

RECORD FOR CATEGORICAL EXCLUSION
EA# NM-510-07-0017
Right-of-Way NM 114115

BLM Office: Roswell Field Office

Proposed Action Title/Type: Right-of-Way for installation of a surface salt water disposal pipeline paralleling and existing road.

Location of Proposed Action: T. 14 S., R. 30 E., N.M.P.M
Section 28: W1/2NE1/4, N1/2NW1/4, NW1/4SW1/4;
Section 29: N1/2NE1/4, NE1/4NW1/4;
Section 30: Lots 3, 4, and E1/2SW1/4;
Section 31: Lots 1 and 2.

DESCRIPTION OF PROPOSED ACTION: Lothian Oil Corporation proposes to construct, operate and maintain a saltwater disposal pipeline that would tie in three leases containing five different wells to a Disposal Site located in the SW1/4NW1/4, Section 31, T. 14 S., R. 30 E. The installation of the pipeline would eliminate heavy truck traffic from the five wells to the disposal site. The surface line as proposed would parallel an existing road and be located wholly within the boundaries of an approved existing road. The pipeline as proposed, would be confined to existing rights-of-way, minimizing width requirements and maximizing multiple occupancy as directed in the approved RMP. The pipeline will be located on the south side of the east/west lease road and on the east side of the county road. There are no alternate routes which would have significantly less environmental impacts or any clear advantages over the proposed action.

Total length of the proposed action is 27,984 feet. Of the 27,984 feet approximately 17,100 feet would be located on public land. A 10 foot wide right-of-way is needed for the construction, operation, and maintenance of the pipeline.

A cultural survey 07-R-004-A was conducted and revealed four isolated manifestations were located and recorded. The survey also revealed three sites that must be avoided (LA 153420, LA 153419 and LA 153418). See attached Project Map Exhibit B page 1 of 5.

Site LA 153420: Reroute is flagged with orange and white flagging. The reroute to avoid the site will start along the eastern portion of the site along the proposed right-of-way (ROW). The reroute extends southwest where it then parallels the southern edge of the site and reconnects with the ROW. See attached Site Map Exhibit B pages 2 & 3 of 5.

Site LA 153419: Reroute is flagged with orange and white flagging. The reroute to avoid the site will start along the eastern portion of the site along the proposed right-of-way (ROW). The reroute extends southwest where it then parallels the southern edge of the site and reconnects with the ROW. See attached Site Map Exhibit B page 4 of 5.

Site LA 153418: Reroute is flagged with orange and white flagging. The reroute to avoid the site will start along the eastern portion of the site along the proposed right-of-way (ROW). The reroute extends southwest where it then parallels the southern edge of the site and reconnects with the ROW. See attached Site Map Exhibit B page 5 of 5.

The pipeline will be constructed in accordance with the Roswell District Standard Stipulation for Surface Installed Pipeline.

PART I: PLAN CONFORMANCE REVIEW.

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

PART II: NEPA REVIEW

This proposed action qualifies as a categorical exclusion under 516 DM 6, Appendix 5.4, E (12). The proposed action has been reviewed and determined that none of the exceptions described in 516 DM 2, Appendix 2, apply.

Prepared by:

I Concur:

/s/Irene Gonzales

10-27-06

Irene Gonzales, Realty Specialist

Date

/s/Pat Flanary

10-27-06

Pat Flanary, Archaeologist
(07-R-004-A BAS 08-06-27 Cedar Point)

Date

III. DECISION.

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with existing Bureau policy and guidance and that no further environmental analysis is required. It is my decision to allow the right-of-way as described, for 30 years, with an option to renew, under the authority of Title V of the Federal Land Policy and Management Act of 1976, subject to the terms and conditions in 43 CFR 2801; and the attached standard and the Standard Stipulations for Surface Installed Pipelines in the Roswell Field Office, BLM.

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

/s/Larry D. Bray

10-27-2006

Larry D. Bray, Assistant Field Manager
Assistance Field Manager
Lands and Minerals

Date

SURFACE INSTALLED 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 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.

11. 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 Slate Gray, Munsell Soil Color Chart Number 5Y 6/1.

12. 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.)

13. 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.

14. The holder shall be liable for damage or injury to the United States to the extent provided by 43 CFR Sec.**2803/2883**.1-4. The holder shall be held to a standard of strict liability for damage or injury to the United States resulting from fire or soil movement (including landslides and slumps as well as wind and water caused movement of particles) caused or substantially aggravated by any of the following within the right-of-way or permit area:

- A. Activities of the holder, including but not limited to, construction, operation, maintenance, and termination of the facility.
- B. Activities of other parties including but not limited to:
 - (1). Land clearing.
 - (2). Earth-disturbing and earth-moving work.
 - (3). Blasting.
 - (4). Vandalism and sabotage.
- C. Acts of God.

The maximum limitation for such strict liability damages shall not exceed one million dollars (\$1,000,000) for any one event and any liability in excess of such amount shall be determined by the ordinary rules of negligence of the jurisdiction of in which the damage of injury occurred.

This section shall not impose strict liability for damage or injury resulting primarily from the negligent acts of the United States.

15. No blading or clearing of any vegetation will be allowed unless approved in writing by the Authorized Officer.

16. The holder shall install the pipeline on the surface in such a manner that will minimize suspension of the pipeline across low areas in the terrain. In hummocky or dune areas, the pipeline will be "snaked" around hummocks and dunes rather than suspended across these features.

17. The pipeline shall be buried a minimum of 48 inches under all roads, including "two-tracks" and trails. Burial will continue for 20 feet on each side of each crossing. The condition of the road, upon completion of the construction, shall be returned to at least its former state, with no bumps, dips, or soft spots remaining in the road surface.

19. Special Stipulations:

Site LA 153420 shall be avoided: Reroute is flagged with orange and white flagging. The reroute to avoid the site will start along the eastern portion of the site along the proposed right-of-way (ROW). The reroute extends southwest where it then parallels the southern edge of the site and reconnects with the ROW. See attached Site Map Exhibit B pages 2 & 3 of 5.

Site LA 153419 shall be avoided: Reroute is flagged with orange and white flagging. The reroute to avoid the site will start along the eastern portion of the site along the proposed right-of-way (ROW). The reroute extends southwest where it then parallels the southern edge of the site and reconnects with the ROW. See attached Site Map Exhibit B page 4 of 5.

Site LA 153418 shall be avoided: Reroute is flagged with orange and white flagging. The reroute to avoid the site will start along the eastern portion of the site along the proposed right-of-way (ROW). The reroute extends southwest where it then parallels the southern edge of the site and reconnects with the ROW. See attached Site Map Exhibit B page 5 of 5.

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

The BLM serial number for this project is NM- 114115.