ Letter - Approval or Denial with Appeal Rights to
Parties
_____ Payment - Lockbox or Proof of Payment for Direct
Payment
_____ Grant of Easement for ROW
Approval Date: _____

Distribution:

_____ Applicant
_____ Tribe
_____ Landowner(s), if requested

Post Decision

_____ Encode into TAAMS
LAC: _____
TAAMS ID No. _____
Contractor ID No. _____
_____ Scan/Image
_____ Date Notified LTRO
_____ Recording No. _____
_____ Construction Completion (Due Diligence)
_____ Final Field Inspection Report

Prepared by: _____ Title: _____ Date: _____

Authority

25 CFR Part 169.4

When do I need a ROW to authorize possession over or across Indian land?

169.4 When do I need a right-of-way to authorize possession over or across Indian land?

(a) You need an approved right-of-way under this part before crossing Indian land if you meet one of the criteria in the following table:

If you are . . .	then you must obtain a right-of-way under this part . . .
(1) A person or legal entity (including a Federal, State, or local governmental entity) who is not an owner of the Indian land	from us, with the consent of the owners of the majority interest in the land, and the tribe for tribal land, before crossing the land or any portion thereof.
(2) An individual Indian landowner who owns a fractional interest in the land (even if the individual Indian landowner owns a majority of the fractional interests)	from us, with the consent of the owners of other trust and restricted interests in the land, totaling at least a majority interest in the tract, and with the consent of the tribe for tribal land. You do not need to obtain a right-of-way from us if all of the owners (including the tribe, for tribal land) have given you permission to cross without a right-of-way.
(3) An Indian tribe, agency or instrumentality of the tribe, or an independent legal entity wholly owned and operated by the tribe who owns only a fractional interest in the land (even if the tribe, agency, instrumentality or legal entity owns a majority of the fractional interests)	from us, with the consent of the owners of other trust and restricted interests in the land, totaling at least a majority interest in the tract, unless all of the owners have given you permission to cross without a right-of-way.

Authority

25 CFR Part 169.4

You do not need a right-of-way to cross Indian land if:

- (b) You do not need a right-of-way to cross Indian land if:
 - (1) You are an Indian landowner who owns 100 percent of the trust or restricted interests in the land; or
 - (2) You are authorized by:
 - (i) A lease under 25 CFR part 162, 211, 212, or 225 or permit under 25 CFR part 166;
 - (ii) A tribal land assignment or similar instrument authorizing use of the tribal land without Secretarial approval; or
 - (iii) Other, tribe-specific authority authorizing use of the tribal land without Secretarial approval; or
 - (iv) Another land use agreement not subject to this part (e.g., under 25 CFR part 84); or
 - (3) You meet any of the criteria in the following table:

You do not need a right-of-way if you are . . .	but the following conditions apply . . .
(i) A parent or guardian of a minor child who owns 100 percent of the trust or restricted interests in the land	We may require you to provide evidence of a direct benefit to the minor child and when the child is no longer a minor, you must obtain a right-of-way to authorize continued possession.
(ii) Authorized by a service line agreement to cross the land	You must file the agreement with us under § 169.56.
(iii) An independent legal entity wholly owned and operated by the tribe that owns 100 percent of the trust or restricted interests in the land	The tribal governing body must pass a tribal authorization authorizing access without BIA approval and including a legal description, and you must submit both documents to BIA for our records.
(iv) Otherwise authorized by law	You must comply with the requirements of the applicable law.

Authority

Indian Affairs National Environmental Policy Act (NEPA) Guidebook 59 IAM 3-H

INDIAN AFFAIRS
NATIONAL ENVIRONMENTAL POLICY ACT
(NEPA) GUIDEBOOK

59 IAM 3-H



DIVISION OF
ENVIRONMENTAL AND CULTURAL
RESOURCES MANAGEMENT

AUGUST 2012

Office of the Assistant Secretary - Indian Affairs
Office of Facilities, Environmental and Cultural Resources
Division of Environmental and Cultural Resources Management
12220 Sunrise Valley Drive
Reston VA 20191

Release #12-32; replaces 2005 version

Authority

Indian Affairs National Environmental Policy Act (NEPA) Guidebook 59 IAM 3-H

L. Roads and Transportation.


- (1) Approval of utility installations along or across a transportation facility located in whole within the limits of the roadway right-of-way.
- (2) Construction of bicycle and pedestrian lanes and paths adjacent to existing highways and within the existing rights-of-way.
- (3) Activities included in a "highway safety plan" under 23 CFR 402.
- (4) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- (5) Emergency repairs under 23 U.S.C. 125.
- (6) Acquisition of scenic easements.
- (7) Alterations to facilities to make them accessible for the elderly or handicapped.
- (8) Resurfacing a highway without adding to the existing width.
- (9) Rehabilitation, reconstruction or replacement of an existing bridge structure on essentially the same alignment or location (e.g., widening, adding shoulders or safety lanes, walkways, bikeways or guardrails).
- (10) Approvals for changes in access control within existing right-of-ways.
- (11) Road construction within an existing right-of-way which has already been acquired for a HUD housing project and for which earlier NEPA analysis has already been prepared.

