

## RIGHT-OF-WAY APPLICATION REQUIREMENTS

1. Complete and submit Application form in duplicate. (forms attached)
2. Append to application certified copies of corporation or association papers (articles) showing proof of existence and of compliance with State laws entitling it to operate in the State. (If previously furnished, make reference to that effect.)
3. Submit one linen tracing or other reproducible material and three prints of Map of Definite Location, which should contain an affidavit subscribed by the engineer who made the survey, and a certificate subscribed by the applicant, both certifying to the accuracy of the survey and maps and the length of the desired right-of-way. (example attached)
4. Complete and submit "Information to Accompany Application for Right-Of-Way" form in duplicates. (Forms attached) Payment for construction damages and temporary surface damages, including crop, grass, timber, etc., can be settled direct with the authorized user of the land or if there is no such user, with the landowner.
5. Secure consent to landowner, using the enclosed form, which should clearly indicate the amount of payment as agreed to by the landowner. The offer of payment shown is for the Right-Of-Way only, as surface and temporary damages can be taken care of separately. (See item 4)
6. Deposit the amount shown, as payment for the Right-Of-Way, on the consent form, or a minimum of \$2.00 per rod (whichever is greater) for estimated payment of Right-Of-Way.

On receipt of this information and papers, an inspection will be made by our office to determine the adequacy of offer of payment and consideration given to final approval.

Payment for right-of-way will be made and credited to the Indian's account only after approval is made. The deposit is credited to a special account and it is not available for disbursement until approval and notification. Payment can be made only to the legally-determined heirs in the case of an Estate.

## RIGHT-OF-WAY APPLICATION

Comes now the applicant \_\_\_\_\_ of \_\_\_\_\_. This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. L. 17-25 USC 323). and Departmental Regulations 25 CFR 169, and application for \_\_\_\_\_ right of way for the following purposes and reasons: (term of years)

Across the following described land (easement description):

Said right of way to be \_\_\_\_\_ in length, \_\_\_\_\_ in width, and \_\_\_\_\_ in size (or area), as shown on the attached map of definite location.

### SAID APPLICANT DOES HEREBY UNDERSTAND AND EXPRESSLY AGREE AS FOLLOWS

- (a) To construct and maintain the right of way in a workmanlike manner.
- (b) To pay promptly all damages and compensation, in addition to the deposit made pursuant to 169.4 determined by the Secretary to be due the landowners and authorized users and occupants of the land on the account of the survey, granting, construction and maintenance of the right of way.
- (c) To indemnify the landowners and authorize users and occupants against any liability for loss of life, personal injury, and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
- (d) To restore the lands as nearly as as may be possible to their original condition upon completion of construction to the extent compatible with the purpose for which the right of way was granted.
- (e) To clear and keep clear the lands within the right of way to the extent compatible with the purpose of the right of way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during construction and maintenance of the project.
- (f) To take soil and resource conservation and protection measures, including weed control, on the land covered by the right of way.
- (g) To do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the right of way.

- (h) To build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right of way.
- (i) That upon revocation or termination of the right of way, the applicant shall so far as is reasonable possible, restore the land to its original condition.
- (j) To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
- (k) That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right of way is granted.

SAID APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

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

\_\_\_\_\_

(Applicant)

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_

**SUPPORTING DOCUMENTS**

- 1.) Written consent of landowners (one copy)
- 2.) Maps of definite location \_\_\_\_\_ linen tracings, \_\_\_\_\_ print copies. See 25 CFR 169.6, 169.7, 169.8, 169.9, 160.10, and 169.11
- 3.) Deposit of damages (see 169.4 and 169.14)
- 4.) Corporate qualifications (see 169.4 and 169.5)
- 5.) Evidence of Officers to Execute Form (Forms 1-154d) (Corporate applicants only)

**INFORMATION TO ACCOMPANY APPLICATION FOR RIGHT-OF-WAY**

(Fill in this form in duplicate)

Owner's Name, Tribe, and Roll No. \_\_\_\_\_

Land Description \_\_\_\_\_

1. A brief statement about the neighborhood, the economy of the area, etc.;
2. A brief description of the property, including a statement of highest and best use, and its present use:
3. The approximate per acre value of the land:
4. A list of improvements, if any, and their conditions:
5. If structural improvements (above) will be affected, what arrangements have been made for their relocation, purchase, etc., including arrangements for relocation of fencing:
6. Will the Right-Of-Way affect overall use of this land:
7. What is the offer of payment for the right-of-way only. (Offer must be shown on State of Ownership Form.)
8. What arrangements were made for payment of crop and/or temporary surface damages? (Such payments should be made only to holders of Bureau approved leases, or if not leased, to the landowner.) Paid to: \_\_\_\_\_
9. Give two instances which can be confirmed as to payments made to adjacent landowners for this of a similar right-of-way.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
For the Company or Applicant for  
Right-Of-Way

**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS  
CONSENT OF OWNERS TO GRANT OF RIGHT-OF-WAY**

\_\_\_\_\_ Agency, \_\_\_\_\_, 20\_\_\_\_\_

Allotment No. \_\_\_\_\_ Allottee \_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The undersigned owner(s) of said land hereby do(es) (do(es) not) give permission to make surveys (and to the granting) of a \_\_\_\_\_

Right-Of-Way there over, as contemplated by the application of \_\_\_\_\_

\_\_\_\_\_ on payment of a negotiated monetary consideration in the amount of \$\_\_\_\_\_ for the rights granted and severance damages or the appraised fair market value of the rights granted and severance damages as determined by the Secretary, whichever is greater.

