

Rights of Way on Arizona State Trust Lands



The Arizona State Land Department administers approximately 9.4 million acres, which represent nearly 13 percent of all land in Arizona. Historically, the federal government granted these lands to Arizona on its establishment as a territory in 1863.

Subsequently, additional lands were conveyed to Arizona upon statehood under the Enabling Act of 1910. Because of the diversity of such lands controlled by the Arizona State Land Department, rights of way provide access to a host of private and public uses including access roads, utility corridors and public roadways.

By Mark A. Keller

The Rights of Way Section of the Arizona State Land Department administers all rights of way applications and easements and is an integral part of the Land Disposition Division, which also includes Commercial Leasing, Sales, and Planning and Asset Sections.

By definition, a right of way is “the right of privilege, acquired through accepted usage or by contract, to pass over a designated position of the property of another for a certain term.” In order to obtain rights of way from the Arizona State Land Department, an application must be submitted. Upon submission, an application is classified and processed according to its type and purpose. The following four types of access/roadways are available:

Public Roadways

■ Easements acquired by federal, state & local governments and built according to city/county standards.

Access Roads

■ Limited use easement (10 years maximum) for non-exclusive individual uses, which include access to state trust land under lease, federal mining leases, communication sites, and private land surrounded by state trust land.

Haul Roads

■ Non-exclusive access acquired by mining, sand, gravel and lumber operations. Generally, this road is utilized by heavy equipment users and is not a public access road.

Service Roads

■ Easement acquired by a utility company for the purpose of the installation, service and repair of utility lines. This easement is not intended as a public access road.

The access/roadways noted above are further delineated by type of easement, lease term, examples of use, and payment terms. The following four types of right-of-way easements are available:

Annual Easements

■ This typically includes temporary uses including temporary construction easements and haul roads. The term is 10 years or less and is based on an annual rental payment.

10-year Easements

■ This typically includes non-exclusive access roads, service roads and distribution utilities

including communications, gas, water and sewer. The term is 10 years and is based on a 10 year advanced rental payment.

50-year Easements

■ This typically includes major transmission lines including 230 kV and above, communications, pipelines and utility facilities. The term is 50 years and is based on a 50-year advance rental payment.

Perpetual Easements

■ This typically includes public roadways. The term is perpetual and is based on full payment in advance. This type right of way must be presented to the Board of Appeals for approval of valuation. Subsequent steps include 10 weeks of public advertising, and sale at public auction.

Additionally, all applications must include a primary description as to location, a map description, the alignment's location and other requisite information regarding right of way specifics. The application is sent to various internal departments at the Land



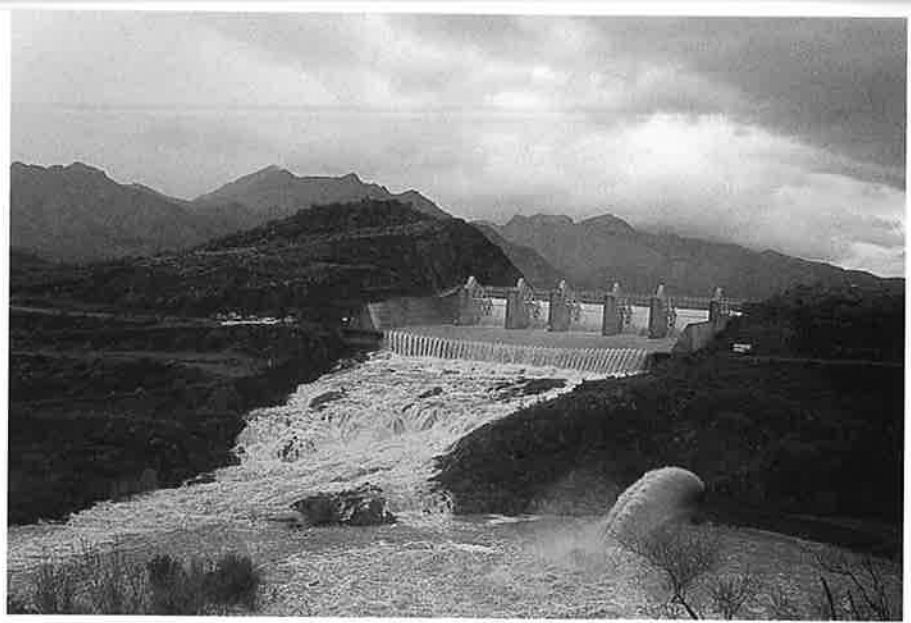
ARIZONA STATE TRUST LANDS

Department, which includes notification to commercial, planning, sales, range and drainage and engineering. Notifications to external agencies include the Arizona State Museum for Archaeological Clearance, Arizona Game and Fish Department, Arizona Department of Agriculture for Native Plants, and the county or city where the land is located.

Once the application has been cleared, an appraisal is done based on the current land values, purpose of the right of way, and impact on adjacent state trust land. A review process is done prior to issuance of the right of way. In the case of a perpetual term, several additional steps are necessary and include:

- Board of Appeals approval
- 10-week advertising period
- Public auction

The processing period for annual and 10-year leases range from two to six months, whereas 50 year and per



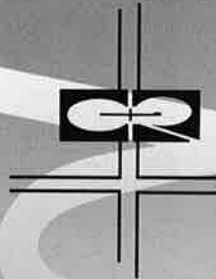
petual leases require six months to one year. Application fees are \$100 for all right-of-way leases. Administrative appraisal fees range from \$100 to \$175. Minimum rental values are \$1,200 for annual and 10-year rights of way and \$2,400 perpetual rights of way. Advertising expenses are typically \$1,000. Other expenses may include relocation costs for existing improvements on state trust land.

The acquisition of a right of way

from the Arizona State Land Department is a straightforward process as long as we are provided with what we need from the applicant. As highlighted, this process involves filing an application, sending out notification letters, preparing an appraisal, review by a committee, and final approval by the State Land Commissioner.

Mark Keller is a Right of Way Administrator for the Arizona State Land Department in Phoenix. ■

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