Authority

Other Statutory/ Regulatory Requirements

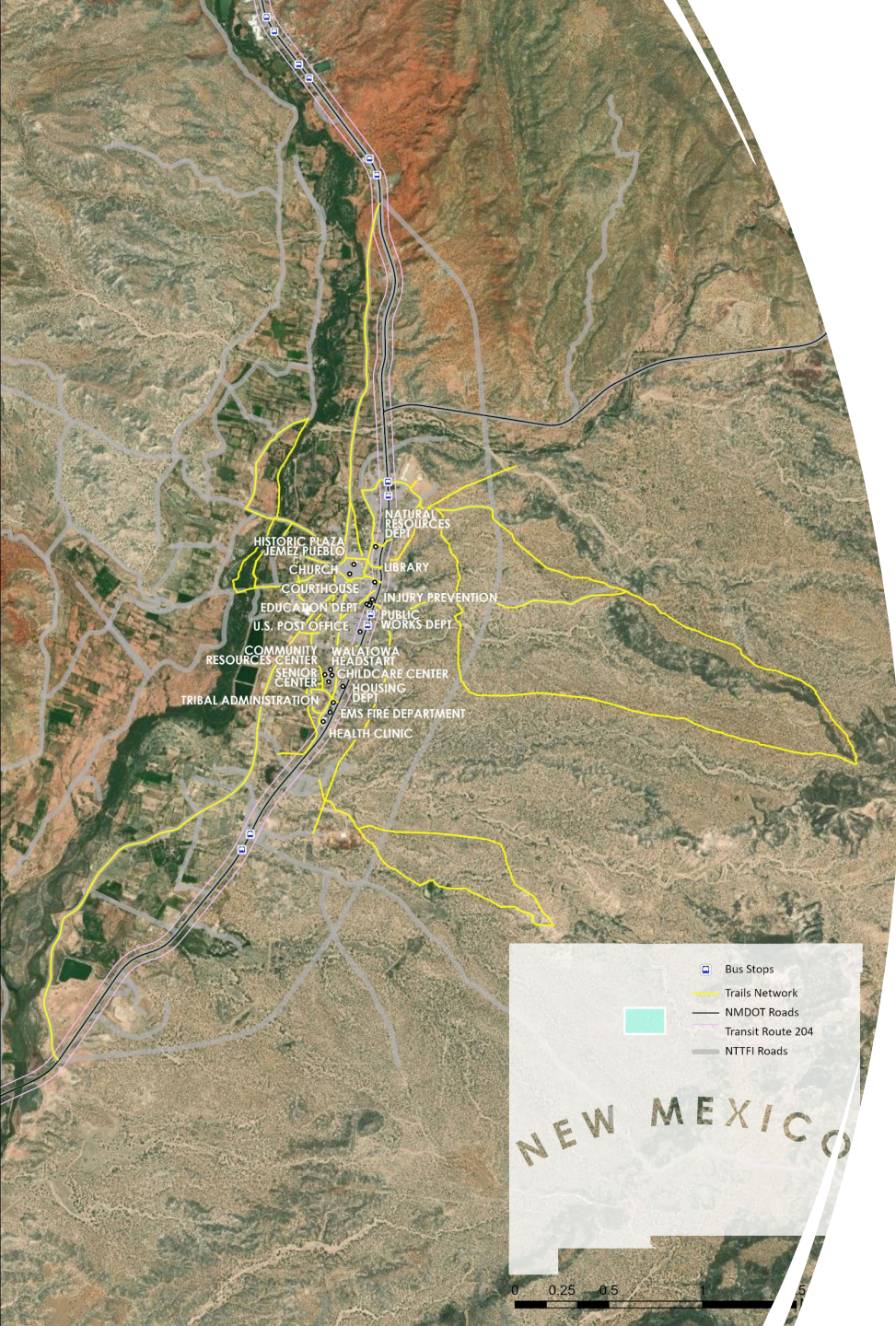
- Rights of way over fee lands: 42 U.S.C. § 4601 - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the “Uniform Act”)
- Right-of-way clearance must be included in the project package: 25 CFR § 170.460(c)
- 25 CFR § 1

TTP Contract Types

- **P.L. 93-638 Contract (BIA)**
 - **G2G Agreement (BIA)**
 - **Program Agreement (FHWA)**
 - **TTSGP (Self-governance)**
- 

