

**FINDING OF NO SIGNIFICANT IMPACT and  
DECISION RECORD for the  
Pathfinder Pipeline Project  
Natrona and Carbon Counties, Wyoming**

Wyoming State Office – Rawlins Field Office



**June 2007**

**MISSION STATEMENT**

It is the mission of the Bureau of Land Management to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.

## **DECISION RECORD AND FINDING OF NO SIGNIFICANT IMPACT**

Sinclair Transportation Company EA No. WY-030-07-EA-143  
WYW-166592

### **INTRODUCTION**

Sinclair Transportation Company of Sinclair Wyoming has proposed to construct a 103 mile buried crude oil pipeline running from Casper, Wyoming to Sinclair, Wyoming, located in Natrona and Carbon Counties. The proposal is called the Pathfinder Pipeline Project. Portions of this proposal would be located on private, state and federal lands administered by the Bureau of Land Management (BLM), Rawlins Field Office, Casper Field Office and the Lander Field Office, plus a small segment of the proposal crosses the Pathfinder National Wildlife Refuge administered by the U.S. Fish and Wildlife Service. The pipeline would transport approximately 90,000 barrels of oil per day from Casper to Sinclair's refinery in Sinclair, Wyoming. Construction and operations activities will be located within previously disturbed areas of existing Sinclair pipelines. Details of project design, operation, and construction are found in the "Plan of Development" (POD) for the Pipeline.

In June, 2006, Sinclair Transportation Co. applied for a right-of-way (R/W) encompassing 103-miles in length by 50-feet of permanent R/W and 25 additional temporary width for construction. In January, 2007 the Company provided a Plan of Development for the project. The proposal will parallel two other Sinclair Transportation Co. pipelines, one an 8-inch and one a 10-inch crude oil pipeline.

### **ALTERNATIVES CONSIDERED**

The Environmental Assessment (EA) for the Pathfinder Project considered two alternatives. The "No Action" alternative assessed the effects of not implementing any portion of Sinclair's proposal. The Proposed Action Alternative assessed and disclosed the projected effects of Sinclair's proposal as outlined above and detailed in the "Proposed Action" portion of the environmental assessment. Several minor reroutes of the original pipeline right-of-way were adopted because of private landowner issues and to avoid environmental resources. The locations and designs proposed in the Plans of Development were selected to minimize and/or eliminate potential adverse project impacts to agricultural lands and the Oregon Trail.

### **DECISION**

Based upon the analysis of the potential environmental impacts described in the EA, and in consideration of the public, agency, and industry comments received for the environmental assessment, the RFO has selected the Proposed Action alternative to be implemented.

### **APPROVED PROJECT COMPONENTS**

The decision authorizes the R/W grant approval for the project.

- Construction, operation, and maintenance of the Pathfinder pipeline, as detailed for the Proposed Action and in the POD.

## **RATIONALE FOR DECISION**

The decision to approve the operator's proposed development was based upon the following factors:

1. Consistency with the Great Divide Resource Management Plan;  
Platte River Resource Area Resource Management Plan;  
Lander Field Office Resource Management Plan.
2. National policy
3. Agency statutory requirements
4. Relevant resource and economic considerations
5. Application of measures to avoid or minimize environmental harm
6. Finding of no significant impact
7. Public comments, and
8. Consistency with the purpose and need for action

### **1. Consistency with Land Use and Resource Management Plans**

The proposed action is in conformance with the planning direction developed for this area. The objective for oil and gas management decisions described in the Great Divide Resource Management Plan (1990) is to "provide for leasing, exploration, and development of oil and gas while protecting other resource values."

### **2. National Policy**

Private exploration and development of federal oil and gas leases is an integral part of the Bureau of Land Management's oil and gas leasing program, under the authority of the *Mineral Leasing Act of 1920* and the *Federal Land Policy and Management Act of 1976*. The United States continues to rely heavily upon foreign energy sources. Oil and gas leasing encourages development of domestic oil and gas reserves, and reduces the United States' dependence upon foreign energy supplies. The Energy Policy Act of 2005 provides direction to Federal agencies to facilitate domestic energy production. Therefore, the decision is consistent with national policy.

### **3. Agency Statutory Requirements**

The decision is consistent with all federal, state, and county authorizing actions required to implement the proposed action. All pertinent statutory requirements applicable to this proposal were considered.

