

Decision Record

New Mount Carmel Foundation Access Road Amendment and Natural Gas Pipeline

WY-020-EA11-50

Cody Field Office, Wind River/ Bighorn Basin District, Wyoming

May 2011



DECISION RECORD

The New Mount Carmel Foundation Access Road Amendment and Natural Gas Pipeline

DOI-BLM-WY-020-EA11-50

AUTHORITIES:

The authority for this decision is provided by the Federal Land Policy and Management Act, 43 U.S.C. § 1761-1766, (WYW-165919, access road amendment), and Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) (WYW-165952, buried natural gas pipeline). The decision will be made in accordance with NEPA, 42 U.S.C. § 4321 *et seq.*, and its implementing regulations, as well as BLM's ROW regulations contained in 43 CFR Part 2800.

Other policy and guidance this assessment takes into consideration include: Threatened and Endangered Species Stipulation (included within Instruction Memorandum No. 2002-174); Migratory Bird Species-Interim Management Guidance Policy (included within Instruction Memorandum No. 2008-050); Bureau of Land Management (BLM) Sensitive Species, Raptors, Migratory Birds, and Prairie Dog Surveys; and other Washington Office and Wyoming BLM guidance.

PUBLIC INVOLVEMENT:

Internal scoping was completed by an Inter-disciplinary Team (IDT), on January 28, 2011. During that process, the IDT identified the resources and issues that will be analyzed in this EA. Please see Table 2 on page 10 of the Environmental Assessment for the list of resources and issues that will be fully analyzed and those that will not be analyzed in this document.

Notice to the public that this document is being prepared in response to the ROW applications, WYW-165919 and WYW-165952, is provided through the Cody Field Office NEPA register, at: <http://www.wy.blm.gov/nepa/search/index.php>. Members of the public can review the Cody Field Office NEPA register and request information on any project shown on the list.

The Wyoming Game and Fish Department provided comments and field notes from an onsite visit with BLM and NMCF in June and September 2010, regarding wildlife and resource issues.

The Cody Field Office initiated consultation with the Wyoming State Historic Preservation Officer (SHPO) regarding cultural resources on October 27, 2010. Native American Consultation with the Blackfeet, Crow, Eastern Shoshone, Northern Arapaho, Northern Cheyenne, and the Shoshone-Bannock Tribes was initiated on October 29, 2010.

PLAN CONFORMANCE AND CONSISTENCY:

The Proposed Action conforms to the Cody Resource Management Plan (RMP) (Record of Decision (ROD) signed November 11, 1990. The Cody RMP ROD provides, on page 13: "Existing public access to BLM-Administered public lands in the Carter Mountain area will be continued." It is the BLM's policy to provide access across BLM administered lands to private land for the land owner's enjoyment of their private land.

ALTERNATIVES CONSIDERED:

Alternative I would be the proponents Plan of Development (POD) that the BLM has accepted as the proposed project. There are two components of the proposed project, the access road and the buried natural gas pipeline. Both components meet BLM standards for roads and pipelines.

Road

The NMCF seeks to grade and construct an improved all weather surfaced road 20-feet in width with 2-foot shoulders (for a total top width of 24-feet) along an existing right-of-way that provides access to the NMCF private property. The road would serve as the primary access to the NMCF's private property, and would be used by the occupants and a limited number of invited guests, as well as for the delivery of coffee beans and hauling of packaged coffee. The proposed road would be used on a year-round basis. The NMCF seeks to begin construction at once and plans to complete the road in a four (4) month period, weather permitting. The NMCF requests authorization to use the right-of-way for thirty (30) years. Legal description for this is T. 49 N., R. 102 W., Section 12, Lot 1; T. 50 N., R. 102 W., Section 33, Lots 3, 4, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The Special Use Permit includes a condition requiring the NMCF to construct the last 5.5 miles of a two track road (4.1 miles on private land and 1.4 miles in length crossing BLM lands), as an improved all weather surfaced road with a 20' wide driving surface with 2' wide shoulders. The all weather surface road shall be designed to handle the heavy vehicular loads anticipated for the project, and constructed to Park County Standards, including provisions for drainage facilities and turnarounds as required by the Meeteetse Fire District and Park County Fire Marshall.

The parallel side drainage ditches would be 15' wide with side slopes of 4:1 shoulder slopes and 3:1 back slope on each side of the road. The road would be constructed with 12" native soil excavated from the borrow ditches and overlain with 6" of 4" minus screened pit-run rock. The surface of the road would be 6" of crushed aggregate base material. The approximate length of the road across BLM land would be 7,629 linear feet. Please see Exhibit B, Plan of Development, incorporated herein by reference. The NMCF would need a total right-of-way width of 60'. The additional right-of-way width outside of the ditches would be needed to plow and berm snow. Minimum culvert size shall be 18-inch corrugated metal pipe.