Process - NTTFI

Project must be listed in the National Tribal Transportation Facility Inventory



§ § 170.443 (a) and 170.446 attachment Name/Type

Name	Tribal Level:	Type
170.443(a)(1) OR 170.446 (a) – LRTP(tribe name)		H - LRTP
170.443(a)(2) OR 170.446 (b) - Tribal resolution		A – Tribal Resolution
Route Level:		
Name	Route Level:	Type
170.446 (c) A Strip map. See § 170.5.		D – Strip Map
170.443 (a)(3) OR 170.446 (g) APAR		T – MOA Owner Agreement
170.443 (a)(4) ROW Documentation		S – Unspecified (or other)
170.443 (a)(5) Cert of Public Involvement		S – Unspecified (or other)
170.443 (a)(6) Synopsis		S – Unspecified (or other)
170.443 (a)(7) Financial/Fiscal Constraint Doc		S – Unspecified (or other)
170.443 (a)(8) Maint. Resp documentation		S – Unspecified (or other)
Section Level:		
Name	Section Level:	Type
170.446 (d) ADT documentation		E – ADT Backup Documentation
170.446 (e) section photo/bridge profile photo		V – Profile photo
170.446 (f) Incidental cost verification		W – Incidental Cost verification

Project must be included on the Tribal Transportation Improvement Plan (TTIP)

Process - TTIP

Summary List of Approved TTP Projects							
Pueblo of Jemez							
Project Name	Project No.	2021	2022	2023	2024	2025	Total
North End Drainage	5512	\$0	\$53,800	\$0	\$0	\$0	\$53,800
NM 4 Multi-use Pedestrian Trail	5510	\$469,478	\$2,477,456	\$2,477,455	\$0	\$0	\$5,424,389
Tribal Administration Complex Parking Lot & Sheep Springs Way	5504	\$750,000	\$0	\$0	\$0	\$0	\$750,000
NM 4 Traffic Calming Project	5509	\$25,720	\$19,698	\$0	\$0	\$0	\$45,418
Fitness Center Parking Lot & Bear Head Canyon Road	5522	\$0	\$1,186,000	\$120,000	\$0	\$0	\$1,306,000
Owl Springs Way Bridge Replacement	5517	\$0	\$2,614,000	\$500,000	\$0	\$0	\$3,114,000
Transportation Planning	5502	\$175,000	\$175,000	\$175,000	\$150,000	\$150,000	\$825,000
Road Maintenance	5503	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$2,500,000
Program Administration	5501	\$265,000	\$265,000	\$225,000	\$200,000	\$200,000	\$1,155,000
Totals		\$2,185,198	\$7,290,954	\$3,997,455	\$850,000	\$850,000	\$15,173,607

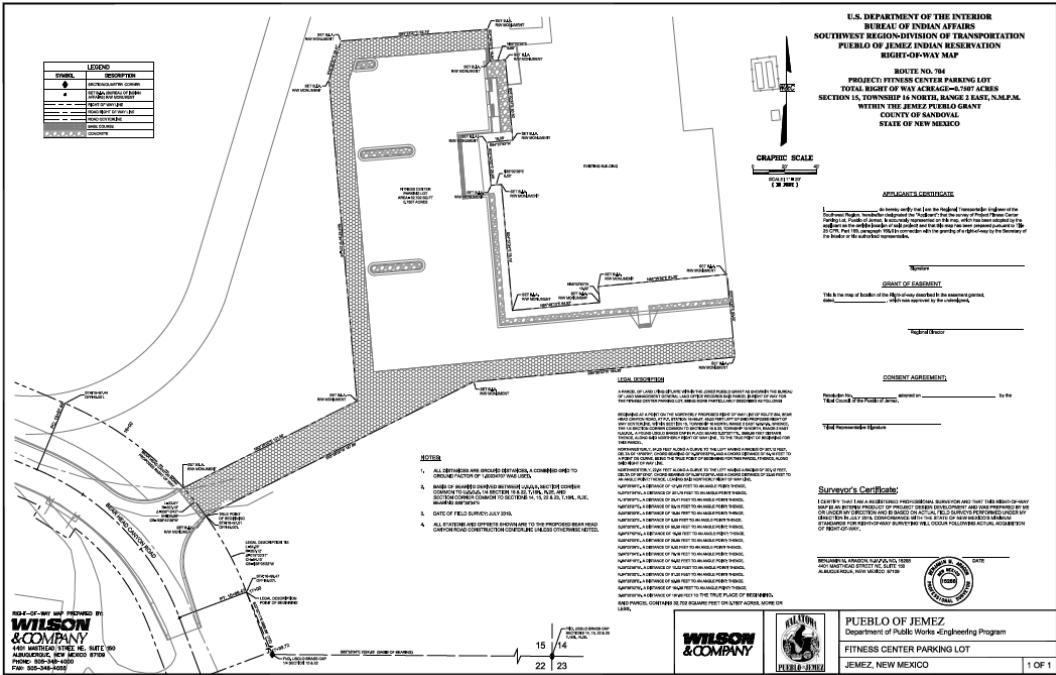
APPROVED KYLE B KITCHEL Digitally signed by KYLE B KITCHEL
Date: 2021.06.03 09:35:18 -07'00' DATE 6/3/2021
 FHWA-FLH