#### **4. Relevant Resource and Economic Considerations**

Environmental impacts from the project to resources identified in the EA are minor, with mitigation, and are deemed acceptable. Positive economic benefits are expected from this proposal.

#### **5. Application of Measures to Avoid or Minimize Environmental Harm**

Federal environmental protection laws such as the *Clean Air Act*, the *Clean Water Act*, and *The Historic Preservation Act* apply to all lands and are included as part of the standard R/W terms and conditions. The adoption of the mitigation and monitoring measures identified in Chapters 2 and 4 of the project EA, along with the site-specific

#### **6. Finding of No Significant Impact**

Based upon the analysis of potential environmental impacts contained in the EA, the Authorized Officer has determined that the Proposed Action, with implementation of the site-specific Terms and Conditions applied to the Pathfinder Pipeline would not cause a significant impact to the quality of the human environment. An Environmental Impact Statement is not necessary.

#### **7. Public Comments**

In May 2007, the BLM released the Environmental Assessment for this project. A total of 2 responses from the public were received, and considered in developing alternatives for the proposed action.

The BLM requested comments on the prepared EA from the public, local landowners; and Federal, State, Local and County Agencies. The BLM released a press release with a brief summary of the proposed action, location of the project, and information about how the public could comment. In addition, the EA and its appendices and reference documents were posted on the BLM Wyoming internet site for review and downloading and copies of the EA were available in Wyoming BLM Public Information Access Centers (“reading rooms”) in Rawlins and Cheyenne. The comment period ran from May 9, 2007 to June 11, 2007. A total of 2 comments were received by the BLM. The summarized comments and BLM’s responses are found in Appendix A of this Decision Record.

#### **8. Purpose and Need for Action**

The purpose of the Proposed Action is construction of a new 16-inch pipeline to provide the Sinclair Refinery with heavier, more viscous crude oil. Currently, the supply of light, low viscosity crude is diminishing and is being replaced with the heavier crude. As a result of the higher viscosities, larger diameter pipelines are required to transport the crude to refineries. This change in the type of crude available to refineries is also being combined with a proposed expansion of the Sinclair Refinery. It has been determined that the existing 8-inch and 10-inch pipelines currently being used to supply crude to the Sinclair Refinery will not have sufficient capacity to supply the volume and types of crude necessary to accommodate the refinery expansion.

An expansion of the Sinclair Refinery is proposed based on the increasing demand for gasoline and diesel in Wyoming, Colorado, Idaho, and Utah. In addition, the Sinclair Refinery is also a

major supplier of commercial and military jet fuel in the Rocky Mountain Region. It is estimated by the Department of Energy that gasoline and diesel consumption will increase at an annual rate of 1.5 percent through 2015. Because of the limited number of refineries in the region, the Sinclair facility will play an important role in supplying this demand.

**APPEAL**

Under BLM regulation this decision is subject to appeal (43CFR 2804.1). The "Notice of Appeal" must be filed within 30 days of this decision (43CFR 4.411; 43CFR 4.413). This appeal procedure is detailed in Appendix B of this document.

  
ACTING  
\_\_\_\_\_  
Field Manager, Rawlins Field Office

June 22, 2007  
\_\_\_\_\_  
Date

# Appendix A

Summary of EA Comments and BLM Responses  
Pathfinder Pipeline Project – WYW-166592  
WY-030-EA-07-0143

## STATE AGENCY COMMENTS

Wyoming Game and Fish Department (G&F)  
Department of Environmental Quality (WDEQ)

## COMMENTS RECEIVED FROM WYOMING GAME AND FISH DEPARTMENT

### TERRESTRIAL CONSIDERATIONS

There are multiple occupied sage-grouse leks in close proximity to the Oregon Trail Road (Natrona County Road 319). Because this road will provide immediate access to the proposed ROW for pipeline construction, vehicular traffic and human presence associated with pipeline construction should not occur within ¼-mile of the perimeter of occupied sage-grouse leks between 8PM and 8AM from March 1 – May 15 to minimize noise/vehicular disturbance to strutting sage-grouse. Please refer to our lek database or contact our local wildlife biologist, Justin Binfet (473-3411), for specific locations.

