

DECISION RECORD AND  
FINDING OF NO SIGNIFICANT IMPACT  
EA# NM-060-02-010  
Right-of-Way NM 105292 & NM 105293

Recommendation: I recommend that the proposed action by Yates Petroleum Corp., construction of a buried natural gas pipeline and access road be approved as mitigated, for 30 years, subject to the terms and conditions in 43 CFR 2800 and 2880; rental payments as determined by 43 CFR 2803.1-2; and the attached standard stipulations for buried pipelines and access roads in the Roswell Field Office. This action will affect the following public lands:

New Mexico Principal Meridian

T. 5 S., R. 24 E., N.M.P.M.  
Section 11: SW1/4SW1/4;  
Section 14: NW1/4NW1/4.

Authority of this action is the Mineral Leasing Act of February 25, 1920; 30 USC 185 and Title V of the Federal Land Policy and Management Act of 1976.

Rationale for recommendation: The proposed action would not result in any undue or unnecessary environmental degradation. Portions of the subject lands and adjacent lands have been used for similar purposes and all present and potential uses and users have been considered.

Prepared by:

signed by Irene Gonzales-Salas  
Realty Specialist

10/31/01  
Date

Decision: The recommendation and rationale are adopted as my decision.

Finding of No Significant Impact: The impact of the proposed action and alternatives to minority or low-income populations or communities has been considered and no significant impact is anticipated. Based on the analysis of potential environmental impacts contained in the attached environmental assessment, I have determined that impacts are not expected to be significant and an environmental impact statement is not required.

Compliance and Monitoring: The construction phase of this proposed action and subsequent operational phases will be monitored as per regulation.

signed by Larry Bray \_\_\_\_\_ 10/31/01  
Assistant Field Manager - Lands & Minerals \_\_\_\_\_ Date

BUREAU OF LAND MANAGEMENT  
ROSWELL FIELD OFFICE  
ROSWELL, NM 88201

ENVIRONMENTAL ASSESSMENT  
EA# NM-060-02-010  
Right-of-Way NM 105292 & NM 105293

Applicant: Yates Petroleum Corporation  
105 South Fourth Street  
Artesia, NM 88210

Location: T. 5 S., R. 24 E., N.M.P.M.  
Section 11: SW1/4SW1/4;  
Section 14: NW1/4NW1/4.

Preparer: Irene Gonzales-Salas

## I. INTRODUCTION

### A. Need for the Proposed Action

The proposed action is needed to develop the mineral lease and transport natural gas to market.

### B. Conformance with Land Use Plan

The proposed action is in conformance with the approved Roswell Resource Management Plan (RMP), and is consistent with Bureau policy and guidance.

### C. Relationship to Statutes, Regulations, or Other Plans

The proposed action does not conflict with any known State or Local planning or zoning ordinance. The authority for this action is the Mineral Leasing Act of 1920, as Amended and Title V of the Federal Land Policy and Management Act of 1976.

## II. BACKGROUND, PROPOSED ACTION AND ALTERNATIVES

### A. BACKGROUND/PROPOSED ACTION

On August 27, 2001, Yates Petroleum Corporation submitted a completed application for an access road and a buried pipeline right-of-way.

Yates Petroleum Corporation proposes to construct, operate and maintain a road that would provide access to the YPC Cobra AXK State Com. No. 2 Well. Total length of the proposed road is approximately 1,800 feet with approximately 664 feet of the road located on public land. Total width of the road is 30 feet wide with a 14 feet driving surface. The road would be maintained in accordance with the Standard Stipulations for Roads in the Roswell District, BLM.

In addition to the access road, Yates Petroleum Corporation proposes to construct, operate and maintain a buried 2-inch steel X-42 natural gas pipeline. Total proposed pipeline length would be approximately 1,800 feet. Of this length approximately 664 feet will be located on Public land. The proposed natural gas pipeline would connect the Yates Petroleum Cobra AXK State Com No. 2 Well, located on State Land in the NE1/4NW1/4 of Section 14, Township 5 South, Range 24 East to a tie-in point in SE1/4SW1/4 of Section 11, Township 5 South, Range 24 East. Maximum operating pressure of the pipeline line would be 300psi and an expected volume of 2 MMCFD.

Related appurtenance would consist of a pipeline meter station, underground gates, block valves, and other necessary related appurtenance.