Engineering & Environmental Services

Example Services

- Site survey: topographic / *ROW boundary map & legal description*
- Geotechnical Evaluation
- Drainage Study
- Environmental Assessment (EA) / Cultural Resources Survey (CRS)
- Design

Process -
Consultants



Process

Submit ROW Application Package

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION MUST IDENTIFY [§169.102(a)]:

1. Applicant Name and Address: Southwest Region, 1001 Indian School Road, NW Albuquerque, NM 87104
2. Tract(s) or parcel(s) affected by the right-of-way: _____
3. General location (easement description): Sec 15, 16, and 21 T 16 N., R 2 E., N.M.P.M., Jemez Pueblo, Sandoval County, New Mexico. See attached map
4. Purpose: Easement for a parallel multi-use trail construction, operation and maintenance along NM State Route 4 for Project NM SR4 Multi-use trail
5. Term (Renewal, if applicable): Twenty Five (25) years, Renewal
6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing; or removal of permanent improvements under §169.105:

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of-way;
2. A map of definite location of the right-of-way; (25 CFR 169.102(b)(2): survey plat signed by professional surveyor or engineer showing the location, size, and extent of the ROW and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or BIA land and with reference to the public surveys under 25 U.S.C. § 176, 43 U.S.C. § 2 AND § 1764, and showing existing facilities adjacent to the proposed project.)
3. Bond(s), insurance, and/or other security meeting the requirements of §169.103;
4. Record of notice that the right-of-way was provided to all Indian landowners;
5. Record of consent that the right-of-way meets the requirements of §169.107, or a statement documenting a request for a right-of-way without consent under §169.107(b);
6. If applicable, a valuation meeting the requirements of §§ 169.110, 112, 114;
7. With each application, if the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:

- a. The representative has authority to execute the application;
 - b. The right-of-way will be enforceable against the applicant; and
 - c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
 9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the *Code of Federal Regulations*, Title 25 Indians, Part 169, as amended, and by reference includes such rules, regulations and requirements as a part of this application to the same effect as if the same were herein set out in full.

Applicant Point of Contact Information:

Name: Corwyn Henry
Address: 1001 Indian School Road, NW, Albuquerque
State: New Mexico Zip: 87104
Phone: (505)563-3430 Email: corwyn.henry@bia.gov
Fax: (505)563-3054

DATE: February 16, 2022

APPLICANT: _____ (Signature)

Corwyn D. Henry (Print Name)

1. Legal Description
2. Map
3. Bond, insurance
4. ROW approved by Indian landowners
5. Consent by the Tribe
6. Land Valuation (appraisal)
7. If non-Tribal entity (corporation, LLC, other legal entity: authority to execute ROW application, ROW is enforceable, & legal entity in good standing
8. NEPA Documents
9. If required, statement from Tribe that ROW conforms to applicable Tribal law.

Process

Submit ROW Application Package



TRIBAL COUNCIL RESOLUTION NO. 2021- 46

AUTHORIZING RIGHT-OF-WAY FOR THE CONSTRUCTION AND MAINTENANCE OF THE NM-4 MULTI-USE PEDESTRIAN TRAIL AND TO WAIVE THE 25 CFR §169 VALUATION, COMPENSATION, AND BOND REQUIREMENTS

- WHEREAS**, the Pueblo of Jemez is a duly recognized sovereign tribal government with a Governor and Tribal Council empowered to exercise all governmental powers, fiscal authority and tribal sovereignty; and
- WHEREAS**, the Pueblo of Jemez is a federally recognized sovereign tribal government with a Governor and Tribal Council empowered to initiate and carry out programs for the benefit of the Jemez tribal members; and
- WHEREAS**, the Tribal Council, through Tribal Council Resolution No. 2018-31 approved the Pueblo of Jemez submittal for Federal FY2020 CMAQ Funds for the NM-4 Multi-use Pedestrian Trail project; and
- WHEREAS**, the Tribal Council, through Tribal Council Resolution Nos. 2018-22, 2018-30, 2020-02, and 2020-44 approved the budget for preliminary engineering and construction project for the NM-4 Multi-use Pedestrian Trail (Route 6; Section 010) project; and
- WHEREAS**, the Tribal Council, through Tribal Council Resolution No. 2020-45 authorized the permanent closure of the eastern entrances of six Tribal roadways, and authorized the installation of a detention pond along the east side of the NM-4 highway in preparation of the construction of the NM-4 Multi-use Pedestrian Trail; and
- WHEREAS**, Exhibit A shows the extent of the right-of-way (ROW) boundaries and acreage for the NM-4 Multi-use Pedestrian Trail (10.8965 acres); and
- WHEREAS**, in order for the NM-4 Multi-use Pedestrian Trail Project to be constructed, a grant of easement is required under 25 CFR §169 and 25 CFR §170; and