#### RESPONSE

See section 2.5.5 Special Status Terrestrial Wildlife, which states that construction activity is prohibited within a two mile radius of active greater sage-grouse leks during the breeding, egg-laying, and incubation period from March 1 through July 15.

On page 3-13, the EA does not include big game herds within the Wyoming Game and Fish Department's Casper Region within the description of the Affected Environment. The proposed project falls within the Rattlesnake Pronghorn Herd Unit, the Rattlesnake Mule Deer Herd Unit, and the Rattlesnake Elk Herd Unit. The crucial winter/yearlong range within the Rattlesnake Pronghorn Herd Unit is noted in this section.

#### RESPONSE

These sections have been changed to read as follows, incorporating changes to include the Rattlesnake Pronghorn and Mule Deer Herd Units.

##### 3.7.6.1 Pronghorn Antelope

The PPPA is located within four Pronghorn Herd Units (Beaver Rim, North Ferris, South Ferris and Rattlesnake) and approximately 172.4 acres within the proposed pipeline ROW has been designated crucial winter/yearlong range. The 2005 population estimates for these Herd Units are listed in **Table 3-6**. The PPPA is located within Hunt Areas 65-69, 70-72, 74,106, 62, and 63 where the hunter success rates for 2005 ranged between 83.7 and 106.8 percent (WGFD 2005). **Figure 3-4** illustrates the antelope's crucial winter/yearlong range in the PPPA. Additional herd information has also been presented in **Table 3-6**.

##### 3.7.6.2 Mule Deer

The PPPA is located within the Ferris and Rattlesnake Mule Deer Herd Units and approximately 4.0 acres within the PPPA have been designated crucial winter/yearlong range. The 2005

population estimate for the Ferris Herd Unit was 2,479 (WGFD 2005). This estimate is 49 percent below the WGFD management objective of 5,000. The 2005 Population estimate for the Rattlesnake Herd Unit was 5,018. The PPPA is located within Hunt Area 87-89 where the 2005 hunter success rate ranged from 66.8 to 88.4 percent (WGFD 2005).

**3.7.6.3 Elk**

The majority of the PPPA lacks suitable habitat to support any substantial number of elk. However, some elk may be occasionally observed near the Ferris Mountains. The PPPA is located within two elk herd units (Ferris and Rattlesnake); however, almost all of the PPPA has been designated as limited importance to the species or does not contain enough elk to be considered important habitat. Three seasonal ranges have been designated for elk within the PPPA: crucial winter/yearlong (1 acre), winter/yearlong (22.0 acres), and spring/summer/fall range (6.2 acres). The PPPA is located within Hunt Areas 22-23 and 111, where the 2005 hunter success rates ranged between 27.5 and 52.8 percent (WGFD 2005).

**Table 3-6  
Herd Unit Data and Statistics for Antelope, Mule Deer and Elk**

Species	Herd Code	Herd Unit and Area (square miles)		Hunt Area(s)	Population Estimate 2005	Population Objective 2005
Pronghorn	632	Beaver Rim	4,091	65-69, 74, 106	26,730	25,000
	636	North Ferris	513	63	4,532	5,000
	637	South Ferris	731	62	5,328	6,500
	745	Rattlesnake	983	70-72	12,334	12,000
Mule Deer	647	Ferris	1,222	87	2,479	5,000
	758	Rattlesnake	1,287	88, 89	5,018	5,500
Elk	639	Ferris	1,244	22, 111	530	350
	742	Rattlesnake	1,264	23	Not Available	200

**GENERAL COMMENTS**

In addition to our specific comments regarding pipeline projects, we have the following general comments for this proposed project:

We recommend removal of vegetation only where trenching will occur. Reclamation and reseeding should occur as quickly as possible to avoid unwanted establishment of invasive weed species. Save topsoil and spread over disturbed areas as soon as possible after disturbance to accelerate natural and artificial re-vegetation. This will minimize habitat loss, make reclamation easier because less vegetation will be removed, and reduce reclamation costs.

**RESPONSE**

See Section 2.4 - Reclamation and Section 2.5.8 - Visual Resources. Section 2.4 outlines reclamation procedures and Section 2.5.8 states that reclamation will occur immediately after construction.

Pipeline trenches should be refilled as quickly as possible to minimize the potential for wildlife entrapment within open trenches.