A width of 50 feet is requested for the right-of-way to get equipment down the right-of-way with a 30 feet permanent right-of-way. The proposed pipeline will be buried approximately 48 inches to allow for 45 inches of cover.

A width of thirty feet of the ROW will be bladed, a ditcher will trench approximately 48 inches deep to allow for 45 inches of cover. The proposed pipeline would be constructed in accordance with the Standard Stipulations for Buried Pipelines in the Roswell Field Office, BLM.

The location of the proposed action is in Chaves County, New Mexico. The legal land description is:

T. 5 S., R. 24 E., N.M.P.M.  
Section 11: SW1/4SW1/4;  
Section 14: NW1/4NW1/4.

right-of-way 65 feet wide by 644 feet long yields 0.991 acres (1.126 of a mile).

### C. Alternatives

#### 1. No Action

Under this alternative the application would be rejected.

#### 2. Change the Alignment--Reroute the Project

There are no alternate routes which would have significantly less impacts than or any clear advantages over the proposed action. Therefore the alternative of changing the location of the project is not analyzed further.

### III. AFFECTED ENVIRONMENT

General Setting. The proposed road and pipeline are located approximately 36 miles north/northeast of Roswell. Legal access is provided by heading North out of Roswell on U. S. 285 for approximately 24 miles (marker 139), then travel east/northeast for 11.5 miles on County Road. Turn west on lease road and follow northwesterly (past the Stancel Fed. No. 2 and Huggins Fed. No. 1) for two miles then northeasterly.

Both the surface and mineral estates are in public ownership. An inspection of the Master Title Plats revealed the following title information.

Oil and Gas Lease - NM 19825 currently leased to Yates Petroleum Corporation.

Pipeline Right-of-Way NM 50487.

There are no mining claims recorded.

The regional industries are ranching, oil and gas development and seasonal hunting.

Affected Resources. The following critical elements have been evaluated and are either not present or are not affected by the proposed action or the alternatives in this EA:

Air Quality  
Areas of Critical Environmental Concern (ACECs)

Cultural/Archaeological Resources (01-R-068-A)  
Farm Lands (Prime and Unique)  
Floodplains  
Native American Religious Concerns  
Threatened or Endangered (T&E) Species (plants & animal)  
Wastes, Hazardous and/or Solid  
Water Quality, Drinking and Ground  
Wetlands and Riparian Zones  
Wild and Scenic Rivers  
Wilderness

The impact of the proposed action and alternatives to minority or low-income populations or communities has been considered and no significant impact is anticipated.

A. Soils

This soil group is described in the Soil Survey of Chaves County, New Mexico-Northern Part (pages 60 & 61 and map No. 12). The proposed action would occur in high terraces in the northern part of the survey area, west of the Pecos River. RNA-Reeves, moist-Milner-Hollomex, moist association, gently undulating. 0 to 3 percent slopes

Permeability of the Reeves is moderate. Available water capacity is moderate. Runoff is medium, and the hazard of water erosion is moderate. The hazard of soil blowing is high.

Permeability of the Milner soil is moderate. Available water capacity is low. Runoff is medium, and the hazard of water erosion is moderate. The hazard of soil blowing is high.

Permeability of the Hollomex soil is moderate. Available water capacity is very low. Runoff is medium, and the of water erosion is moderate. The hazard of soil blowing is high.

B. Vegetation

The native vegetation in the area is composed of mainly grasses, shrubs, and forbs, such as Metcalfe muhly, hairy grama, wolftail, and broom snakeweed. Deterioration of the native plant community results in a rapid invasion by other less desirable species. The mean annual precipitation is 13 to 14 inches.

C. Range

The proposed project is located within the following grazing allotment:

Allotments 64044  
Corn Bros., Inc.  
HCR 31, Box 1141  
Roswell, NM 88201

Allotments 64039  
Roswell Livestock Auction  
Attn: Larry Wooton  
P. O. Box 2041  
Roswell, NM 88202-2047

D. Wildlife

Wildlife species utilizing this area for habitat include mule deer, pronghorn antelope, coyote,

fox, rabbits, kangaroo rats, pocket gophers, prairie rattlesnakes, as well as a variety of songbirds, dove, quail, and raptors.

No known special status species or critical habitat occur within the project area or would be affected by the proposed action.

#### E. VRM/Recreation/Karst

The subject lands are within a Class IV VRM area. In a VRM Class IV area, contrast caused by a management activity may attract attention and be a dominant feature of the landscape. The proposed project is located in an area where numerous oil and gas activities are ongoing.