During the construction of the monastery and coffee barn, the road would be used by heavy equipment such as dozers, scrapers, backhoes, and dump trucks. Flat bed semi-trucks would bring the stone in for the monastery. Once authorization is given, construction would begin immediately and the estimated time to complete the proposed road and buried pipeline project is four months.

The NMCF also seeks an additional 10' temporary construction ROW on the north side of the road to provide enough additional space to maneuver heavy equipment necessary for proper road construction and temporary parking.

Article I. Table 1. Access Road and Pipeline Acreages

Access Road	Pipeline
7629' x 60' ÷ 43560 = 10.508 acres of public land	7629' x 20' ÷ 43560 = 3.502 acres of public land

Natural Gas Pipeline

The NMCF is requesting a ROW grant to construct and operate a 2" natural gas pipeline. This pipeline would provide natural gas service to the monastery. The proposed length of the project

is 7,629 feet. A D-6 Caterpillar would be used to plow the line in to a depth of 24" and 8 inches in width. The pipeline would be plowed in on the north side of the road within the existing right of way. This would be completed before the final crushed gravel is laid and before the re-vegetation is seeded in the existing right of way. Estimated time for completion of work on the pipeline is 2 weeks. Legal description for the pipeline is T. 49 N., R. 102 W., Section 12, Lot 1; T. 50 N., R. 102 W., Section 33, Lots 3, 4, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

Prior to commencing construction, the NMCF would apply for and obtain any required federal, state, or local permits, including a Storm Water Discharge Permit (SWDP) including a Storm Water Pollution Prevention Plan (SWPPP), and would comply with all their provisions and requirements.

The NMCF would be responsible for performing periodic maintenance and any other provisions/requirements specified in the BLM ROW grant.

The NMCF would adhere to Park County Road and Bridge Standards, and BLM would require weed-free fill and require equipment/vehicle cleaning prior to transport to the site.

The BLM would require that the number of wing-ditches and culverts be designed to ensure that water collected by the road and its ditches is dispersed before it exceeds safe volumes/velocities/energies to minimize erosion and reduce the potential for down gradient runoff/sediment impacts to water and aquatic resources. The BLM would further require that all BLM reclamation standards be met and in place prior to project completion.

Alternative II – No Action Alternative

In the no-action alternative, the BLM would deny the NMCF's applications for an access road ROW amendment and new pipeline ROW. If the BLM selects the no-action alternative, it is likely that the NMCF would explore an alternate all-private access route in order to meet its objectives to construct a monastery and associated facilities. Securing the authorization to use an all-private route and construct a road suitable for the NMCF's purposes would depend on negotiations between the NMCF and private landowners, as well as approval from the Park County Board of County Commissioners. No BLM authorization would be required. Map 2-No Action of the environmental assessment, (EA) page 33, shows the land ownership within the vicinity of the NMCF's property, as well as existing roads and topography in the area. Although the BLM would not have jurisdiction over an all-private route, the effects of construction and use of an access road on entirely private land are identified in the discussion of effects of the no-action alternative because the NMCF likely would pursue that option only if BLM denies its applications. The construction of the monastery and associated facilities on private land could still occur without any federal authorizations. The private project therefore is not considered a connected action for purposes of this EA.

For purposes of evaluating the environmental consequences of denying the NMCF's applications for a new ROW and ROW amendment this EA assumes that the route would be constructed and operated as part of an entirely private project.

The construction of the monastery and associated facilities which is on private land could still occur without any federal authorizations, the private project is not considered a connected action for purposes of this EA. Nevertheless, the environmental consequences of the No Action Alternative will be discussed, even though the BLM would have no authority to modify or change the effects. Under this alternative, impacts to natural resources on state and private land are anticipated to occur, since new roads would have to be constructed where no roads exist today. This alternative would delay the timeframe for development of the monastery, due to

negotiation with landowners on acquiring legal access for ingress/egress on an entirely new route. A new process would have to occur with the Board of County Commissioners for Park County to adopt a new Resolution authorizing use of a different route to access the NMCF private lands.

Alternatives Considered but not Analyzed in Detail

A. An alternative route considered but dismissed from full analysis is the existing access road through the Spring Creek Oil Field, which is owned and operated by a private company. The NCMF has legal access via this route, however the private landowner would not grant a change to the scope of the current easement because of safety concerns (the route would bring traffic through an operating oil field that contains working pump jacks, open pits, areas that contain H₂s gas, and a small bridge over Meeteetse Creek that cannot carry the weight of construction materials proposed for the monastery). The NCMF easement through this private property does not allow the level of use needed for construction of a monastery and associated facilities; therefore this alternative will not be analyzed further.

