

BLM PIPELINE RIGHT-OF-WAY STIPULATIONS
NMMN 126958 and NMMN 126958-01
Mid-America Pipeline Company, LLC
DOI-BLM-NM-F010-2013-0146-EA
July 2013

The following stipulations will be implemented throughout the construction, maintenance, termination (or relinquishment), and reclamation of this project. If problems arise during or after field work is completed, the applicant/contractor(s) is required to promptly notify the Bureau of Land Management's (BLM's) authorized representative. Consultation between the applicant/contractor(s) and the BLM's authorized representative may result in additional field work being required of the applicant/contractor(s) to fully implement one or more of the following stipulations.

Standard Stipulations:

General

1. The Holder shall construct, operate and maintain the facility, improvements, and structures within this right-of-way in strict conformity with these stipulations. Any relocation, additional construction, or use that is not in accord with the approved stipulations, 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, shall be made available on the right-of-way area during new construction, operation, and termination to the Authorized Officer. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.
2. The Authorized Officer may suspend or terminate in whole, or in part, any notice to proceed 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.
3. 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.
4. A copy of these stipulations, including exhibits and the Plan of Development (POD) shall be on the project area and available to persons directing equipment operation.
5. The Holder shall contact the Authorized Officer at least ten (10) days prior to the anticipated start of construction and/or any surface disturbing activities. The Authorized Officer shall require and schedule a preconstruction conference with the Holder prior to the Holder's commencing construction and/or surface disturbing activities on the right-of-way. The Holder and/or his representative shall attend this conference. The Holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant including the plan(s) of development, as applicable.
6. At least five (5) days prior to this conference, Holder shall provide maps or survey plats of this project to operators of all pipelines crossed or paralleled on federal lands, and contact and invite them to attend this meeting. Determining the names and contact points of these operators is the responsibility of the Holder. If requested by the Authorized Officer, Holder shall certify these contacts were made and that the required information was given.

7. The Holder shall submit a plan or plans of development that describe in detail the construction, operation, maintenance, and termination of the right-of-way and its associated improvements and/or facilities. The degree and scope of these plans will vary depending upon (1) the complexity of the right-of-way or its associated improvements and/or facilities, (2) the anticipated conflicts that require mitigation, and (3) additional technical information required by the Authorized Officer. The plans will be reviewed, and if appropriate, modified and approved by the Authorized Officer. An approved Plan of Development, dated July 2013, is on file with BLM, and is hereby made a part of the right-of-way grant.
8. No surface disturbing activities shall take place on the subject right-of-way until the associated approved POD is approved. The Holder will adhere to special stipulations of the approved POD, relevant to any right-of-way facilities.
9. Prior to any construction, the Holder will obtain any required federal, state, or local government, and private landowner express written permission(s). This includes but is not limited to rights-of-way, permits, easements, and licenses. The Holder must provide copies of these permissions to BLM.
10. The Holder shall not initiate any construction or other surface disturbing activities related to the proposed action of Environmental Assessment number DOI-BLM-NM-F010-2013-0146-EA (Mid-America Pipeline Company, LLC-Western Expansion Project III) without prior written authorization of the Authorized Officer. Such authorization shall be a written Notice to Proceed issued by the Authorized Officer. A Notice to Proceed shall authorize construction or use only as therein expressly stated and only for the particular location or use therein described.
11. The Holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
12. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.

Access To and Along the Right-of-Way, During New Construction

13. 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.
14. The Holder shall permit free and unrestricted public access to and upon the right-of-way for all lawful purposes except for those specific areas designated as restricted by the Authorized Officer to protect the public, wildlife, livestock, or facilities constructed within the right-of-way.

Pipelines and Safety

15. The Holder shall inform the Authorized Officer within 48 hours of any accidents on federal lands that require reporting to the Department of Transportation as required by 49 CFR Part 195.
16. The Holder is prohibited from discharging oil or other pollutants into or upon the navigable waters of the United States, adjoining shorelines, or the waters of the contiguous zone in violation of Section 311 of the Clean Water Act as amended, 33 U.S.C. 1321, and the regulations issued thereunder, or applicable laws of the State of New Mexico and regulations issued thereunder. Holder shall give immediate notice of any such discharge to

the Authorized Officer and such other Federal and State officials as are required by law to be given such notice.

Use of Right-of-Way

17. Except rights-of-way expressly authorizing a road after construction of the facility is completed, the Holder shall not use the right-of-way as a road for purposes other than routine maintenance as determined necessary by the Authorized Officer in consultation with the Holder.
18. 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.

Waste Disposal

19. Disposal of all liquid and solid waste produced during operation of this right-of-way shall be in an approved manner so it will not impact the air, soil, water, vegetation, or animals.

Signs

20. Upon completion of construction, 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.

Industrial and Toxic Waste Disposal

21. The Holder(s) shall comply with all applicable federal laws and regulations existing or hereafter enacted or promulgated. In any event, the Holder(s) 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 right-of-way or on facilities authorized under this right-of-way grant. (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 of 1980, 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.
22. 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 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.

Indemnification

23. The United States, its officers and employees shall be held harmless from and indemnified against any damage, injury, or liability resulting from the construction, operation, or maintenance arising from the occupancy or use of federal lands under this authorization.

Survey Monuments

24. 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 BLM 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 BLM right-of-way monuments or references are obliterated during operations, the Holder shall secure the services of a registered land surveyor or a BLM 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 BLM cadastral surveyors or other federal surveyors are used to restore the disturbed survey monument, the Holder shall be responsible for the survey cost.

