# UNITED STATES DEPARTMENT OF THE INTERIOR
# BUREAU OF LAND MANAGEMENT

Farmington District
Farmington Field Office
6251 N College Blvd. Suite. A
Farmington, NM 87402

# DECISION RECORD
**for the**
# Chaco 2308-04P Nos. 149H & 150H Pipelines
**NEPA No. DOI-BLM-NM-F010-2014-0045-EA**

## I. Decision

I have decided to select the proposed action for implementation as described in the January 2014 Environmental Assessment DOI-BLM-NM-F010-2014-0045-EA Chaco 2308-04P Nos. 149H & 150H Pipelines. Based on my review of the Environmental Assessment (EA) and project record, I have concluded that the proposed action was analyzed in sufficient detail to allow me to make an informed decision. I have selected this alternative because the proposed action will provide approval of two right-of-way grants to construct, operate and terminate four pipelines in two trenches and two Temporary Use Area's (TUA's) for boring under the highway.

## II. Conformance and Compliance

The proposed action is in conformance with the 2003 BLM-FFO Resource Management Plan (RMP). Pursuant to 40 CFR 1508.28 and 1502.21, this site-specific EA tiers into and incorporates by reference the information and analysis contained in the BLM-FFO Proposed Resource Management Plan/Final Environmental Impact Statement (PRMP/FEIS; BLM 2003a). The RMP was approved by the September 29, 2003 Record of Decision (ROD; BLM 2003b), and updated in December 2003.

Specifically, the proposed action supports the following BLM policy:

> It is the policy of the BLM to make mineral resources available for disposal and to encourage development of mineral resources to meet national, regional, and local needs, consistent with national objectives of an adequate supply of minerals at reasonable market prices. At the same time, the BLM strives to ensure that mineral development is carried out in a manner that minimizes environmental damage and provides for the rehabilitation of affected lands. (BLM 2003b, 2-2 – 2-3)

Development of energy-related ROWs, such as pipelines, is one of the primary activities of the BLM-FFO lands program. Such ROWs receive environmental review on a case-by-case basis (BLM 2003b). As required by NEPA, this EA addresses site-specific resources and effects of the proposed action that were not specifically covered within the PRMP/FEIS.

The proposed action is in conformance with the Clean Water Act, as amended (CWA; 33 USC 1251 et seq.).

Under Section 401 of the CWA, an applicant for a federal license or permit to conduct an activity that may result in a discharge into a water of the U.S. must provide the federal agency with a

Section 401 certification declaring that the discharge would comply with the CWA. The certification would be granted by the New Mexico Environment Department (NMED).

Under Section 402 of the CWA, the U.S. Environmental Protection Agency (EPA) regulates storm water discharges from industrial and construction activities under the National Pollution Discharge Elimination System program. Permits are required if discharge results in a reportable quantity for which notification is required (pursuant to 40 CFR 117.21, 40 CFR 302.6, or 40 CFR 110.6) or if the discharge contributes to a violation of a water quality standard.

Under Section 404 of the CWA, the EPA regulates the discharge of dredged or fill material into waters of the U.S., including wetlands. The Section 404 program is administered by the EPA and U.S. Army Corps of Engineers (USACE). Under the CWA, the USACE has jurisdiction over waters of the U.S. Waters of the U.S. are considered jurisdictional because they have a "significant nexus" to traditional navigable waters. The BLM-FFO and USACE - Durango Regulatory Office have determined that jurisdictional waters (i.e., waters of the U.S.) may include U.S. Geological Survey (USGS) watercourses (i.e., "blue lines" on USGS 1:24,000 topographic maps) and potentially tributaries to these USGS watercourses. A Section 404 permit is required for projects that would result in discharged material into a water of the U.S. The proposed pipelines would cross three ephemeral, unnamed watercourses that are tributaries to Kimbeto Wash. The three watercourses have a defined stream channel (i.e., Ordinary High Water Mark) and would thereby likely be subject to regulatory jurisdiction under the USACE. Assuming these watercourses are jurisdictional, the crossings would be covered under Nationwide Permit No. 12 (Utility Line Activities). The proposed project would be designed to avoid discharge into other watercourses that are potentially USACE jurisdictional.

Section 106 of the National Historic Preservation Act of 1966 (NHPA; 16 USC 470) requires federal agencies to take into account the effects of their actions on historic properties, and allow the Advisory Council on Historic Preservation a reasonable opportunity to comment. Compliance with the requirements of the NHPA is met by following the Protocol Agreement between the New Mexico BLM and New Mexico State Historic Preservation Officer, which is authorized by the Programmatic Agreement among the BLM, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers (1997).

The Clean Air Act of 1972, as amended (CAA; 42 USC 7401 et seq.), establishes national ambient air quality standards (NAAQS) to control air pollution. In New Mexico, the NMED has adopted most of the CAA into the New Mexico Administrative Code (NMAC). The NMED issues construction and operating permits for air quality and enforces air quality regulations and permit conditions.