B. BLM considered an alternative route that would entail the grant of a new ROW across public land, authorizing construction and use of a new road, that would split from the existing unimproved access road WYW-165919, at private land in Section 34, T. 50 N., R. 102 W. This route would head north on BLM land, cross under an overhead transmission power line, and reach the top of the ridge. The new road would then head to the west, crossing State of Wyoming land to reach the NCMF private lands.

This route would require new surface disturbance, and part of the route would likely interfere with elk movement along a migration corridor on top of the ridge. This area is within crucial winter range for elk, and the ridge is a likely place for elk to winter, as it is windblown and free of snow most of time.

BLM initially considered this because cultural sites were known to exist in the area affected by the proposed action. BLM has concluded, based on the results of a Class III Cultural Inventory that the proposed action would not interfere with the known cultural sites and that cultural resource values could be protected through Native American Consultation and mitigation of effects on cultural resources. Due to the negative effects associated with new surface disturbance and interference with crucial elk winter range, the new-route alternative will not be analyzed.

SELECTED ALTERNATIVE:

It is my decision to implement Alternative 1, the Proposed Action. There are two components of the proposed project, the access road and the buried natural gas pipeline. Both components meet BLM standards for roads and pipelines.

RATIONALE FOR DECISION:

My decision to approve the New Mount Carmel Foundation Access Road Amendment and Natural Gas Pipeline EA is based on the following:

The Cody RMP ROD provides, on page 13: "Existing public access to BLM-Administered public lands in the Carter Mountain area will be continued." It is the BLM's policy to provide

access across BLM administered lands to private land for the land owner's enjoyment of their private land.

Since the proposed action has included timing stipulations, there would be no impact on big game winter range, no take on migratory birds and no effect on grizzly bears or wolves in the short-term. Traffic would be minimal and slow on a gravel road and only by invitation, the increased traffic would be unlikely to cause accidental collisions with wolves or grizzly bears, and no effects on grizzly bear, gray wolf, lynx, black-footed ferret, mountain plover or Ute ladies-tresses are expected.

An inventory for cultural resources was conducted by Archaeological Energy Consultants (AEC) in October/November 2010, following the Wyoming State Historic Preservation Office Format, Guidelines, and Standards for Class III Reports. The inventory documented two newly recorded sites, and three isolates. The sites, an historic irrigation ditch, and multi-cairn site with historic debris scatter, were both recommended as not eligible for the National Register of Historic Places (NRHP). A multi-cairn, historic debris site is considered eligible for the NRHP and was identified to be of concern to Native American groups. Native American consultation site visits resulted in recommendations that will physically protect these resources and minimize potential impacts from the proposed action.

Results of Native American consultation include recommendation of positioning of natural gas pipeline on the north-side of the proposed access road to increase the distance between surface disturbing activities and the newly recorded multi-cairn historic debris site. Additional recommendations were to erect a temporary barrier fence between the site of concern and the southern-most edge of the roads' surface disturbance to ensure no accidental impacts occur to the multi-cairn historic debris site. A recommendation was received to require a construction monitor of surface disturbing activities to be performed by a qualified archaeologist to ensure site avoidance would be achieved and to manage potential discovery of unanticipated buried material during construction.

PROJECT DESIGN FEATURES/ TERMS / CONDITIONS/ STIPULATIONS, MONITORING:

BLM will require the positioning of the natural gas pipeline on the north-side of the proposed access road to increase the distance between surface disturbing activities and the newly recorded multi-cairn historic debris site. A temporary barrier fence between the site of concern and the southern-most edge of the roads' surface disturbance to ensure no accidental impacts occur to the multi-cairn historic debris site will be required. A construction monitor of surface disturbing activities to be performed by a qualified archaeologist to ensure site avoidance would be achieved and to manage potential discovery of unanticipated buried material during construction will also be require. All of the above will become stipulations of the as outlined on page 38, Exhibit C of the EA.

Standard stipulations/mitigations will be attached to WYW-165919 Amendment #1, WYW-165919 01 and WYW-165952 when granted. These stipulations will be for both the upgrade of the road and the buried natural gas pipeline.

Appeal Language:

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the attached Form 1842-1. If an

appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) 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 standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office.

A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals. And to the appropriated Office of the Solicitor (see 43 CFR § 4.413) Office of the Regional Solicitor, Rocky Mountain Region, 755 Parfet Street, Suite 151, Lakewood, CO 80215, at the same time the original documents are filed with the Cody Field Office 1002 Blackburn Street, Cody, Wyoming 82414. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall 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.



Michael P. Stewart
Cody Field Manager

Date 5/12/2011