Recreational use is varied from severely limited to nonexistent. The small amount of recreational use in the proposed project area primarily involves seasonal hunting activities. Animals hunted include mule deer, pronghorn antelope, dove, quail, coyote and rabbit.

No surface cave/karst features were observed in the immediate vicinity of the proposed actions.

#### IV. Environmental Impacts

##### Impacts of the Proposed Action.

Removal of vegetation will take place. Some soil loss will occur from soil blowing winds, as a natural result from the stripping of vegetation and exposing of the soils during construction. Removal of vegetation for construction of the road will no longer be available as forage for livestock and wildlife for the life of the project. Less than X acres of vegetation would be depleted for 2 or 3 growing seasons. A reduction in AUMs would not occur.

Noxious weeds affect both crops and native plant species in the same way by out-competing for light, water, and soil nutrients. Noxious weeds cause estimated crop losses of \$2 to \$3 billion annually. These losses are attributed to: (1) Decreased quality of agricultural products due to high levels of competition from noxious weeds; and (2) decreased quantity of agricultural products due to noxious weed infestations.

Further, noxious weeds can negatively affect livestock and dairy producers by making forage unpalatable to livestock, thus decreasing livestock productivity and potentially increasing producers' feed costs. Increased cost to producers are eventually borne by consumers.

Infestations of noxious weeds can have a potentially disastrous impact on biodiversity and natural ecosystems. In order to combat the negative effects of noxious weeds on crop lands, grazing lands and waterways, herbicidal and other weed control strategies can be implemented at further costs to producers and government agencies. Such costs would then likely be passed down to consumers, who would pay more for products due to increased producer costs.

Impacts from the proposed construction activity would affect ground-dwelling species, but there is sufficient habitat in the area to minimize the impact. More mobile species such as small mammals and birds would temporarily leave the site during actual construction activities

and should return in a short period of time.

Visual resources would not be significantly affected.

Recreational use is varied from severely limited to nonexistent. The small amount of recreational use in the proposed project area primarily involves seasonal hunting activities. Animals hunted include mule deer, pronghorn antelope, dove, quail, coyote and rabbit. The proposed right-of-way will have minimal impacts on the current recreational uses of the area.

Karst is not present in the immediate area of the proposed action.

### Impacts of Alternatives

Alternative 1. No Action: The "No Action" alternative denies the application. This alternative would result in no environmental impacts; however, there would be adverse economic impacts to the applicant. There have been no significant or unmitigatable impacts identified which would warrant selection of this alternative.

### Mitigating Measures

The applicant will construct the pipeline in accordance with the Roswell Field Office Standard Stipulations for Buried Pipelines and the road in accordance with the Standard Stipulations for Roads. A maximum of 30 therefore no additional mitigation will be required.

### Residual Impacts

The direct effects of the proposed action include soil and vegetation disruption and further fragmentation of wildlife habitat. Indirect effects include the possibility of poor revegetation, resulting in soil erosion. Also, a slight possibility of pipeline rupture will exist for the life of the proposed action, which could result in negative localized impacts to air, water, soil and vegetation, wildlife and livestock.

Past industrial activities in the Pecos Valley include dispersed oil and gas development and cattle grazing, trends which have continued to the present. These surface disturbing activities have collectively altered resources such as air quality, vegetation, soil, water and wildlife. These trends will continue into the foreseeable future, with some modifications, causing similar impacts.

The proposed action is located in an area with sufficient quantities of natural gas to assume near maximum development - one well per 320 acres (or 160 acres), each with access road, pad and pipeline - which would involve similar surface impacts. While the effects of this individual proposed action will likely be minimal, the potential exists for negative cumulative impacts to any or all of the affected resources by the combination of past, present and expected future land uses.

## V. Consultation and Coordination

\_\_\_\_\_The comments and suggestions expressed during the consultation have been incorporated into this EA.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT  
SERIAL NUMBER: NM NM-105293

1. A right-of-way is hereby granted pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).
2. Nature of Interest:
  - a. By this instrument, the holder:

Yates Petroleum Corporation  
Attn: Cliff May  
105 South 4<sup>th</sup> Street  
Artesia, NM 88210

receives a right to construct, operate, maintain, and terminate a buried 2-inch, steel pipeline as specified in the completed application received August 23, and Amended on August 27, 2001, on public lands described as follows:

T. 5 S., R. 24 E., N.M.P.M.  
Section 11: SW1/4SW1/4;  
Section 14: NW1/4NW1/4.

The lands described above contain a total length of 0.126 of a mile.

