

BUREAU OF LAND MANAGEMENT

FINDING OF NO SIGNIFICANT IMPACT AND DECISION RECORD

Proposal: The El Monte Road Association (Association) has applied for rights-of-way from the Bureau of Land Management (BLM) to authorize legal access for roads and utilities leading to lands belonging to the members of the Association in Santa Fe County, New Mexico. The project area is located on lands managed by BLM in Township 18 North, Range 8 East, sections 1, 11, 12, 13, 14 17, 20, 21, 22 and 23. This area is located approximately 9.7 miles northwest of downtown Santa Fe. The rights-of-way would provide legal access for roads and utilities to four parcels of private land owned by individual members of the Association. Those members are: Suzanne Hoyt (formerly Garcia), Paul Ortiz, Lillian Ortiz Walker and La Luz Group. The Association was formed by the affected landowners as a means to combine their respective interests in obtaining legal access and utilities to their properties by applying for rights-of-way from BLM.

The proposed project area on BLM has long been used by Association members to graze their cattle and to access their private properties, however, legal access over unimproved dirt roads in this area has never been granted to the Association members by BLM. For many years, Association members accessed their private land by using a road that crossed land owned by the Horcado Ranch before traveling over BLM land to reach their properties. In 1991, the road across the Horcado Ranch was closed off by new owners, Lawrence and Gabrielle Burke and since then the Association members have used existing roads on BLM land to reach their properties.

As a result of a dispute involving the closing off of access across the Horcado Ranch, the Burkes filed a civil action No. CIV 98-01110 SC/DJS-ACE in the United States District Court for the District of New Mexico asserting certain claims against Suzanne and Eloy Garcia and seeking a decree quieting title to certain private property (Horcado Ranch lands). As a means of settling the dispute, a mediated settlement agreement (Agreement) between the Burkes, Garcias and BLM was signed on April 3, 2000. The Agreement provided that the Burkes and Garcias would dismiss their claims against each other and that BLM would provide a right-of-way (s) for roads and utilities across BLM land to the Garcia family land as well as to lands belonging to the Ortiz families and La Luz Group. The granting of rights-of-way by BLM would be subject to Federal regulations at 43 CFR 2800 and 40 CFR 1500. The Agreement specifically identified routes across BLM land (shown as Exhibit A map attached to the Agreement) that would provide legal access to the respective Association member's properties. These routes constitute the Proposed Action as described and analyzed in the environmental assessment (EA) for the project. There are eight other Action Alternatives or alternative routes that have been identified and analyzed in the EA as well as the No Action Alternative. If authorized, two rights-of-way would be issued to the Association. One right-of-way would be issued for the access roads and the other right-of-way would be issued for utilities.

Decision to be Made: The BLM only has authority to make decisions regarding lands and resources managed by BLM. Therefore the decision to be made by BLM is which of the alternative access and utility routes across land administered by BLM would best meet the needs of the El Monte Road Association members as described in the Purpose and Need section of the EA while minimizing impacts to resources on public land. Consideration will also be given to the terms of the Settlement Agreement between the Burkes, Garcias and BLM.

Decision: It is my decision to select the Proposed Action alternative, authorizing access roads in segments 1, 2, 3, 4, 5, 6 and 7 and the placement of utilities across BLM within an existing right-of-way extending from Buckman Road. Additionally, the decision authorizes a new right-of-way for utilities located on BLM land in section 3, T. 18 N., R. 9 E., to service private land in section 2. These rights-of-way will allow the Association to use lands administered by BLM to construct a new road segment and improve existing roads to access the Association member's properties, as well as, authorize the placement of utilities. Details of the selected alternative are provided in the EA accompanying this decision.

Actions Connected to the Proposal Outside of this BLM Decision: Actions connected to this proposal but outside BLM's jurisdiction include the potential development of the El Monte Road Association member's private properties. Private property development within Santa Fe County is guided and controlled by the Santa Fe Land Development Code which determines, based on zoning and other factors, the type and level of development that is allowed. The potential for development of private properties for residential use is also subject to water availability and decisions on these matters rest with the New Mexico Office of the State Engineer and the County of Santa Fe. BLM's jurisdiction with regards to the use of roads only extends to roads on BLM land. BLM has no jurisdiction over roads on private land whether they be for private or public use or for roads that cross public lands not under the jurisdiction of BLM.

Finding of No Significant Impacts: A thorough analysis of environmental impacts has been conducted and based on that analysis, I have determined that impacts will not be significant. Therefore, an environmental impact statement is not required.

In addition, I am adopting the mitigation measures described throughout the EA and summarized in section 4, Environmental Commitments to Minimize Potential Adverse Effects.

Public and Agency Review and Comment: The EA and the preliminary FONSI and Decision Record were made available for public and agency review and comment from June 16, 2004 to August 2, 2004 after being extended two weeks past the original July 16, 2004 deadline. Twenty nine letters and one email were received by BLM in response to the comment period. The letters and e-mail provided a total of 279 comments. The comments covered a wide range of topics from the NEPA process to alternatives not selected to traffic, public safety and law enforcement. I have carefully reviewed and considered the comments received in making my final decision.

Rationale for the Decision: My decision to authorize the rights-of-way is based on the following rationale:

The activities within the selected alternative are in conformance with the Taos Resource Management Plan (1988) and BLM policy and guidance.

- The major resource issues identified through BLM interdisciplinary review have been addressed in the analysis and considered in the decision. Based on the analysis in the EA, the impacts of the activities to be authorized are not expected to be significant.

There are no adverse impacts to Federally listed threatened or endangered plant or animal species or to cultural resources.

Impacts to resources on BLM land from the implementation of the Proposed Action will be mitigated by stipulations issued with the rights-of-way grants. The stipulations will require the implementation of Best Management Practices as well as other measures in the construction of roads and placement of utilities to minimize impacts to resources.

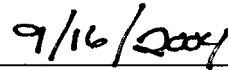
The selection of the Proposed Action Alternative is in conformance with the Santa Fe Land Development Code.

- Upon review of the public comments on the EA and preliminary Decision Record/FONSI, I find that no new information or issues pertinent to the decision were presented. I have determined that the issues identified and the analysis and disclosure of effects in the EA provide a sound basis for my decision.

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



Taos Field Office Manager



Date

Attachments: BLM Response to Comments on EA
Settlement Agreement No. CIV 98-01110 SC/DJS-ACE
Revised EA Overview Map-Figure 2.1
Appeals Process Information