Office of the Governor

4471 Highway 4, Box 100 • Jemez Pueblo • New Mexico • 87024
(575) 834-7359 • Fax (575) 834-7331

TRIBAL COUNCIL RESOLUTION NO. 2021-46
AUTHORIZING RIGHT-OF-WAY FOR THE CONSTRUCTION AND MAINTENANCE OF THE NM-4 MULTI-USE PEDESTRIAN TRAIL AND TO WAIVE THE 25 CFR §169 VALUATION, COMPENSATION, AND BOND REQUIREMENTS
PAGE TWO

- WHEREAS**, the Pueblo will use its CMAQ grant funds and matching Tribal Transportation Program (TTP) funds to construct the NM-4 Multi-use Pedestrian Trail, and does not wish to utilize these funds for compensation, valuation, or bond purposes under 25 CFR §169; and
- WHEREAS**, the waiver of compensation, valuation or bond requires approval from the Bureau of Indian Affairs (BIA), and
- WHEREAS**, the Pueblo, as a governmental entity, is responsible for constructing, improving, operating and maintaining the road and parking lots after completion, and requires the establishment of Tribal ROWs; and
- WHEREAS**, the Pueblo authorizes the establishment of Tribal ROWs for the NM-4 Multi-use Pedestrian Trail for a period of 25 years, and a 25-year renewal, thereafter; and
- NOW THEREFORE BE IT RESOLVED**, that the Jemez Pueblo Tribal Council request and authorizes the BIA to waive the bond, insurance, or alternative form of security requirement under 25 CFR §169.103 for the identified and approved NM-4 Multi-use Pedestrian Trail project; and
- BE IT FURTHER RESOLVED**, that the Jemez Pueblo Tribal Council hereby authorizes the BIA to waive the valuation and compensation requirements under 25 CFR §169.110; and
- BE IT FURTHER RESOLVED**, that the Jemez Pueblo Tribal Council hereby requests the Regional Director of the Southwest Regional Office to grant all necessary Tribal ROWs for the construction of the NM-4 Multi-use Pedestrian Trail (Attached as Exhibit A).
- BE IT FINALLY RESOLVED**, that Tribal Council hereby authorizes and directs the Governor and/or his designee to take all actions as may be necessary and appropriate to carry out the purpose and intent of this Resolution.

Office of the Governor

4471 Highway 4, Box 100 • Jemez Pueblo • New Mexico • 87024
(575) 834-7359 • Fax (575) 834-7331

1. Legal Description (*exhibit to TCR*)
2. Map (*exhibit to TCR*)
3. Bond, insurance (*waiver of bond*)
4. ROW approved by Indian landowners (*not applicable for Jemez Pueblo, land assignments/no land ownership*)
5. Consent by the Tribe (*TCR*)
6. Land Valuation (*waiver of valuation, compensation*)
7. If non-Tribal entity (*N/A thus far*)
8. EA & CRS (*included with ROW package*)
9. Statement from Tribe that ROW conforms to applicable Tribal law (*N/A*)

Process - NEPA

Submit NEPA Review Documentation

ENVIRONMENTAL ASSESSMENT Pueblo of Jemez New Mexico State Highway 4 Multi-Use Pedestrian Trail

Bureau of Indian Affairs



Pueblo of Jemez
Sandoval County, New Mexico
Project Number 20-100-043-00

CN 6101310

November 2021



**WILSON
& COMPANY**
INTEGRATED RELATIONSHIPS

A Cultural Resource Survey for the Jemez Pueblo Tribal Administrative Complex,
Jemez Pueblo, Sandoval County, New Mexico

By Michael P. Marshall



Prepared for Jemez Pueblo by Cibola Research Consultants

Cibola Research Consultants Report No. 609
NMCRIS Project No. 145210
BIA Permit SWRO-2018-015
NM State Permit No. 2019-015-S
June 5, 2019



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Southwest Regional Office
1001 Indian School Road NW
Albuquerque, New Mexico 87104

FINDING OF NO SIGNIFICANT IMPACT

This FONSI was completed in accordance with the National Environmental Policy Act of 1969 (NEPA), Council of Environmental Quality Regulations, Department of Interior procedures and Bureau of Indian Affairs (BIA) NEPA manual.

Proposed Project:

The Pueblo of Jemez proposes a Grant of Easement of Right-of-Way (ROW) for the redesign, replacement, and realignment of Owl Springs Way Bridge (M104 and BIA 82). The proposed project is located in Section 16 of Township 16 North, Range 2 East NMPM Pueblo of Jemez, Sandoval County, New Mexico. The existing Owl Springs Way Bridge is a typical I beam and concrete structure with steel guardrails, spans 82 feet and width is 26 feet concrete roadway with low elevation over the Jemez river.

The federal actions include the approval of a Grant of Easement of Right of Way (ROW) and funding for the proposed project provided by Federal Highway Administration (FHWA).