- b. The right-of-way or permit area granted herein is 30 feet wide, 664 feet long and contains 0.458 acres, more or less. If a site type facility, the facility contains N/A acres.
- c. This instrument shall terminate on October 31, 2031, 30 years from the effective date of this grant unless prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment,

abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: see attached cover letter

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibits A, B, and C, dated August 27, 2001, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

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(Signature of Holder)

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(Signature of Authorized Officer)

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

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

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Effective Date of Grant)

BLM Serial Number: NM 105293

Company Reference: Cobra AXK State No.2 Pipeline

**BURIED PIPELINE STIPULATIONS FOR THE ROSWELL DISTRICT, BLM**

The Holder agrees to comply with the following stipulations to the satisfaction of the Authorized Officer, BLM.

1. The Holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this authorization.
2. The Holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the Holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, *et. seq.*) with regard to any toxic substances that are used, generated by or stored on the pipeline route or on facilities authorized. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
3. The Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et. seq.* or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et. seq.*) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way Holder's activity on the pipeline). This agreement applies without regard to whether a release is caused by the Holder, its agent, or unrelated third parties.
4. If, during any phase of the construction, operation, maintenance, or termination of the pipeline, any oil or other pollutant should be discharged, impacting Federal lands, the control and total removal, disposal, and cleaning up of such oil or other pollutant, wherever found, shall be the responsibility of the Holder, regardless of fault. Upon failure of the holder to control, dispose of, or clean up such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting therefrom, the Authorized Officer may take such measures as deemed necessary to control and cleanup the discharge and restore the area, including, where appropriate, the aquatic environment and fish and wildlife habitats, at the full expense of the Holder. Such action by the Authorized Officer shall not relieve the Holder of any liability or responsibility.
5. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the Holder, or any person working on the Holder's behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or

scientific values. The Holder will be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the holder.

Exhibit A, Page 1 of 3, August 27, 2001

6. The holder is hereby obligated to comply with procedures established in the Native American Graves Protection and Repatriation Act (NAGPRA) to protect such cultural items as human remains, associated funerary objects, sacred objects, and objects of cultural patrimony discovered inadvertently during the course of project implementation. In the event that any of the cultural items listed above are discovered during the course of project work, the proponent shall immediately halt the disturbance and contact the BLM within 24 hours for instructions. The proponent or initiator of any project shall be held responsible for protecting, evaluating, reporting, excavating, treating, and disposing of these cultural items according to the procedures established by the BLM in consultation with Indian Tribes."

7. The holder shall be responsible for weed control on disturbed areas within the limits of the site. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods, which include following EPA and BLM requirements and policy.

8. The holder shall be responsible for maintaining the site in a sanitary condition at all times; waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.

9. The holder shall conduct all activities associated with the construction, operation and termination of the right-of-way within the authorized limits.

10. The pipeline will be buried with a minimum cover of 36 inches between the top of the pipe and ground level.

11. Blading of all vegetation shall be allowed. Blading is defined as the complete removal of brush and ground vegetation. Clearing of brush species will be allowed. Clearing is defined as the removal of brush while leaving ground vegetation (grasses, weeds, etc.) intact. Clearing is best accomplished by holding the blade 4 to 6 inches above the ground surface. In areas where blading and/or clearing is allowed, the maximum width of these operations will not exceed 30 feet.

12. The holder shall minimize disturbance to existing fences and other improvements on public lands. The holder is required to promptly repair impacted improvements to at least their former state. The Holder shall contact the owner of any improvements prior to disturbing them. When necessary to pass through a fence line, the fence will be braced on both sides of the passageway prior to cutting of the fence. No permanent gates will be allowed unless approved by the Authorized Officer.

13. Vegetation, soil, and rocks left as a result of construction, drilling, or maintenance activity will be randomly scattered over the project area and will not be left in rows, piles, or berms, unless otherwise approved by the Authorized Officer. A berm will be left over the ditch line to allow for settling back to grade.

14. The Holder shall reseed all surface disturbed by construction activities. Seeding shall be done according to the attached seeding requirement (Exhibit B), using the attached seed mixture (as determined to meet Desired Plant Community objectives).