## **RESPONSE**

Section 2.5.10 – Soils, stipulates that after the pipeline is in place, soils from the trench will be backfilled and compacted to prevent soil subsidence. All disturbed areas will be final graded to as close to their original condition as possible. Additionally, Section 2.3 – Construction Operations, paragraph 4 states that upon completion of welding and testing the pipeline, the pipeline will be placed in the trench. The ditch will then be backfilled using an angle dozer or auger. This backfill material will be compacted to prevent subsidence.

Wildlife is often highly dependent on plant communities that are tied to a specific site. We recommend planting a vegetation mix that meets these criteria for any disturbed site. Please contact our local terrestrial habitat biologist, Keith Schoup (473-3424), for specific recommended vegetation mixes.

## **RESPONSE**

Section 2.4 - Reclamation states that Sinclair will be responsible for reclaiming all disturbed areas after the completion of construction activities. At the completion of pipeline installation activities, Sinclair will rip, grade, and contour all disturbed areas to preconstruction conditions to prepare soil for enhanced seed establishment. Topsoil will be spread evenly and disturbed areas will be seeded with native species compatible with plant communities and soil conditions present in the PPPA. Section 2.5.3 – Vegetation and Reclamation includes seed mixes to be utilized during reclamation.

Where possible, pipeline corridors should cross riparian zones and streams at right angles to minimize the area of disturbance. Pipelines should not be routed through riparian areas other than for purposes of crossing streams. Minimize removal of riparian vegetation.

## **RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river.

It is generally preferable for pipelines to follow existing utility corridors to the extent possible.

## **RESPONSE**

Section 1.1 – INTRODUCTION, paragraph one indicates that the pipeline will follow an existing ROW. Sinclair Pipeline Company (Sinclair) has submitted a Plan of Development (POD) to the Bureau of Land Management (BLM) to amend an existing pipeline easement across federal lands. They propose to amend their pipeline right-of-way (ROW) easement from the Sinclair Refinery at Sinclair, Wyoming (WY) to Casper, WY to allow for the construction, operation, and maintenance of a new 16-inch diameter pipeline. The current easement is occupied by one 8-inch and 10-inch pipeline... This new pipeline will occupy the same easement as the existing pipelines.

## **AQUATIC CONSIDERATIONS**

Page 2-1, 4<sup>th</sup> paragraph - This paragraph mentions that block valves will be placed in the new pipeline where block valves currently exist in the old pipelines. But where do block valves currently exist? Automatic shutoff valves should protect any pipeline crossings of live streams. The Sweetwater River and other streams in the North Platte system affected by this project flow into Pathfinder Reservoir. We

recommend that shutoff valves be installed on both sides of any drainage basin crossed within 10 miles upstream of Pathfinder Reservoir.

**RESPONSE**

Thank you for your comment.  
Page 2-3, last paragraph. We agree that directional boring should be used instead of trenching across perennial waterways. We also appreciate that the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream and that the pipeline will be installed 10 to 15 feet below the channel of the stream or river.

**RESPONSE**

Thank you for your comment.  
Page 2-4 paragraph 5. We recommend gravel mats as a temporary crossing structure for streams.

**RESPONSE**

Thank you for your comment.  
Page 2-4, Section 2.3.1, Testing and Maintenance. We agree that water discharged during hydrostatic testing should meet Wyoming DEQ standards. However, we are concerned about the source of the hydrostatic test water coming from the Sinclair Oil Refinery. Where exactly is the water coming from? Whirling disease is present in the North Platte River upstream from Seminoe Reservoir, but is not present in the North Platte River downstream of Seminoe Reservoir. If the Sinclair Oil refinery uses untreated water from the North Platte River near Sinclair, there is a possibility of introducing whirling disease to Pathfinder Reservoir and the North Platte drainage upstream and downstream of Pathfinder Reservoir. Whirling disease would have significant negative effects to the trout fisheries of the North Platte River.