Based on the analysis of the NEPA document entitled "Environmental Assessment, Owl Springs Way Bridge Replacement Project, Bureau of Indian Affairs Route 82, Pueblo of Jemez, Sandoval County, New Mexico" it has been determined that the proposed action will not constitute a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement (EIS) is not required. The reasons supporting these findings are as follows:

1. There will be no contamination of soils or water from the proposed project, erosion control/management strategies will be developed utilizing Best Management Practices (BMP). The Contractor will obtain a Storm Water Pollution Prevention Plan (SWPPP) approval and National Pollutant Discharge Elimination System (NPDES) from Environmental Protection Agency (EPA). The Jemez river is subject to regulation under the Clean Water Act and Section 404 Water Quality Certification, the contractor will consult with the U.S. Army Corps of Engineers and the New Mexico Environment Department, Surface Water Quality Bureau. The new bridge design will increase the elevation of the structure to reduce flooding and improve the water flow beneath the bridge.
2. BMP will be implemented to ensure that construction will meet federal air quality standards to reduce potential impacts to air quality, impacts will be short-term. Sandoval County is currently in attainment of National Ambient Air Quality Standards (NAAQS) for all measured pollutants.
3. Vegetation removal will be minimal and occur only within construction limits, including post construction treatments, as preferred by the Pueblo of Jemez.
4. Some disturbance of migratory birds and resident wildlife may occur, however will be localized and of short duration. If potential suitable Migratory Bird nesting habitat is to be disturbed by the proposed actions, activities will occur out of nesting season (after September 15 and before March).
5. There will be No Effect to threatened and endangered species.
6. Section 106 of the National Historic Preservation Act has been completed for the proposed project. If undiscovered cultural resources are found during construction the BIA Archaeologist will be contacted



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Southwest Regional Office
1001 Indian School Road NW
Albuquerque, New Mexico 87104

NOTICE OF AVAILABILITY

PROPOSED ACTION:

The Pueblo of Jemez proposes a Grant of Easement of Right-of-Way (ROW) for the redesign, replacement, and realignment of Owl Springs Way Bridge (M104 and BIA 82). The proposed project is located in Section 16 of Township 16 North, Range 2 East NMPM Pueblo of Jemez, Sandoval County, New Mexico. The existing Owl Springs Way Bridge is a typical I beam and concrete structure with steel guardrails, spans 82 feet and width is 26 feet with a concrete roadway with low elevation over the Jemez river.

The federal actions include the approval of a Grant of Easement of Right of Way (ROW) and funding for the proposed project provided by Federal Highway Administration (FHWA).

DETERMINATION:

Based on the analysis of the NEPA document entitled "Environmental Assessment, Owl Springs Way Bridge Replacement Project, Bureau of Indian Affairs Route 82, Pueblo of Jemez, Sandoval County, New Mexico" it has been determined that the proposed action will not constitute a significant impact on the quality of the human environment.

FOR FURTHER INFORMATION:

To review a copy of the "Environmental Assessment, Owl Springs Way Bridge Replacement Project, Bureau of Indian Affairs Route 82, Pueblo of Jemez, Sandoval County, New Mexico" and FONSI please contact:

Mr. Dan Boyd, Acting Branch Chief
Division of Transportation
1001 Indian School Rd. NW
Albuquerque, NM 87104
(505)563-3436

Ms. Sheri Bozic, Director of Planning,
Development, and Transportation Dept.
Pueblo of Jemez
P.O. Box 100
Pueblo of Jemez, NM 87024
(575)834-0096

NOTICE OF DECISION

It is my decision to proceed with the action described above. In accordance with 25 CFR 2.7, this decision may be appealed within 30 days of this notice being posted. An appeal to the decision to proceed with the proposed Owl Springs Way Bridge Replacement Project should be made in writing to the BIA-SWRO, Regional Director, 1001 Indian School Rd NW, Albuquerque, NM 87104. An appeal must be received no later than March 5, 2021.

Patricia L. Mattingly
Regional Director

1/28/2021
Date

Records of the
U.S. Department of the Interior
Bureau of Indian Affairs
Land Titles and Records Office
Document Number: 4200331666
Date: 2022 APR 05 12:38 PM
Title: Straddled

TRIBE: Jemez
BIA TAAMS No. 706 4200331666

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

GRANT OF EASEMENT FOR RIGHT-OF-WAY

The United States of America, acting by and through the Bureau of Indian Affairs, Department of the Interior, Southwest Regional Office, 1001 Indian School Road, N.W., Albuquerque, New Mexico, 87104-2303 for, and on behalf, with the consent of the Pueblo of Jemez (the GRANTOR), under authority contained and under the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-38); and Part 169, Title 25, Code of Federal Regulations, which by reference are made a part hereof, does hereby grant to: Bureau of Indian Affairs, Southwest Region, Division of Transportation, of 1001 Indian School Road N.W., New Mexico, 87104 (the GRANTEE).