## III. Finding of No Significant Impact

I have reviewed the direct, indirect and cumulative effects of the proposed activities documented in the EA for the Chaco 2308-04P Nos. 149H & 150H Pipelines. I have also reviewed the project record for this analysis. The effects of the proposed action and alternative[*s*] are disclosed in the Alternatives and Environmental Consequences sections of the EA. I have determined that the proposed action to provide approval of two right-of-way grants to construct, operate and terminate four pipelines in two trenches and two Temporary Use Area's (TUA's for boring under the highway as described in the EA will not significantly affect the quality of the human environment. Accordingly, I have determined that the preparation of an Environmental Impact Statement is not necessary.

## IV. Other Alternatives Considered

A reasonable alternative to the proposed action achieves the purpose of and satisfies the need for the proposed action. The proposed pipelines follow the most economic and direct route based on the location of WPX's 149H/150H well pad, WPX's 147H Tank Battery Site, existing disturbance, surface resources, and terrain.

As stated in Section 1.6.2 of the EA (Issues - Issues Considered but not Analyzed), WPX originally proposed locating the proposed pipelines (from approximate stationing 34+73.96 to 38+89.62) on the southeastern side of the 149H/150H access road; however, an ephemeral, USGS watercourse was present at this location. Therefore, WPX re-routed the proposed pipelines to the northwestern side of 149H/150H access road to avoid this watercourse.

No reasonable alternatives to the proposed project were identified that would result in less surface disturbance than the proposed project.

## V. Rationale for the Decision

I have determined that the activities described in the proposed action will not adversely affect or cause loss or destruction of scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places (40 CFR 1508.27(b) (8)). Cultural resource surveys were completed and a Cultural Resources Record of Review was signed on February 3, 2014. No cultural resources were identified during the surveys. Pages 27 and 28 of the January 2014 Environmental Assessment DOI-BLM-NM-F010-2014-0045-EA describe the effects to cultural resources.

The proposed activities are not likely to adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act (40 CFR 1508.27(b) (9)). The proposed project area does not contain any known populations or designated critical habitat for federally listed species. There are known populations of Special Status Species that were transplanted in accordance with FFO protocol. Pages 25 – 27 of the January 2014 Environmental Assessment DOI-BLM-NM-F010-2014-0045-EA describe the effects to Special Status Species.

## VI. Public Involvement

The BLM-FFO publishes a NEPA log for public inspection. This log contains a list of proposed and approved actions within the BLM-FFO. The log is located on the BLM's New Mexico website (http://www.blm.gov/nm/st/en/prog/planning/nepa_logs.html).

An onsite meeting, attended by WPX, BLM-FFO representatives, and an environmental consultant (Nelson Consulting, Inc. [NCI]), was held for the proposed project on November 21, 2013. The local chapter of the Navajo Nation was invited to the meeting by the BLM-FFO; no members of the Navajo Nation attended the meeting. A public invitation to the on-site meetings was posted online (http://www.blm.gov/nm/st/en/fo/Farmington_Field_Office/ffo_oil_and_gas/ffo_onsites.html); no private citizens or groups attended the meetings. A BLM-FFO Interdisciplinary Team meeting was held in December 2013 to discuss the proposed action. At the aforementioned meetings, potential issues of concern were identified by the BLM-FFO and NCI.

Based on the size and scale, routine nature, and potential impacts associated with the proposed action, no additional external scoping was conducted. No public comments were received for the proposed action.

## VII. Administrative Review and Appeal

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Any appeal must be filed within 30 days of this decision. Any notice of appeal must be filed Gary Torres, Field Manager, Farmington Field Office, 6251 College Boulevard, Suite A, Farmington, NM 87402. The appellant shall serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs on each adverse party named in the decision, not later than 15 days after filing such document (see 43 CFR 4.413(a)). Failure to serve within the time required will subject the appeal to summary dismissal (see 43 CFR 4.413(b)). If a statement of reasons for the appeal is not included with the notice, it must be filed with the IBLA, Office of Hearings and Appeals,

U. S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with Gary Torres, Farmington Field Office Manager.

Notwithstanding the provisions of 43 CFR 4.21(a) (1), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision. This decision can be implemented immediately and remains in effect pending appeal according to 43 CFR 2881.10 (b). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal.

A petition for a stay is required to show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied;
(2) The likelihood of the appellant's success on the merits;
(3) The likelihood of immediate and irreparable harm if the stay is not granted; and
(4) Whether the public interest favors granting the stay.

In the event a request for stay or an appeal is filed, the person/party requesting the stay or filing the appeal must serve a copy of the appeal on the Office of the Field Solicitor: United States Dept. of the Interior, Office of the Solicitor, Southwest Regional Office, 505 Marquette Avenue NW, Suite 1800, Albuquerque, NM 87102.

Maureen Joe
Assistant Field Manager
Lands & Renewable Resources
Farmington Field Office

03/05/14
Date