**RESPONSE**

Section 2.3.1 - Testing and Maintenance, second paragraph states that the hydrostatic test water will be discharged on upland areas within the pipeline ROW, or on Sinclair property located near the Sinclair Oil Refinery. The discharge will be limited to approximately 1 cubic foot per second, and flow will be controlled through use of structures such as gated pipe, straw bales, or other structures designed to increase infiltration and reduce the potential for concentrated overland flow. Prior to discharge, water will be tested and treated or filtered to reduce pollutant levels. Discharge volumes will be monitored to ensure concentrated overland flow and rilling does not occur. All water discharges will be permitted through the WDEQ/WQD. Since water discharge will occur in uplands, with controlled rates to prevent overland flow. This should eliminate the chance of introducing whirling disease to Pathfinder Reservoir and the North Platte drainage upstream and downstream of Pathfinder Reservoir.

Page 2-5, Section 2.4 – Reclamation. We appreciate Sinclair’s plan to reclaim disturbed areas.

**RESPONSE**

Thank you for your response.  
To minimize impacts to the aquatic resources of the North Platte River watershed, we recommend the following:  
Riparian canopy or stabilizing vegetation should not be removed if possible. Crushing or shearing streamside woody vegetation is preferable to complete removal. Any such vegetation that is removed in

conjunction with stream crossings should be reestablished immediately following completion of the crossing.

#### **RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. This should reduce or eliminate the need to remove riparian vegetation at stream crossings.

Riparian areas and floodplains should not be used as staging or refueling areas. All chemicals, solvents and fuels should be kept at least 150 feet away from streams and riparian areas.

#### **RESPONSE**

Section 3.16 - Hazardous Materials states that all of the bulk fuel and petroleum fluid storage locations will have secondary containment installed that will hold all of the bulk fluids plus an additional 10 percent if an accidental spill occurs. Additionally, no refueling of construction equipment will occur within 500 feet of live water.

Any pipelines that parallel drainages should be located outside the 100-year floodplain. Pipeline crossings of riparian areas and streams should be at right angles to minimize the area of disturbance.

#### **RESPONSE**

Thank you for your comment.

Right-of-way widths should be minimized where the pipeline crosses riparian areas and streams.

#### **RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. This should eliminate the need for surface disturbance along the right-of-way at stream crossings.

Fill material used in this project should be from a non-streambed source and free of fines. Deposition of fill and related activities should not violate state DEQ regulations.

#### **RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. This should eliminate the need to use fill material within streambeds.

To accomplish the dual purpose of bank stabilization and fish habitat development or mitigation, disturbed banks should be stabilized with large angular rock riprap (at least two feet in one dimension) from a non-streambed source. Hard, durable rock such as granite should be used if possible. Disturbed banks should be stabilized with angular rock riprap with an average size of at least 12 inches in one dimension and a minimum size of 6 inches. Hard, durable rock such as granite should be used if possible. The rock should be from a non-streambed source.

**RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. Due to this, there should not be any disturbance to stream banks.

If broken concrete is used for riprap, large slabs should be broken so that the longest dimension is no greater than three times the shortest. The average size of concrete pieces should equal or exceed two feet at their widest point. All protruding rebar and metal should be cut off flush with the face of the concrete.

**RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. This should eliminate the need to use riprap at stream crossings.

Any riparian canopy or bank stabilizing vegetation removed as result of construction activities should be reintroduced and protected from grazing until the new growth is well established.

**RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. This should reduce or eliminate the need to remove riparian vegetation at stream crossings.

Metal refuse, including petroleum containers, car bodies, and similar items, and waste organic materials including discarded lumber, woody vegetation and similar materials should not be used for stream bank protection.

**RESPONSE**

Thank you for your comment.

Instream construction activities should be minimized to the greatest extent possible to minimize sedimentation and channel instability impacts to fish habitat. Cobbles and rocks deposited by the river are typically of a size that can be moved during high flow events, which is why they are smooth and rounded. Using on-site materials - even if they are larger than the average size of the in-channel material - will only provide protection from the smaller range of flood events. They will wash out during higher events. Earthen dikes may persist if adequately constructed and vegetation is well established before the next high flow event.

## **RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. This should reduce or eliminate instream construction activities.

Removal of rocks from the active channel accelerates downcutting due to the destabilized channel and possible increased water velocities. This often results in a drop in the water table and attenuates degradation of riparian communities. Removal of substrate from active channels can also reduce fish spawning success and the production of aquatic insects. In-channel disturbances also increase sediment loads in the stream, which impact all life stages of fish and other aquatic organisms.