1. **GRANT.** In consideration of \$ 0.00, paid to the Pueblo of Jemez. By February 16, 2022, the right-of-way is granted

(If not a lump-sum or multiple payment term): (Describe consideration, payment due date(s), adjustments, late payment fees, if applicable).

GRANTOR does hereby grant to GRANTEE, a right-of-way for: a multi-use trail parallel to NM State Route 4, over and across the land embraced within a right-of-way situated on the following described land: Section 15, 16 and 21, Township 16 North, Range 2 East, New Mexico Principal Meridian, Sandoval County, New Mexico;

This right-of-way is limited to and more particularly described to be 10.8965 acres in area, as shown on Exhibit A, attached hereto, and made a part hereof.

2. **TERM.** This right-of-way is for a term of 25 years, with a renewal term of 25 years, so long as the right-of-way is used for the purpose above specified; PROVIDED, that this right-of-way may be cancelled by the Tribe and Grantee under any negotiated remedies identified in section 13 (25 CFR 169.403) and/or in whole or in part by the GRANTOR (25 CFR 169.404) or for any of the following causes upon 30 days written notice, and failure of the GRANTEE within said notice period to correct the basis for cancellation (25 CFR 169.405):

- A. Failure to comply with any term or condition of the Grant, or the applicable regulations.
- B. A non-use of the right-of-way for any consecutive two-year period (for the purpose for which it was granted).
- C. (where applicable) Any conditions or restrictions set out in Tribal Council Resolution No. 2021-46 dated December 20, 2021.

3. **MITIGATION MEASURES.** (25 CFR 169.123) The GRANTEE agrees to comply with any mitigation measures or conditions described to protect environmental, biological and cultural resources within the right-of-way areas as defined in the environmental compliance documentation.

4. **RESERVATION OF JURISDICTION.** (25 CFR 169.10, 169.125) The tribe maintains its existing jurisdiction over the land, activities, and persons within the right-of-way and this grant does not

Approval

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
SOUTHWEST REGION-DIVISION OF TRANSPORTATION
PUEBLO OF JEMEZ INDIAN RESERVATION
RIGHT-OF-WAY MAP

ROUTE NO. 74
PROJECT: FITNESS CENTER PARKING LOT
TOTAL RIGHT OF WAY ACRES: 10.8965
SECTION 15, TOWNSHIP 16 NORTH, RANGE 2 EAST, N.M.P.M.
WITHIN THE JEMEZ PUEBLO GRANT
COUNTY OF SANDOVAL
STATE OF NEW MEXICO

APPLICANTS CERTIFICATE

CONSENT AGREEMENT

Surveyor's Certificate

WILSON & COMPANY
1410 WEST-40 STREET, N.E. SUITE 90
ALBUQUERQUE, N.M. 87106-3796
PHONE: 505-344-6000
FAX: 505-344-6100

PUEBLO OF JEMEZ
Department of Public Works - Engineering Program
FITNESS CENTER PARKING LOT
JEMEZ, NEW MEXICO

1 OF 1

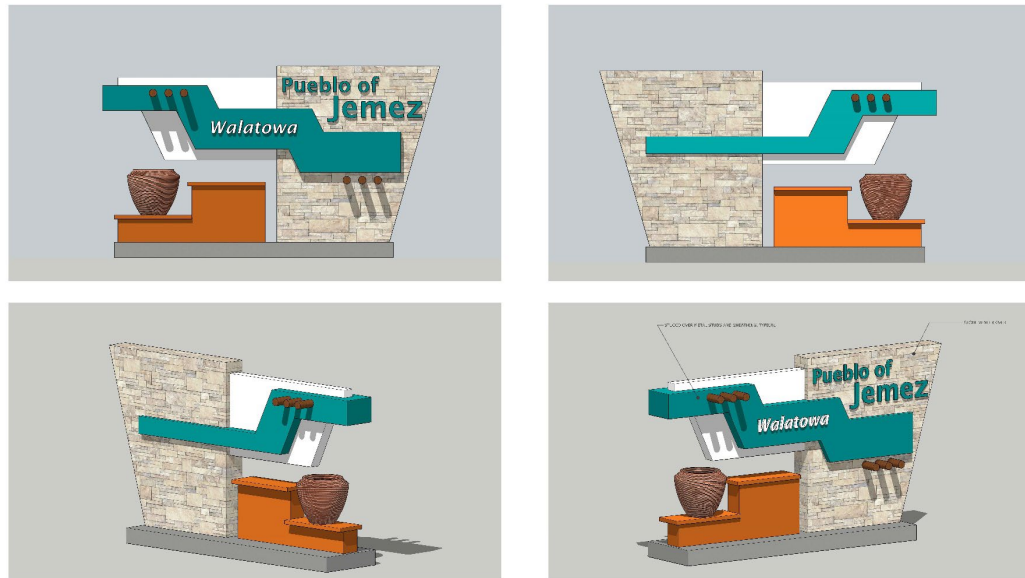
Review Requirements & Timing for NEPA/ROW Package Submittal		
Reference	Task	Timeframe
40 CFR 1501	Public Hearing Advance Notice	15 days
	NEPA Submittal Review	45 days
	NOA & FONSI	30 days
25 CFR 169	BIA Acknowledgement Letter to Tribe that ROW package is complete/incomplete	10 days
	Grant or Deny the right-of-way	60 days

