

**Worksheet**  
**Documentation of Land Use Plan Compliance**  
**and NEPA Adequacy (DNA)**  
**NM-DNA-510-07-0010**  
**Existing EA NM-510-06-151-A (attached)**  
**U.S. Department of the Interior**  
**Bureau of Land Management**

A. BLM Office: Roswell

Lease/Serial/Case File No.: **NM114116**

Proposed Action Title/Type: **To amend right-of-way NM 114116 to include an additional 1320.1 feet of buried pipeline (to the Macanudo "35" Federal No. 1).**

Location of Proposed Action: T. 13 S., R. 27 E., NMPM  
Section 35: SE1/4SE1/4.

Description of Proposed Action: Agave Energy Company proposes to amend Right-of-Way NM 114116, approved on September 6, 2006. The amendment is for additional 1,312.34 feet (0.250 miles, 0.909 acres) of buried pipeline to tie in the Macanudo "35" Federal No. 1 Well. The well was moved approximately 1,312.34 feet east of the original location.

Total length of the pipeline was 14,837.8 feet in length, as a result of relocating the Well approximately 1,312.34 feet west of the original location, the pipeline must be amended to include an additional 1,320. The entire amendment would be located on public land. The additional length being amended, brings the total length of the pipeline to 16,150.14 feet.

The proposed pipeline would be constructed and maintained in accordance with the Roswell Field Office Standard Stipulations for Buried Pipelines.

Applicant (if any): Yates Petroleum Corporation

B. Conformance with the Land Use Plan (LUP) and Consistency with Related Subordinate Implementation Plans

LUP Name: Roswell RMP

Date Approved: October 1997

C. Identify the applicable NEPA document(s) and other related documents that cover the proposed action.

Other document: Environmental Assessment **EA#NM-510-06-151-A** Date Approved:  
**August 23, 2006.**

D. NEPA Adequacy Criteria

1. Is the current proposed action substantially the same action (or is a part of that action) as previously analyzed?

Yes. The proposed pipeline is essentially the same action as the existing road approved on **September 6, 2006**. The previous NEPA analyzed a pipeline; this amendment is for an additional **1,312.34 feet of buried pipeline**.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the current proposed action, given current environmental concerns, interests, resource values and circumstances?

Yes. Current environmental concerns, interests, resource values and circumstances remain the same as when the above reference EA was prepared.

3. Is the existing analysis adequate and are the conclusions adequate in light of any new information or circumstances? Can you reasonably conclude that all new information and all new circumstances are insignificant with regard to analysis on the proposed action?

No new information or circumstances have arisen with respect to oil and gas development in this area. The BLM has approved the existing feet of road. The proposed action would add **1,312.34** feet of buried pipeline. The existing analysis and conclusions are adequate and since both proposals were and are for a buried pipeline as well as the parallel access road.

4. Do the methodology and analytical approach used in the existing NEPA document(s) continue to be appropriate for the current proposed action?

Yes. The proposed action is essentially identical with the above referenced EA. The proposed access road would disturb an additional **0.904** acres of vegetation, as analyzed in the existing NEPA document. The methodology and analytical approach is appropriate for the current proposed action.

5. Are the direct and indirect impacts of the current proposed action substantially unchanged from those identified in the existing NEPA document(s)? Does the existing NEPA document sufficiently analyze site-specific impacts related to the current proposed action?

Yes. The above referenced EA addressed a proposed action for an access road and buried pipeline located in essentially the same environmental area. The direct effects of the proposed action include soil and vegetative disruption and further fragmentation of wildlife and are adequately discussed in the existing NEPA document and are unchanged.

6. Can you conclude without additional analysis or information that the cumulative impacts that would result from the implementation of the current proposed action are substantially unchanged from those analyzed in the existing NEPA document(s)?

