United States Department of the Interior

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Instruction Memorandum No. AZ-IM-2022-004
Expires: 09/30/2024

To: Field Officials

From: State Director

Subject: Guidance for Managing Commercial Leases along the Lower Colorado River

Program Area: Lands, Realty and Cadastral Survey

Purpose: This Instruction Memorandum (IM) establishes guidance for the implementation and management of commercial leases for recreation related businesses along the Lower Colorado River. These commercial leases are located on Bureau of Reclamation withdrawn lands, managed by the Bureau of Land Management (BLM) under Departmental Manual 613, and consist of one instrument authorized under the Federal Land Policy and Management Act, 43 U.S.C. 1701, et seq., as implemented through the regulations at 43 CFR Part 2920. This policy is necessary to ensure that appropriate statutory and regulatory authorities are consistently used for all commercial leases for recreation related businesses consistent with WO IM 2016-030 and AZ PIM 2022-001.

Policy/Action: All existing leases will be revised to comply with the Federal Land Management Policy Act (FLPMA) of 1976, as amended, and the implementing regulations at 43 CFR Part 2920 at the time they are transferred, renewed, or amended.

Commercial leases must be compatible with the BLM's mission and conform to the BLM's land use plans, policies, objectives, and resource management programs (43 CFR 2920.0.6). Commercial leases along the Lower Colorado River should serve primarily to enhance the recreation opportunity for the general public, unless other natural, cultural, and multiple use resources have a direct relationship. One of the 2007 Lake Havasu Resource Management Plan (RMP) management objectives is to provide opportunities for regional, national, and international visitors who use the area seasonally to engage in sustainable, easy urban access for primarily day-use, long-term winter occupancy, and overnight camping to engage in all manner

of recreational activities in a natural environment. The Yuma Field Office RMP management actions restricts occupancy within concessions (commercial leases) to no more than 150 days in a calendar year.

The current level of development as of the date of approval of this IM will be deemed approved. All current leaseholders must submit a current Plan of Development/Operations and Maintenance Plan showing what exists within 180 days after the release of the IM. The Authorized Officer should consider whether it is consistent with the applicable land use plan and the BLM's policy goals to issue a lease that involves the construction of additional permanent or semi-permanent structures. The approval of a lease that includes the development of additional permanent and/or semi-permanent structures will require the Authorized Officer's approval via a revised Plan of Development and concurrence from the State Director.

Approvals of development are subject to the following determinations:

- The development does not purport to provide any rights beyond those provided by the commercial lease.
- The development does not purport to assign or encumber assets that are not owned by the lease holder.
- The development would not have an adverse impact on the protection, conservation, or preservation of resources.
- The development would not have an adverse impact on the provision of necessary and appropriate facilities and services to visitors at reasonable rates and charges.
- The development meets the management objectives and actions of the 2007 Lake Havasu RMP and the 2010 Yuma RMP.

The BLM may enter into commercial leases to provide:

Visitor or Recreational service accommodations, facilities and services for general public use and enjoyment of public lands and access to the river for a fee or charge. The fee or charge paid by the visitor may be direct or indirect as part of the provision of comprehensive visitor services. Visitor services may include, but are not limited to, temporary lodging, campgrounds, food service, boat ramp usage, recreational activities, and equipment rental.

Consistent with the criteria described above, commercial leases are appropriate and desirable when they will provide a fair return to the lessee in addition to providing tangible and intangible benefits to the public and/or the government (e.g., the quality of life for a recreational visitor or use of a structure for mutual gain).

The BLM's commercial lease management and development activities emphasize prudent use of public land and natural resources to provide outdoor recreation related opportunities and/or amenities while protecting and preserving environmental, cultural, and historical values and resources as prescribed in the authorizing land use plan. When considering a commercial lease, field offices will use the Implementation and Procedure Guidelines (Attachment 1). When preparing a commercial lease, field offices will use the attached

Commercial Lease Template (Attachment 2) and Plan of Development template (Attachment 3). To ensure that all the terms and conditions, and standards contained in the lease are consistent with the land use plan and FLPMA, a list of potentially applicable Terms and Conditions is presented for the field office's consideration in Attachment 4. Additional Terms and Conditions not on this list may also be needed based on site specific situations, for example endangered species protection. Note that while successful commercial leases are in the BLM's interests, the BLM is under no obligation to guarantee a lessee's financial success.

Timeframe: This policy will be effective immediately and will be implemented for all new and existing leases as soon as practicable. Existing leases may continue to be operated until they are transferred, renewed, or amended.

Budget Impact: The IM will not result in a significant budgetary impact. It is anticipated that implementing and processing guidance will reduce the timelines associated with managing commercial leases along the Lower Colorado River.

Background: The BLM Headquarters Office issued PIM 2016-030 to address the findings in the Department of the Interior Office of Inspector General *Final Evaluation Report - Review of BLM's Concession Management Practices* (C- EV-BLM-0013-2013; March 30, 2015). The PIM 2016-030 affirmed the requirement for lessees to be authorized with a commercial lease under the 43 CFR 2920. AZ PIM 2022-001 established supplemental guidance for assessing rental fees for Commercial Leases along the Lower Colorado River bordering Arizona and California.

Manual/Handbook Section Affected: No Manuals/Handbooks are affected by this policy. However, this policy does supersede the policies and procedures established in the *BLM Colorado River District Commercial Recreation Lease Management Manual Implementation Guidelines* (2017), approved October 3, 2017.

Coordination: This IM was developed in coordination with the BLM Arizona State Executive Leadership Team, the Headquarters Division of Lands, Realty, and Cadastral Survey (HQ-350), and the Office of the Solicitor.

Contact: For further information, contact Jennifer Whyte, Senior Realty Specialist, Division of Lands, Minerals, and Energy, Arizona State Office at jwhyte@blm.gov or 602-417-9356.

RAYMOND SUAZO

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Attachments:

1. Commercial Lease Management Implementation Guidelines (8 pp)

2. Commercial Lease Template (8 pp)
3. Commercial Lease Plan of Development Template (2 pp)
4. Commercial Lease Standard Terms and Conditions (5 pp)