15. All above-ground structures not subject to safety requirements shall be painted by the holder to blend with the natural color of the landscape. The paint used shall be a color which simulates "Standard Environmental Colors" designated by the Rocky Mountain Five-State Interagency Committee. The color selected for this project is Carlsbad Canyon (formerly sandstone brown), Munsell Soil Color Chart Number 2.5Y 6/2.

Exhibit A, Page 2 of 3, August 27, 2001

16. The holder shall post signs designating the BLM serial number assigned to this authorization at the following locations: the points of origin and completion, or entry to and exit from public lands, of the pipeline and at all major road crossings. These signs will be posted in a permanent, conspicuous manner, and will be maintained in a legible condition for the term of the right-of-way. (See Note\*, page 3.)

17. The Holder shall not use the pipeline as a road for purposes other than routine maintenance as determined necessary by the Authorized Officer in

consultation with the holder. The holder shall take whatever steps are necessary to ensure that the pipeline route is not used as a roadway.

18. The period of time that any trenches or other excavations are kept open will be held to the minimum compatible with construction requirements. Open trenches will have ramps, bridges, or earthen plugs, at least six feet wide, every one-quarter mile to pass livestock and wildlife.

19. Special Stipulations:

\* Note from Stipulation No. 16: Although any legible means of marking your right-of-way is acceptable, even decal appliques, most quickly wear away and become illegible, requiring frequent maintenance to remain in compliance with the stipulation. An excellent, very long-lasting, low maintenance sign is a metal plate ¼" or more in thickness, 2" to 3" high, and about 1 foot long, with the BLM serial number cut into or welded onto the metal. When this type of sign is painted as per Standard Stipulation No. 16 and supported at least 18" above the ground, it can remain legible and in good condition for many years without further upkeep.

The BLM serial number for this project is NM-105293.

Exhibit A, Page 3 of 3, August 23, 2001

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT  
SERIAL NUMBER NM-105292

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
2. Nature of Interest:
  - a. By this instrument, the holder:

Yates Petroleum Corporation  
Attn: Cliff May  
105 South 4<sup>th</sup> Street  
Artesia, NM 88210

receives a right to construct, operate, maintain, and terminate an access road as specified in the completed application filed on August 23, and Amended on August 27, 2001, on public lands described as follows:

T. 5 S., R. 24 E., N.M.P.M.  
Section 11: SW1/4SW1/4;  
Section 14: NW1/4NW1/4.

The lands described above contain a total length of 0.126 of a mile.

- b. The right-of-way or permit area granted herein is 30 feet wide, 664 feet long and contains 0.458 acres, more or less. If a site type facility, the facility contains N/A acres.
- c. This instrument shall terminate on October 31, 2031, thirty years from the effective date of this grant unless prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: **See attached cover letter.**

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibits A, B and C, dated August 27, 2001, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

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(Signature of Holder)

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(Signature of Authorized Officer)

(Title)

(Title)

(Date)

(Effective Date of Grant)

BLM Serial Number: NM-105292

Company Reference: Off Lease Access Road to the Cobra AXK

State No. 2

STANDARD STIPULATIONS FOR PERMANENT RESOURCE ROADS  
THE ROSWELL DISTRICT, BLM

The holder/grantee/permittee shall hereafter be identified as the holder in these stipulations. The Authorized Officer is the person who approves the Application for Permit to Drill (APD) and/or Right-of-Way (ROW).

GENERAL REQUIREMENTS

The holder shall minimize disturbance to existing fences and other improvements on public domain surface. The holder is required to promptly repair improvements to at least their former state. Functional use of these improvements will be maintained at all times. The holder will make a documented good-faith effort to contact the owner of any improvements prior to disturbing them. When necessary to pass through a fence line, the fence shall be braced on both sides of the passageway prior to cutting of the fence.

Holder agrees to comply with the following stipulations:

1. ROAD WIDTH AND GRADE

The road will have a driving surface of 12 feet (all roads shall have a minimum driving surface of 12 feet, unless local conditions dictate a different width). The maximum grade is 10 percent unless the box below is checked. Maximum width of surface disturbance from construction will be 24 feet.

Those segments of road where grade is in excess of 10% for more than 300 feet shall be designed by a professional engineer.

2. CROWNING AND DITCHING.

Crowning with materials on site and ditching on one side of the road on the uphill side will be required. The road cross-section will conform to the cross section diagrams in Figure 1. If conditions dictate, ditching may be required for both sides of the road; if local conditions permit, a flat-bladed road may be considered (if these conditions exist, check the appropriate box below). The crown shall have a grade of approximately 2% (i.e., 1" crown on a 12' wide road).