Yes, the proposed reroute of the access road and buried pipeline is located in an area where oil and gas are ongoing. The proposed road is essential to oil and gas drilling activities. Additionally, the

proposed pipeline and road reroute 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. This proposed road reroute would not add substantially to cumulative impacts as addressed in the existing NEPA document

7. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Yes. During development of the Roswell RMP various publics and agencies through various public meetings held participated in the development of standard stipulation and conditions of approval for actions associated with development of oil and gas. It is through the public and agencies meetings held that the existing standard stipulations and conditions of approval were developed

E. Interdisciplinary Analysis: Refer to Multi Review input from Interdisciplinary team.

F. Mitigation Measure: Requirement of the Standard Stipulations for Buried Pipelines as required by the approved Roswell RMP.

Prepared by:

/s/Irene Gonzales

/s/Pat Flanary

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Irene Gonzales, Realty Specialist

10-18 -06  
Date

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Pat Flanary, Archaeologist  
(06-R-053-C rec'd 10-16-06)

10-18 -06  
Date

Conclusion

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the existing NEPA documentation fully covers the proposed action. This constitutes BLM's compliance with the requirement of NEPA.

[If one or more of the criteria are not met, a conclusion of conformance and/or NEPA adequacy cannot be made.]

/s/Larry D. Bray

10/19/06

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Larry D. Bray, Assistant Field Manager  
Lands and Minerals

\_\_\_\_\_  
Date

United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
Roswell Field Office  
2909 West Second Street  
Roswell, New Mexico 88201

IN REPLY REFER TO:  
NM 114116  
2800

DECISION

Agave Energy Company	:	
Attn: Right-of-Way Department	:	Right-of-Way
105 South 4 <sup>th</sup> Street	:	NM 114116
Artesia, NM 88210	:	

Right-of-Way Amendment Approved

By completed amended application received October 12, 2006, Agave Energy Company submitted a request to amend right-of-way NM 114116 granted September 6, 2006.

Agave Energy Company proposes to amend Right-of-Way NM 114116, approved on September 6, 2006. The amendment is for additional 1,312.34 feet (0.248 miles, 0.904 acres) of buried pipeline to tie in the Macanudo "35" Federal No. 1 Well. The well was moved approximately 1,320.1 feet east of the original location.

Total length of the pipeline was 14,837.8 feet in length, as a result of relocating the Well approximately 1,312.34 feet west of the original location, the pipeline must be amended to include an additional 1,320. The entire amendment would be located on public land. The additional length being amended, brings the total length of the pipeline to 16,150.14 feet.

The amendment is located in the following described lands:

T. 13 S., R. 27 E., NMPM  
Section 35: SE1/4SE1/4.

This amendment is granted under the authority of Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), subject to the terms and conditions in 43 CFR 2800 for a term to coincide with that of the original grant and expires September 6, 2034. The amendment is subject to:

1. To all prior valid existing rights;
2. The requirements and provisions of 43 CFR 2800 and 2880;
3. The terms and conditions of the original grant;

4. And the attached exhibits A, B and C, Standard Stipulations for Buried Pipeline, Seed Mix and Map.

Larry D. Bray  
Assistant Field Manager  
Lands and Minerals

Enclosures (2)  
Exhibits A, B and C  
Standard Stipulations for Buried Pipelines, Seed Mix and Map

BURIED PIPELINE STIPULATIONS FOR THE ROSWELL FIELD OFFICE, 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.

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 held responsible if noxious weeds become established within the area. Evaluation of growth of the noxious weeds shall be made upon discovery. Weed control will be required on the disturbed lands resulting from this actions, which include the roads, pads and associated pipelines and on adjacent lands affected by the establishment of weeds due to this action.

The holder shall insure that the equipment and or vehicles that will be used to construct, maintain and administer the access roads, well pad, and resulting well are not polluted with invasive and noxious weed seeds. Transporting of invasive and noxious weed seeds could occur if the equipment and vehicles were previously used in noxious weed infested areas. In order to prevent the spread of noxious weeds, the Authorized Officer shall require that the equipment and vehicles be cleaned with either high pressure water or air prior to construction, maintenance and administration of the access roads, well pad, and resulting well.

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 pipeline 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.

**NO BLADING ALLOWED**

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 Olive Drab Supplemental Environmental Colors Chart Number 18-0622 TPX.

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: **NO BLADING WILL BE ALLOWED**

\* 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 3" 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- 114116.