Other terms comment \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Witnesses:

Owners:

1.) \_\_\_\_\_

\_\_\_\_\_

2.) \_\_\_\_\_

\_\_\_\_\_

1.) \_\_\_\_\_

\_\_\_\_\_

2.) \_\_\_\_\_

\_\_\_\_\_

APPLICATION FOR PERMISSION  
TO SURVEY FOR RIGHT OF WAY

Comes now the applicant \_\_\_\_\_

\_\_\_\_\_

Having a residence or principal place of business at \_\_\_\_\_

Hereby files and application with the Bureau of Indian Affairs, pursuant to the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323), and to the regulations of the department of the interior contained in Title 25, Code of Federal Regulations, Part 169.4, for permission to survey a right of way for the following purposes and reasons:

\_\_\_\_\_

Across the following described Indian land:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The applicant understands and hereby expressly agrees to indemnify the United States, the owners of the land, and occupants of the land, against liability for loss of life, personal injury, and property damage occurring because of survey activities and caused by the applicant, his employees, contractors, and their employees, or subcontractors and their employees.

In witness whereof, \_\_\_\_\_ has caused this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
APPLICANT

\_\_\_\_\_  
WITNESS

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS  
EVIDENCE OF AUTHORITY OF OFFICERS TO EXECUTE PAPERS

(To be sworn to by secretary or president of corporation and sealed with its seal)

I solemnly swear that \_\_\_\_\_ and  
\_\_\_\_\_ were on the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, the duly elected, qualified, and acting president, and secretary,  
respectively of \_\_\_\_\_  
\_\_\_\_\_

A corporation organized under the laws of \_\_\_\_\_ on which day they  
executed \_\_\_\_\_ mining \* \_\_\_\_\_ for and in behalf of said  
corporation covering certain Trust or Restricted Indian Lands on the \_\_\_\_\_  
Reservation, in the state of \_\_\_\_\_; that they were fully empowered to  
execute said instrument and all papers in connection therewith, and that their action in  
executing the same binds the said corporation to full performance of all obligations thereunder.

\_\_\_\_\_  
\_\_\_\_\_  
(Title)

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

(Signed) \_\_\_\_\_

\_\_\_\_\_  
(Title)

**ENGINEER'S AFFIDAVIT**

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

\_\_\_\_\_ being first duly sworn, deposes and states that he is the  
\_\_\_\_\_ Engineer, for the \_\_\_\_\_; that the survey was made  
by him (or under his direction); that this map was prepared under his direction from said field  
notes; and that said right-of-way \_\_\_\_\_ miles in lenth beginning at \_\_\_\_\_ and  
ending at \_\_\_\_\_ is accurately located on this map.

\_\_\_\_\_  
\_\_\_\_\_ Engineer

Subscribed and sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

My commission expires \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public



## APPLICANT'S CERTIFICATE

I, \_\_\_\_\_, do hereby certify that I am the  
\_\_\_\_\_ for \_\_\_\_\_, hereinafter  
designated the applicant; that \_\_\_\_\_ who subscribed to  
the foregoing affidavit, is employed by the applicant as a \_\_\_\_\_  
and that he/she) was directed by the applicant to survey the location of a  
\_\_\_\_\_ Right-of-way, \_\_\_\_\_ miles in length beginning at  
\_\_\_\_\_ and ending at \_\_\_\_\_, is accurately represented  
on this map; that such survey as represented on this map has been adopted by  
the applicant as the definite location of the Right-Of-Way thereby shown; and that  
the map has been prepared to be filed with the Secretary of the Interior or his  
duly authorized representative as part of the application for said Right-Of-Way to  
be granted the applicant, its successors and assigns, with the right to construct,  
maintain, and repair improvements, thereon and thereover, for such purposes,  
and with the further right to the applicant, its successors and assigns, to transfer  
this Right-Of-Way by assignment, grant, or otherwise.

\_\_\_\_\_

Applicant

**BOARD COMMISSIONER'S CERTIFICATE**

I, \_\_\_\_\_, being Road Commissioner of \_\_\_\_\_ County, State of \_\_\_\_\_, do hereby state that I am satisfied with the accuracy of the survey and map and do hereby recommend to the \_\_\_\_\_ County Board of Commissioners an application for and acceptance of the Right-Of-Way as delineated on the map of definite location.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Road Commissioners

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_ before me \_\_\_\_\_ a Notary

Public in and for said \_\_\_\_\_ County, State of

\_\_\_\_\_, personally appeared

\_\_\_\_\_, known to me to be the person whose

name is subscribed to the within instrument and acknowledged to me that

executed the same.

My Commission Expires \_\_\_\_\_

\_\_\_\_\_

Notary Public

**AFFIDAVIT OF COMPLETION**

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

\_\_\_\_\_ being first duly sworn, says that he is the \_\_\_\_\_

Engineer of \_\_\_\_\_; that the Right-Of-Way has been constructed under his supervision a distance of \_\_\_\_\_ miles across a portion of the

\_\_\_\_\_ known as Cherokee Tribal land; that this construction began

on \_\_\_\_\_, 20\_\_\_\_\_, and was completed on \_\_\_\_\_ 20\_\_\_\_\_; that the

Right-OF-Way does not materially deviate from the approved plans, notes, and maps

filed \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ Engineer

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_

Notary Public

My Commission Expires \_\_\_\_\_, 20\_\_\_\_\_.

**CERTIFICATE**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_; that the  
(TITLE)

\_\_\_\_\_ right of way was actually constructed as set forth in the accompanying statement of \_\_\_\_\_ and the location

(NAME & TITLE)

represented in the aforementioned application and grant of easement.

Attest:

By:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Title