## **RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. This should reduce or eliminate instream construction activities as well as in-channel disturbances.

Channelization tends to increase water velocity in the immediate vicinity of the work, as well as upstream and downstream. Faster water moves larger sizes and quantities of streambed material, which can accelerate erosion and destabilize stream banks and beds. Downcutting and sidecutting are likely to occur, which results in a drop in the water table, loss of riparian vegetation and erosion of valuable land. Although the work in question may offer some immediate protection, it likely will place other developments, both upstream and downstream, at risk.

## **RESPONSE**

Thank you for your comment.

Constructing dikes along stream banks or armoring banks with in-channel materials causes severe damage to fish habitat. Removal of streambed gravels eliminates spawning areas. Disturbance of the streambed also increases sediment load and siltation of downstream gravels. This reduces production of both fish fry and insects, which are an important aquatic food source. The unstable cobble piled against the bank eliminates bank cover for fish and may continue to erode and fill pools and undercuts that might otherwise develop. This process continues to degrade water quality and contribute to sedimentation of downstream gravels. Loss of riparian vegetation, through burial during dike construction or armoring directly affects fish populations through elimination of shade and reduced production of terrestrial insects. The loss of riparian vegetation can also occur due to a drop in the water table.

## **RESPONSE**

No dikes are planned to be constructed in association with this project. Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. This should maintain streambank stability and reduce the chance of erosion in these areas. This construction method should also maintain existing streambed characteristics and should not result in the removal of streambed gravels.

We recognize the need to protect specific streambanks from the erosive forces of an active channel, especially when developments and property values are at risk. However, recognized techniques for controlling streambank erosion are available that can accomplish the intended goal while minimizing impacts to aquatic resources. These same techniques may even benefit aquatic resources in many instances. Our field personnel have extensive training and experience with projects like this one and we would gladly provide their assistance in designing an environmentally acceptable project.

## **RESPONSE**

Section 2.3 – Construction Operations, paragraph 3 states that the pipeline will be installed at all perennial waterways by directionally boring under the streambed. This technique is used to insert the pipeline at a depth under the waterway that protects pipeline integrity and prevents environmental damage to the waterway. In general, the boring and receiving pits for the drill will be placed no closer than 80 feet from the ordinary high-water mark of the stream. At these locations, the pipeline will be installed 10 to 15 feet below the channel of the stream or river. This should maintain streambank stability and reduce the chance of erosion in these areas.

One method, which can be utilized to help mitigate for impacts to the aquatic resource due to project construction, would be to place a mat of clean gravel (1-in to 2-in diameter and free of any fines) at the upstream end of the riffle being crossed at project completion. This gravel should be from a non-streambed source, round (i.e., not crushed) and be placed in a mat approximately one-foot deep, six feet wide and across the entire stream channel. The addition of this gravel helps replace gravels disturbed by construction activities and allows a quicker recovery of macroinvertebrate production and spawning habitat

## **RESPONSE**

Thank you for your comment.

## **COMMENTS RECEIVED FROM WDEQ**

There are two Water Quality Division (WQD) permits that may apply to the project. Any/or all of them may apply depending on the eventual scope of the project.

## **RESPONSE**

All required permits will be procured by the proponent prior to construction.

Discharge Permit. Any discharges to "waters of the state" must be permitted under the Wyoming Pollutant Discharge Elimination System (WYPDES) program. This program is part of the federal Clean Water Act, but is administered by the WQD. Coverage is required for discharges from cofferdam dewatering, discharges from hydrostatic pipeline testing, or discharge of other waste waters to waters of

the state. For clarification waters of the state include rivers, streams, dry draws, wetlands, lakes, reservoirs and even stock ponds. This permit will require some sampling and will incorporate effluent limits for any constituents of concern. Roland Peterson (307-777-7090) can provide additional information.

#### **RESPONSE**

All required permit will be procured by the proponent prior to construction.

Storm Water Associated with Construction Activities. This permit is required any time a project results in clearing, grading; or otherwise disturbing one or more acres. The disturbed area does not need to be contiguous. The permit is required for surface disturbances associated with construction of the project, access roads, construction of wetland mitigation sites, borrow and stockpiling areas, equipment staging and maintenance areas and any other disturbed areas associated with construction. A general permit has been established for this purpose and either the project sponsor or general contractor is responsible for filing a Notice of Intent (NOI) and complying with the provisions of the general permit. The NOI should be filed no later than 30 days prior to the start of construction activity. Please contact Barb Sahl at 307-777-7570.

