

**APPENDIX A: TERMS AND CONDITIONS OF
APPROVAL**

1. The holder shall construct, operate, and maintain the facilities, improvements, and structures within this right-of-way in strict conformity with the Plan of Development which was approved and made part of the grant on October 1, 2007. Any relocation, additional construction, or use that is not in accord with the approved plan of development, shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all stipulations and approved plan of development, shall be made available on the right-of-way area during construction, operation, and termination to the authorized officer. Noncompliance with the above will be grounds for immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.
2. The holder will not initiate any construction or other surface disturbing activities on the right-of-way (ROW) without prior written authorization of the Authorized Officer (AO). Such authorization will be a written Notice to Proceed (Form 2800-15) issued by the AO or his delegated representative. Each Notice to Proceed (NTP) will authorize construction or use only as therein expressly stated and only for the particular location or use therein described, i.e., a construction spread by number or compressor station by name. The AO will issue a NTP subject to such terms and conditions as deemed necessary when the design, construction, use, and operation proposals are in conformity with the terms and conditions of these stipulations.
3. The AO may suspend or terminate (in writing) in whole or in part any NTP which has been issued, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
4. Any cultural resources (historic or prehistoric site or object) affected by the project or discovered by the holder, or any person working on his behalf, shall be addressed in accordance with the executed Memorandum of Agreement and associated treatment plans and discovery plans approved by the Advisory Council for Historic Preservation on September 26, 2007.
5. The holder will be in compliance with the Biological Opinion for listed and proposed species associated with this project signed by the US Fish and Wildlife Service on September 25, 2007.
6. The holder will attend preconstruction conference(s) prior to the holder's commencing construction and/or surface disturbing activities on the ROW or specific construction spread on the ROW. The holder and/or his representatives will attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the ROW, will also attend this conference to review the stipulations of the grant including the plan(s) of development, as applicable.
7. The holder shall designate a representative who shall have the authority to act upon and to implement instructions from the authorized officer. The holder's representative shall be available for communication with the authorized officer within a reasonable time when construction or other surface disturbing activities are underway.
8. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If

the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.

9. Prior to crossing or constructing within any existing Western Areas Power Administration (Western) electric transmission line or using Westerns access road system, the holder shall coordinate with Western and obtain any required license agreements. License agreements would include site specific safety provisions to ensure the pipeline did not adversely affect Western's transmission lines or access roads including requirements for advance notification prior to construction and appropriately marking the pipeline location within the transmission line right-of-way.
10. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. In areas where topsoil has not been removed, rutting from construction activities shall not exceed 4 inches on all federal lands, with the exception of the PNG where the rutting restriction is 3 inches. If rutting exceeds these depths, it shall be considered excessive and operations halted until conditions are dry. If conditions do not improve, Overland Pass shall consult with the applicable federal agencies to determine if alternate topsoil removal techniques may be employed to alleviate rutting concern.
11. Frozen soil or soil mixed with snow will not be used in construction.
12. The Holder shall be responsible for control of all invasive/noxious weed species on any and all disturbed sites, including areas outside the development where weeds have established due to project installation and development. All vehicles and equipment used for project construction and maintenance for the life of the project shall be power or high pressure washed prior to entering the project area. The Holder is responsible for consultation with the Authorized Officer and/or local authorities and provide any needed updates to the weed plan portion of the Plan of Development for acceptable weed control, and shall comply with the following:
13. Use of pesticides shall comply with all applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses within limitations imposed by the Secretary of the Interior. Prior to the use of the pesticides, the Holder shall obtain from the Authorized Officer, written approval of a Pesticide Use Proposal Plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, locations of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer.
14. Only those chemicals (pesticides and herbicides) listed on the BLM approved label list are authorized for use on public lands. A Pesticide Use Proposal (PUP) must be submitted for each chemical used, and it cannot be used until approval has been obtained in writing from the BLM authorized officer. The report needs to include any surfactants or dyes used in the spraying operation. Applicator(s) of chemicals used must have completed the pesticide certification training and have a current up to date Certified Pesticide Applicator's License. Pesticide Application Records for the areas and acres treated must be submitted to the BLM Kemmerer, Rock Springs, and Rawlins Field Offices each year. This includes the following:

- Brand or Product name
- EPA registration number
- Total amount applied (use rate #A.I./acre)
- Date of application
- Location of application
- Size of area treated
- Method of treatment (air/ground)
- Name of applicator
- Certification number and dates
- Costs to treatment
- Amount of surfactants or dyes used in spraying operation

The record information must be recorded no later than 14 days following the pesticide application and must be maintained for ten years.