Protection of Survey Corner and Boundary Line Markers¹

25. Evidence of the Public Land Survey System (PLSS) and related federal property boundaries² will be identified and protected prior to commencement of any ground disturbing activity³. This will be accomplished by contacting BLM Cadastral Survey to coordinate data research, evidence examination and evaluation, and locating, referencing or protecting monuments of the PLSS and related land boundary markers from destruction. In the event of obliteration or disturbance of the federal boundary evidence the responsible party shall immediately report the incident, in writing, to the Authorizing Official. BLM Cadastral Survey will determine how the marker is to be restored. In rehabilitating or replacing the evidence the responsible party will be instructed to use the services of a Certified Federal Surveyor (CFedS), procurement shall be per qualification based selection, or reimburse the BLM for costs. All surveying activities will conform to the Manual of Surveying Instructions (Manual) and appropriate State laws and regulations. Local surveys will be reviewed by Cadastral Survey before being finalized or filed in the appropriate State or county office. The responsible party shall pay for all survey, investigation, penalties, and administrative costs.

Civil Rights

26. The Holder of this right-of-way grant or the Holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.

¹ The costs to replace PLSS monuments can vary substantially, and in extreme cases could cost as much as \$10,000 per single monument. One PLSS corner can determine the location of boundary lines from 2 to 2 dozen parcels (in developed and high value areas more than 2 dozen separate land parcels). It is difficult to quantify damages because a PLSS corner is obliterated or lost to public and private landowners when transactions or projects are based on approximate boundaries. The damage done is usually in direct proportion to the amount of capital investment/value of natural resources and capital investment on each parcel.

² As directed in 43 CFR 3809.420 - Surface Management - (b) (9) Protection of survey monuments. To the extent practicable, all operators shall protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against unnecessary or undue destruction, obliteration or damage. If, in the course of operations, any monuments, corners, or accessories are destroyed, obliterated, or damaged by such operations, the operator shall immediately report the matter to the Authorized Officer. The Authorized Officer shall prescribe, in writing, the requirements for the restoration or reestablishment of monuments, corners, bearing and line trees.

³ It is unlawful for the unauthorized alteration or removal of any Government survey monument or marked trees: "Whoever willfully destroys, defaces, changes, or removes to another place any section corner, quarter-section corner, or meander post, on any Government line of survey, or willfully cuts down any witness tree or any tree blazed to mark the line of a Government survey, or willfully defaces, changes, or removes any monument or bench mark of any Government survey, shall be fined under this title or imprisoned not more than six months, or both" (108 Stat. 1796, 2146; 18 U.S.C. 1858). The willful destruction of monuments and corners of an official mineral survey is within the purview of this statute.

Proof of Construction

27. The Holder shall file a proof of construction within 90 days after completion of construction on the right-of-way covered by this grant. A period of five years from the date the right-of-way is granted is allowed for completion of construction.
28. Within 90 days of construction completion, the Holder shall provide the Authorized Officer with data in a format compatible with the BLM's Arc-GIS Geographic Information System to accurately locate and identify the right-of-way. Acceptable data formats are:
 - Corrected Global Positioning System files with sub-meter accuracy or better, in NAD 83 or WGS84 projection;
 - An AUTOCAD dxf file; or
 - ARCInfo export files.
 - Data may be submitted in any of the following media: On a CD ROM, or DVD in compressed or uncompressed format. Compressed or ZIPed data must include a copy of the UNZIP.EXE file on the disk.
 - All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards. Contact BLM's GIS Coordinator at (575) 525-4300 for questions regarding data or media format questions.
29. The Holder shall provide 'as-builts' or 'final plats' of the pipeline centerline within 180 days of construction.

Public Land Conveyance

30. In the event that the public land underlying the right-of-way encompassed in this grant right-of-way, or a portion thereof, is conveyed out of federal ownership and administration of the right-of-way or the land underlying the right-of-way is not being reserved to the United States in the patent/deed and/or the right-of-way is not within a right-of-way corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the Holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the right-of-way shall be considered a civil matter between the patentee/grantee and the right-of-way Holder.

Bonding

31. A bond, acceptable to the Authorized Officer, shall be furnished by the Holder prior to any construction, operation, or maintenance activities beginning, or at such earlier date as may be specified by the Authorized Officer. The amount of this bond shall be determined by the Authorized Officer. This bond must be maintained in effect until removal of improvements and restorations of the right-of-way have been accepted by the Authorized Officer.
32. The Holder agrees that all monies deposited with the Authorized Officer as security for Holder's performance of the terms and conditions of this grant may, upon failure on the Holder's part to fulfill any of the requirements herein set forth or made a part hereof, be retained by the United States to be applied as far as may be needed to the satisfaction of

the Holder's obligations assumed hereunder, without prejudice whatever to any other rights and remedies of the United States.

33. In the event the bond delivered under this grant become unsatisfactory to the Authorized Officer, the Holder, shall, within 30 days of demand, furnish a new bond.

Restoration and Termination

34. After complying with all restoration stipulations, submit a "proof of restoration" letter(s) for the pipeline and roads that have been approved as a right-of-way. Proof of restoration letters shall be filed with BLM, Farmington District, 1235 La Plata Highway, Farmington, NM 87401 not later than 2 years after completion of construction.
35. Six months prior to termination of the right-of-way, the Holder shall contact the Authorized Officer to arrange for a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, contouring, topsoiling, or seeding. The Authorized Officer must approve the plan in writing prior to the Holder's commencement of any termination activities.