Ditching will be required on both sides of the roadway as shown on the attached map or as staked in the field.

/ Flat-blading is authorized on segment(s) delineated on the attached map.

August 27, 2001, Exhibit A, page 1 of 4

3. DRAINAGE.

Drainage control shall be ensured over the entire road through the use of borrow ditches, outsloping, insloping, natural rolling topography, lead-off (turnout) ditches, culverts, and/or drainage dips.

A. All lead-off ditches shall be graded to drain water with a 1 percent minimum to 3 percent maximum ditch slope. The spacing interval for lead-off ditches shall be determined according to the following table, but may be amended depending upon existing soil types and centerline road slope (in %):

SPACING INTERVAL FOR TURNOUT DITCHES

Percent slope	Spacing interval
0% - 4%	400' - 150'
4% - 6%	250' - 125'
6% - 8%	200' - 100'
8% - 10%	150' - 75'

A typical lead-off ditch has a minimum depth of 1 foot below and a berm 6 inches above natural ground level. The berm will be on the down-slope side of the lead-off ditch. The ditch end will tie into vegetation whenever possible.

For this road the spacing interval for lead-off ditches shall be at

      
/      / 400 foot intervals.

      
/      / \_\_\_\_ foot intervals.

      
/      / locations staked in the field as per spacing intervals above.

      
/      / locations delineated on the attached map.

B. Culvert pipes shall be used for cross drains where drainage dips or low water crossings are not feasible. The minimum culvert diameter must be 18 inches. Any culvert pipe installed shall be of sufficient diameter to pass the anticipated flow of water. Culvert location and required diameter are shown on the attached map (Further details can be obtained from the Roswell District Office or the appropriate Resource Area Office).

C. On road slopes exceeding 2%, drainage dips shall drain water into an adjacent lead-off ditch. Drainage dip location and spacing shall be determined by the formula:

$$\text{spacing interval} = \frac{400'}{\text{road slope in \%}} + 100'$$

Example: 4% slope: spacing interval =  $\frac{400}{4} + 100 = 200$  feet  
4



9. CULTURAL RESOURCES

Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on the holder's behalf, on public or Federal land shall be immediately reported to the authorized officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the authorized officer after consulting with the holder.

10. SPECIAL STIPULATIONS:

Well

### **ROAD REHABILITATION SPECIFICATIONS**

35. When the road is abandoned, it will be ripped at least sixteen inches deep, including turnouts. The caliche may be reclaimed for re-use before ripping, if so desired. Alternately, the caliche can be plowed under with a grader, or other soil turning device, and the plowed surface disked before seeding. All culverts or other structures will be removed. All fill material will be replaced into the cut areas; barrow and lead-off ditches, drainage dips, or other erosion control earthwork will be filled or smoothed; and the abandoned road returned to the natural contours, as closely as possible. Water breaks at least eight inches high will be constructed as shown on accompanying Illustration Sheet. Traffic barriers will be installed at all vehicular access points to prevent further use of the road.

Reseed the entire area with the following mixture (to be determined by DPC):

\_\_\_\_\_.

All disturbed areas are to be seeded with the seed mixture listed above. The seed and any fertilizer involved are to be applied together by broadcasting with a seed spreader, then harrowed for seed coverage. Use of a seed drill is acceptable. Appropriate measures will be taken to ensure that the seed/fertilizer mixture is evenly and uniformly planted. There will be no primary or secondary noxious weeds in the seed mixture. Seed will be tested for viability and purity in accordance with State law(s) within nine months prior to purchase. Commercial seed will be either certified or registered and the seed mixture container will be tagged in accordance with State law(s). The seed will be available for inspection by the Authorized Officer. The seeding will be repeated until a satisfactory stand is established as determined by the Authorized Officer. Evaluation of growth will not be made before completion of the first growing season after seeding. Waiver of this requirement would be considered if diligent attempts to revegetate a site have failed and the Authorized Officer determines that further attempts would be futile.

Normally, the best time for seeding is between June 15 and September 15. However, the grantee may reseed immediately after completing surface abandonment procedures. The BLM reserves the right to require reseeding at a specific time if seed does not germinate after one complete growing season. Contact the appropriate resource area office at 627-0272 at least two working days before the start of reseeding activities or if there are any questions.