Schedule & Timing

- Complete NEPA Documents: 6-18 mos.
- DESCIRM/LDR/Realty/BIADOT Reviews: up to 10 mos.
- NEPA/ROW Review Timeframes 25 CFR Part 169 / 40 CFR 1501
- **1-2 yrs. to complete NEPA/ROW**

Tribal Administrative Complex Parking Lot & Sheep Springs Way Improvement Project		
NEPA - EA & CRS	ROW Package Submittal	Grant of Easement
April 2019 - September 2019	11/15/2019	7/28/2020
Walatowa Fitness Center Parking Lot & Bear Head Canyon Road Improvement Project		
NEPA - EA & CRS	ROW Package Submittal	Grant of Easement
April 2019 - September 2019	11/15/2019	9/29/2020
Owl Springs Way Bridge Replacement Project		
NEPA - EA & CRS	ROW Package Submittal	Grant of Easement
June 2019 - August 2020	11/13/2020	4/14/2021
Hemish Path to Wellness Project		
NEPA - EA & CRS	ROW Package Submittal	Grant of Easement
June 2020 - November 2021	12/27/2021	2/16/2022

Special Circumstances



- Expedited review (funding deadline)
- TTPSF Project site not adjacent to roadway on inventory (BIA review not required)
- Multi-jurisdictional interactions: state, federal (BIA/FHWA), tribal
- Construction Maintenance Easements (incorporate CMEs into ROW maps)
- Identifying ownership (challenges with funding source requirements)



Challenges & Successes!

Do you understand NEPA/ROW processes for TTP projects?

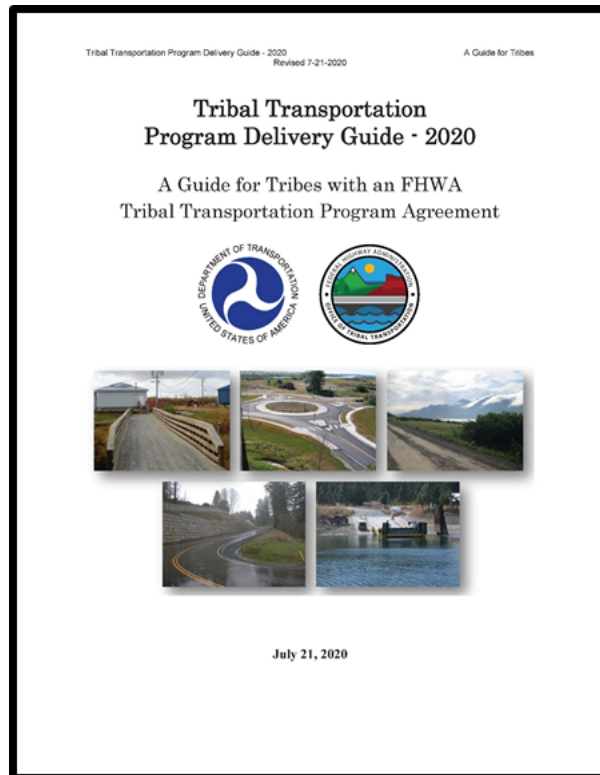
What are some of the challenges you have experienced in obtaining ROW?

Have you successfully obtained ROW for TTP projects?

Share your stories with us!!

Resources

Guidance / Websites



- FHWA right-of-way and real estate website at: http://www.fhwa.dot.gov/real_estate/
- FHWA Right-Of-Way Acquisition Guidelines at: https://www.fhwa.dot.gov/real_estate/uniform_act/acquisition/real_property.cfm
- *The Uniform Act* at: <http://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter61&edition=prelim> and <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?category=rightofw>
- FLH Right-Of-Way and Utilities web site at: <https://highways.dot.gov/federal-lands/rw-util>
- Chapter 12, Right of Way and Utilities of the FLH PDDM at: <https://highways.dot.gov/federal-lands/pddm/right-way-utilities>
- BIA Website
 - How to Apply for ROW at: <https://www.bia.gov/service/rights-of-way-individually-owned-indian-and-tribal-lands/apply-right-of-way>
 - Rights-of-Ways on Indian Lands Handbook at: https://www.bia.gov/sites/default/files/dup/assets/public/raca/handbook/pdf/52%20IAM%209-H%20ROW%20HB%20_FINAL_signed_w.footer_Jan%202022_minor%20corrections_508.pdf
 - Indian Affairs Specific Forms & Guidance at: <https://www.bia.gov/policy-forms/online-forms>
 - Starting the NEPA Review Process at: <https://www.bia.gov/service/nepa-compliance/review-process>

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