#### **RESPONSE**

All required permits will be procured by the proponent prior to construction.

Temporary Turbidity Variance. While not mandatory, a temporary turbidity variance would ensure compliance with the turbidity standard during work within all drinking water supplies and fisheries that may be crossed during the project. In accordance with Section 23(c)(2) of the Chapter 1 Surface Water Standards, the administrator of the Water Quality Division may authorize temporary increases in turbidity above the numeric criteria in Section 23 (a) of the Standards in response to an individual application for a specific activity. An application must be submitted and a variance approved by the administrator before any temporary increase in turbidity above the numeric limits takes place. Please contact Jeremy Lyon at 307-777-7588. A copy of the application and instructions are attached.

#### **RESPONSE**

All required permits will be procured by the proponent prior to construction.

Section 404. While not a state permit, this project will require a section 404 permit from the US Army Corps of Engineers. Any time work occurs. within waters of the US a 404 permit may be required. Please contact the Corps (307-772-2300) for specific information regarding jurisdiction and requirements.

#### **RESPONSE**

All required permits will be procured by the proponent prior to construction.

These are the permits most likely to affect the project. The Department of Environmental Quality would like to see the NEPA analysis and resulting project address any potential effects to surface water quality that may occur as a result of existing or proposed construction practices in riparian areas. Also, every effort to prevent erosion of any kind should be taken. Any sediment created by the project can enter and affect the water quality of the receiving water.

#### **RESPONSE**

Thank you for your comment.

**Appendix B**  
UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS**

DO NOT APPEAL UNLESS

1. This decision is adverse to you.
- AND**
2. You believe it is incorrect.

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED:

1. **NOTICE OF APPEAL...** Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43CFR Sections 4.411 and 4.413). You may state your reasons for appealing, if you desire.
  
2. **WHERE TO FILE NOTICE OF APPEAL** Bureau of Land Management  
Rawlins Field Office  
P.O. Box 2407  
Rawlins, Wyoming 82301-2407  
  
**SOLICITOR ALSO COPY TO** Regional Solicitor, Rocky Mountain Region  
U.S. Department of the Interior  
755 Parfet, Suite 151  
Denver Colorado 80215
  
3. **STATEMENT OF REASONS....** Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the **U. S. Department of the Interior, Office of the Secretary, Board of Land Appeals 801 North Quincy St. Suite 300, Arlington, VA 22203.** (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary.  
  
**SOLICITOR ALSO COPY TO** Regional Solicitor, Rocky Mountain Region  
U.S. Department of the Interior  
755 Parfet, Suite 151  
Denver Colorado 80215
  
4. **ADVERSE PARTIES** Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO-100).
  
5. **PROOF OF SERVICE** Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, VA. 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43CFR Section 4.401(c)(2)). Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

*Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.*

NOTE: A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a)).

SUBPART 1821.2-OFFICE HOURS; TIME AND PLACE FOR FILING

**SUBPART 1821.2-1** *Office hours of State Offices.* (a) State Offices and the Washington Office of the Bureau of Land Management are open to the public for the filing of documents and inspection of records during the hours specified in this paragraph on Monday through Friday of each week, with the exception of those days where the office may be closed because of a national holiday or Presidential or other administrative order. The hours during which the State Offices and the Washington Office are open to the public for the filing of documents and inspection of records are from 10 a.m. to 4 p.m., standard or daylight savings time, whichever is in effect at the city in which each office is located.

**Sec. 1821.2-2(d)** Any document required or permitted to be filed under the regulations of this chapter, which is received in the State Office or the Washington Office, either in the mail or by personal delivery when the office is not open to the public shall be deemed to be filed as of the day and hour the office opens to the public.

(e) Any document required by law, regulation, or decision to be filed within a stated period, the last day of which falls on a day the State Office or the Washington Office is officially closed, shall be deemed to be timely filed if it is received in the appropriate office on the next day the office is open to the public.

\* \* \* \* \*

See 43 CFR Sec. 4.21 for appeal general provisions