15. Holder shall limit excavation to the areas of construction. No borrow areas for fill material will be permitted on the site. All off-site borrow areas must be approved in writing by the authorized officer in advance of excavation. All waste material resulting from construction or use of the site by holder shall be removed from the site and disposed of in an approved facility and manner. All waste disposal sites on public land must be approved in writing by the authorized officer in advance of use.
16. Fences, gates, and brace panels affected by construction shall be reconstructed to appropriate Bureau standards and/or specifications as determined by the authorized officer.
17. Construction-related traffic shall be restricted to routes approved by the authorized officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the authorized officer. Authorized roads used by the holder shall be rehabilitated or maintained when construction activities are complete as approved by the authorized officer.
18. Prior to any discharge, hydrostatic testing water will be tested and processed to ensure that the water meets local, State or Federal water quality standards. This includes meeting NPDES permit requirements as stated in Chapter XVIII of the Wyoming Water Quality Rules and Regulations and any applicable rules and regulations in Colorado and Kansas. Prior to discharge of hydrostatic testing water from the pipeline, the holder shall design and install a suitable energy dissipator(s) at the outlet(s), and design and install suitable channel protection measures necessary to ensure that there will be no erosion or scouring of natural channels within the affected watershed as a result of such discharge. The holder will be held responsible for any erosion or scouring resulting from such discharge. Sandbags, rock, or other materials or objects installed shall be removed from the site upon completion of hydrostatic testing.
19. All permanent above ground structures at the facility, not subject to safety requirements shall be painted to blend with the natural color of the landscape. The color selected for this project shall match Shale Green (5Y 4/2), or be an acceptable substitute pre-approved by the local manager.
20. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites 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. A litter policing program shall be implemented by the holder which covers all roads and sites associated with the right-of-way.
21. The holder shall comply with all applicable Federal, State and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any Hazardous Materials, as defined in this paragraph, that will be used, produced, transported or stored on or within the R/W or any of the R/W facilities, or used in the construction, operation, maintenance or termination of the R/W or any of its facilities. 'Hazardous material' means any substance, pollutant or contaminant that is listed as hazardous under the CERCLA of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any 'Hazardous waste' as defined in the RCRA of 1976, as amended, 42 U.S.C. 6901 et seq. and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended. 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas. The holder of Right-of-Way No. WYW-166510 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 of 1976, 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 right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

