

Attachment E

USFWS Concurrence Letter Dated August 7, 2008



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
764 Horizon Drive, Building B
Grand Junction, Colorado 81506-3946

IN REPLY REFER TO:
ES/CO:BLM
TAILS 65413-2008-I-0078

August 7, 2009

Memorandum

To: National Project Manager, Bureau of Land Management, Price, Utah

From: Western Colorado Supervisor, Fish and Wildlife Service, Ecological Services, Grand Junction, Colorado
Allan R. Huster

Subject: Informal Section 7 Consultation for Overland Pass Pipeline Company's Piceance Basin Lateral Project

This memorandum responds to your July 11, 2008, correspondence requesting our concurrence on your determination that Overland Pass Pipeline Company's Piceance Basin Lateral Project may affect but is not likely to adversely affect the Dudley Bluffs bladderpod (*Lesquerella congesta*), Dudley Bluffs twinpod (*Physaria obcordata*), Ute ladies'-tresses orchid (*Spiranthes diluvialis*), and the black-footed ferret (*Mustela nigripes*).

Overland Pass Pipeline Company (OPPC), a subsidiary of ONEOK, Inc. and Williams Field Service Company, LLC (Williams), filed an application with the Bureau of Land Management (BLM) to construct, own, and operate a 152 mile long, 14-inch diameter, buried steel natural gas liquids (NGL) pipeline and related facilities that would connect NGL production from the Piceance Basin in Colorado to the OPPC Overland Pass Pipeline in southern Wyoming.

Additional facilities associated with the proposed action would include one 6 inch diameter lateral, 2 meter stations, 1 possible future pump station, 12 mainline valves (MLVs), 5 pigging facilities, 1 contractor/pipe yard, 1 new access road, and possible future electrical powerlines. With the exception of one new access road proposed to be built on fee land, OPPC proposes using a combination of existing state, county, private, and BLM roads to access the ROW during construction. These existing roads were used on the recently constructed Entrega and WIC Piceance pipelines. The one new access road would be constructed on the south side of the White River crossing at the request of the landowner and would be 15 feet wide by approximately 0.4 mile long encompassing 0.7 acre. Of the approximately 1,599 acres total necessary for construction of the proposed ROW (excluding the contractor/pipe yard and access roads), approximately 673 acres are considered temporary disturbance for construction. All acreage would be reclaimed. However, a 50 foot wide permanent ROW would be maintained encompassing approximately 926 acres. Low-growing grasses, shrubs, and forbs would be allowed. Trees over the pipeline may be removed to allow for aerial inspections. Approximately

47.5 percent of the proposed pipeline route would cross federal land managed by the BLM, 5.8 percent would cross state land (State Wildlife Areas or state trust lands) and 46.7 percent would cross private land. Approximately 96 percent of the pipeline route is adjacent to existing pipeline or other utility corridors.

OPPC proposes to utilize 46 acre feet of water from the Colorado River system for project operations. All water diversion is proposed to take place in Colorado. You have determined that water use and associated depletions from the Colorado River system for this project were previously addressed in the Programmatic Biological Opinion for Minor Water Depletions in the Upper Colorado River Basin in Colorado (ES/GJ-6-CO-94-F-017). The White River and Little Snake Field offices should include the depletions associated with the subject project in their annual report to the BLM State Office.

Direct impacts to black-footed ferrets as a result of project construction and operation could include habitat fragmentation, habitat loss, animal displacement, and direct crushing of prairie dog burrows. Indirect impacts could include increased noise and human presence during project construction. Surveys for black-footed ferrets are not required in Colorado portions of the proposed route as Moffat County, Colorado, and Rio Blanco County, Colorado, west of U.S. Highway 13 are currently designated as non-essential experimental population areas. The entire proposed route in Wyoming (except T. 12 N., R. 94 W.) does not have the same distinction and has not been block cleared for black-footed ferrets; therefore, surveys will be required in these counties. A total of 29 white-tailed prairie dog colonies or complexes that met the Service 1989 guidelines for burrow density were identified along the project route during ground surveys. To prevent potential direct or indirect impacts to the black-footed ferret from project construction, OPPC proposes to complete surveys; they will coordinate with the Service to determine where black-footed ferret clearance surveys will be required, in accordance with the Service's 1989 Black-footed Ferret Survey Guidelines. If black-footed ferrets are documented, the company should notify the Service within 24 hours and the project should be modified in order to avoid impacts to the ferrets.

Two field surveys were conducted in areas of suitable habitat for the Ute ladies'-tresses orchid, and Dudley Bluffs bladderpod and twinpod along the Project route in late July 2007 and spring 2008. Survey results were negative. The BLM White River Field Office has expressed concern that the project comes within approximately 100 meters of a population of Dudley Bluffs twinpod in Hay gulch on land owned by the Colorado Division of Wildlife. Leafy spurge is a problem along the pipeline route in Hay Gulch and has spread as a result of past pipeline projects in this area. Spreading of leafy spurge into the twinpod habitat would adversely affect the twinpod. Strict adherence to the noxious weed management plan for this project is necessary in order to avoid adverse effects to the Dudley bluffs twinpod.

We concur with your determination that the Overland Pass Pipeline Company's Piceance Basin Lateral Project may affect but is not likely to adversely affect the Dudley Bluffs bladderpod (*Lesquerella congesta*), Dudley Bluffs twinpod (*Physaria obcordata*), Ute ladies'-tresses orchid (*Spiranthes diluvialis*), and the black-footed ferret (*Mustela nigripes*). Our concurrence is based on surveys performed with negative results, pre-project surveys to be conducted for black-footed ferrets, and OPPC's noxious weeds management plan.

Based on the information you have provided, no further consultation pursuant to section 7 of the Endangered Species Act of 1973, as amended, is required at this time. If you become aware of new information regarding the design of the proposed project, the discovery of previously unknown listed species locations near project activities, impacts observed but not considered/addressed, the necessity to withdraw water in Wyoming (including municipal), or the occurrence of other listed species within the action area, please contact us as soon as possible for potential reinitiation of section 7 consultation.

For coordination of black-footed ferret surveys in Wyoming please contact Patricia Sweanor at (307) 772-2374, extension 239. If you have any questions, please feel free to contact Collin Ewing of my staff at (970) 243-2778, extension 18.

Cc: BLM/WRFO, Meeker (Ken Holsinger, Lisa Belmonte)
BLM/LSFO, Craig (Tim Novotny)
BLM, Rawlins (Heath Cline)
FWS/ES, Cheyenne (Patricia Sweanor)

CEwing:BLMOverlandPassPipelineCoPiceanceBasinLateralCL.doc:080708