22. For the purpose of determining joint road maintenance responsibilities, the holder shall make road use plans known to all other authorized users of the road. Holder shall provide the authorized officer, within 30 days from the date of the grant, with the names and addresses of all parties notified, dates of notification, and method of notification. Failure of the holder to share proportionate maintenance costs on the common use access road in dollars, equipment, materials, or manpower with other authorized users may be adequate grounds to terminate the use of the road. The determination as to whether this has occurred and the decision to terminate shall rest with the authorized officer. Upon request, the authorized officer shall be provided with copies of any maintenance agreement entered into.
23. Within 120 days of completion, the holder will submit to the authorized officer, as-built drawings and a certification of construction verifying that the facility has been constructed (and tested) in accordance with the design, plans, specifications, and applicable laws and regulations.
24. The holder shall not initiate any construction or other surface disturbing activities as a minor change on the right-of-way without prior written authorization of the Authorized Officer, or his delegate. Such authorization shall be a written Variance. Each Variance shall authorize construction or use only as therein expressly stated and only for the particular location and use therein described. Authorized Officer approved Level 1 and 2 Variances, as described and delegated in the Plan of Development, are subject to such terms and conditions as deemed necessary at the time of approval. Approved Variances authorize construction or use only as therein expressly stated and only for the particular location, segment, area, or use described. Variances approved under these grant provisions apply to Federal lands and to the federal undertaking as described in the Cultural Resources Memorandum of Agreement. The Authorized Officer (in writing) may suspend or terminate in whole or in part any Variance which has been approved, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
25. The holder may request exceptions in writing to wildlife timing restrictions contained in the approved Plan of Development. Any exceptions must be evaluated and approved in writing by the authorized officer prior to the holder conducting any surface disturbing or prior to conducting activities disruptive to wildlife. The exception request must explain the reason(s) for the exception, why the proposed activities will not impact the species or their habitat, and the dates for which the exception is requested. Data supporting the exception must accompany the written request.
26. The holder will provide a bond acceptable to the Authorized Officer in the amount of Six Hundred Thousand and 00/100 dollars (\$600,000.00), for the following items prior to issuance of a Notice(s) to Proceed:
 - o Restoration and reclamation of disturbed areas and other requirements relative to the construction phase of the project.
 - o Liability for damages or injuries resulting from releases or discharges of hazardous materials during the construction and reclamation phase of the project.
 - o Accommodating all cultural resources post-field work costs associated with implementing a treatment plan or other mitigative activities. Such costs may include, but are not limited to treatment, field work, post-field analyses, research, and report preparation, interim and summary reports preparation, and the curation of project documentation and artifacts collects (except for NAGPRA related human remains and cultural artifacts) in a BLM

approved curation facility. The portion of the bond addressing cultural resources may be forfeited if any tasks are not completed within the time period established by the Memorandum of Agreement or modification thereto; provided, however, that the BLM and the holder may agree to extend any such time periods.

The BLM will notify the holder that the surety (if one is used) is subject to forfeiture and will allow the holder 15 days to respond before action is taken to forfeit the surety. The bond will be released, in whole or in part, as specific tasks are completed and accepted by the BLM. This bond must be maintained in effect until removal of temporary improvements and restoration and reclamation of the ROW has been accepted by the AO.

27. In the event of noncompliance with the terms and conditions of the ROW grant, the BLM will notify the holder that the surety (if one is used) is subject to forfeiture and will allow the holder 15 days to respond before action is taken to forfeit the surety. The bond must be maintained in effect until removal of temporary improvements and restoration and reclamation of the ROW has been accepted by the AO. Upon completion, or partial completion of construction related reclamation requirements, the AO may reduce or terminate the amount of the bond.
28. This ROW grant is made subject to the condition that, pursuant to 43 CFR 2885.11(b)(16), the holder will at all times hold itself out to the public as a common carrier pipeline. The pipeline owners and operators must accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to where the oil and gas was produced (i.e., whether on Federal or non-federal lands). Where natural gas not subject to state regulatory or conservation laws governing its purchase by pipeline companies is offered for sale, each pipeline company must purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline. Common carrier provisions of this paragraph do not apply to natural gas pipelines operated by a:
 - o Person subject to regulation under the Natural Gas Act (15 U.S.C. 717 et seq.); or
 - o Public utility subject to regulation by state or municipal agencies with the authority to set rates and charges for the sale of natural gas to consumers within the state or municipality.
29. The holder will be liable for all fire suppression costs resulting from fires caused during construction. All guidelines and restrictions imposed by agency fire control officials will be followed.
30. Overland Pass shall monitor for subsidence during construction and operation in susceptible areas. Overland Pass shall use appropriate design standards and ground monitoring devices to assure pipeline integrity.
31. On the Ashley National Forest, topsoil shall not be removed from the temporary workspace area.
32. If water is present, all waterbodies (regardless of size and flow) and wetlands on federal lands shall have an approved crossing structure consisting of either a temporary culvert, rock fill, or equipment bridge. One pass of clearing equipment and equipment for installation of a bridge shall be allowed across the waterbody or wetland.
33. On an as-needed basis as determined and specified through consultations with appropriate state and federal fisheries and water quality agencies, power washing of equipment with water and other chemicals as specified shall be required to avoid transfer of whirling disease, parasites, or nuisance organisms after equipment crosses perennial streams. Suitable chemical treatments may be used for equipment cleaning when sustained daytime temperatures are below freezing. Any fluids used for this purpose that contain additives (e.g., chlorine) shall not be discharged to streams or drainages, but shall be disposed of in an agency-approved manner at an appropriate facility.

34. If water is withdrawn from the surface waters containing fisheries (e.g., for HDD or hydrostatic testing) during the period from April 1 through October 31, Overland Pass shall utilize a filter screen with a mesh size that would prevent impingement and entrainment of aquatic organisms. The mesh size would be 3/32-inch to protect larval fish. For surface water withdrawals during November 1 through March 31, a 0.5-inch mesh filter screen may be used.
35. Overland Pass shall use construction techniques applicable for flowing waterbodies when dry/seasonally dry lake beds are crossed during saturated or inundated conditions.
36. On federal land, Overland Pass shall reduce the total construction ROW width to 60 feet in riparian and wetland areas.
37. Prior to any discharge, hydrostatic testing water will be tested and processed to ensure that the water meets local, state, or federal water quality standards. This includes meeting NPDES permit requirements as stated in Chapter XVIII of the Wyoming Water Quality Rules and Regulations. Prior to discharge of hydrostatic testing water from the pipeline, the holder shall design and install a suitable energy dissipator(s) at the outlet(s), and design and install suitable channel protection measures necessary to ensure that there will be no erosion or scouring of natural channels within the affected watershed as a result of such discharge. Overland Pass would be responsible for any erosion or scouring resulting from such discharge. Straw bales, sandbags, rock, or other materials or objects installed will be removed from the site upon completion of hydrostatic testing.
38. To minimize impacts to waterbodies, wetlands, and riparian areas, Overland Pass shall set back temporary workspace areas a minimum distance of 50 feet from the edge of waterbodies, wetlands, or riparian areas, whichever distance would provide the greatest protection. The distance shall be measured from the water bank of the waterbody, the margin of a wetland, and the exterior edge of a riparian area. In addition, erosion and sediment control measures, including but not limited to, silt fence, straw bales, berms, water bars, and mulching shall be installed around each TWA to prevent soil movement into the nearby sensitive area.
39. Overland Pass shall continue to monitor and control invasive plant species and noxious weeds along the ROW for the life of the project.
40. The duration a trench is open shall be limited to 10 days from RP 0 to RP 110 on federal land administered by the BLM Kemmerer and Rock Springs field offices. In areas with large amounts of rock where trenching may take longer and may include blasting, Overland Pass may request variances from this mitigation measure on a case-by-case basis.
41. To avoid impacts to kokanee salmon and brown trout movements and effects on habitat from ice in the winter and high flows in the spring, construction across the Green River shall occur between July 1 and August 15 or between October 15 and November 20. Overland Pass will notify WGFD at least 72 hours prior to initiating construction at streams with sensitive fisheries (see **Table 3.5-2 in FEIS**).
42. If there is perceptible flow within Bitter Creek at the time of crossing, Overland Pass shall use a dry crossing method (dam-and-pump or flume method) to protect the flannelmouth sucker populations.
43. Overland Pass shall prepare a plan prior to construction to be approved by the BLM to avoid disturbance to Nelson's milkvetch plant locations. Overland Pass shall notify the Rock Springs Field Office 48 hours in advance of anticipated construction, reclamation and monitoring activities at Nelson's milkvetch plant locations so that the authorized officer can inspect or monitor activities. No construction or surface disturbance in Nelson's milkvetch locations shall be undertaken without a written NTP from the Authorized Officer.

44. Overland Pass shall notify all federal grazing permit holders at least 5 days in advance of construction activities. Additionally, Overland Pass must take measures to avoid cutting off access to rangeland for winter sheep operations.
45. Overland Pass shall post notification at recreation sites and on main access roads into these recreation sites warning users of heavy traffic related to construction of the project.
46. In order to comply with BLM regulations at 43 CFR 2886.10, prior to operating the pipeline, Overland Pass must provide a certification to BLM in writing that it has constructed and tested the pipeline in accordance with the terms of the ROW grant and it is in compliance with the plans, specifications, and federal and state laws and regulations concerning the pipeline.