

DECISION RECORD AND FINDING OF NO SIGNIFICANT IMPACT
EA# NM-510-06-0185
Right-of-Way NM 114117

Recommendation: I recommend that the proposed action by Village of Capitan for construction of a supplemental water well site and related facilities be approved as mitigated, subject to the Standard Stipulations for water wells, and buried pipelines in the Roswell District, BLM. This action will affect the following public land:

New Mexico Principal Meridian
T. 9 S., R. 15 E., Lincoln, County, New Mexico, N.M.P.M.:
Section 7: SW1/4SW1//4;
Section 18, NWNW.

Authority of this action is the Federal Land Policy and Management Act of 1976.

Rationale for recommendation: The proposed action would not result in any undue or unnecessary environmental degradation. Portions of the subject land and adjacent land have been used for similar purposes and all present and potential uses and users have been considered.

Prepared by:

/s/Irene M. Gonzales 10/31/2006
Irene M. Gonzales Date
Realty Specialist

Prepared by:

/s/ Michael McGee 9/26/06
Michael McGee Date
Hydrologist

I Concur:

/s/ Howard Parman 09-26-2006
Howard Parman Date
Environmental Coordinator

Decision: The recommendation and rationale are adopted as my decision.

Finding of No Significant Impact: Based on the analysis of potential environmental impacts contained in the attached environmental assessment, I have determined that impacts are not expected to be significant and an environmental impact statement is not required.

Compliance and Monitoring

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

/s/Larry D. Bray

Larry D. Bray
Assistant Field Manager, Lands and Minerals

November 2, 2006
Date

Bureau of Land Management, Roswell Field Office
BUREAU OF LAND MANAGEMENT
ROSWELL FIELD OFFICE
ROSWELL, NM 88201

ENVIRONMENTAL ASSESSMENT
EA# NM-510-2006-185
Right-of-Way NM 114117

Applicant: Village of Capitan
P. O. Box 246
Capitan, NM 88316

Location:
T. 9 S., R. 15 E., Lincoln, County, New Mexico, N.M.P.M.:
Section 7: SW1/4SW1//4;
Section 18, NW1/4NW1/4.

Preparer: Irene Gonzales & Michael McGee

August 30, 2006

I. INTRODUCTION

A. Need for the Proposed Action

The proposed supplemental well will primarily serve as a back up well should the two primary groundwater wells fail. The two existing groundwater wells provide the Village of Capitan with its only source of water. The proposed supplemental well will provide the Village of Capitan with an alternate means of supplying water to the Village of Capitan if the two existing groundwater wells encounter problems.

B. Conformance with Land Use Plan

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

C. Relationship to Statues, Regulations, or Other Plans

The proposed action does not conflict with any known State or Local planning or zoning ordinance. The authority for this action is the Federal Land Policy and Management Act of 1976.

II. DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES

A. Proposed Action

On July 20, 2006 the Village of Capitan filed a right-of-way application for drilling of a water well that would serve the Village of Capitan. On September 6, 2006 an amended application was submitted. The application was completed on September 25, 2006 upon receipt of the cultural survey.

The Village of Capitan made an application with the New Mexico Office of the State Engineer for Permit to Change Location of Well from private land located in the SESESE of Section 12, T. 9 S. R. 14 E., onto public land located in the NWNWNW of Section 18 of T. 9 S., R. 15 E., Lincoln County, New Mexico, NMPM (See Exhibit I). The New Mexico Office of the State Engineer has stated that they will approve the Village of Capitan's Application for Permit to Change Location of Well upon receipt of an approved BLM right of way that is issued to the Village of Capitan for this groundwater well.

The proposed action is for a groundwater well location drilling site approximately 50 feet by 50 feet. Upon completion of the well a 10-foot by 10-foot chain link fence will be placed around the well head. The water well would be located approximately 150 feet southwest of Highway 380. Related structures and facilities would include an underground 480-volt electric line and a 6 inch underground water pipeline to connect the existing system to the proposed water well. The underground 480-volt electric line will be approximately 150 feet in length. The underground 480-volt electric line will begin at the highway right of way fence boundary and terminate at the groundwater well location. The entire length of the powerline that is installed on public land will be buried. The underground water pipeline will be approximately 150 feet in length. The power line and pipeline would be buried to a depth of 36 inches. The above ground 3-phase power line will be located within the Highway right-of-way for a distance of 3,400 feet.

The equipment that will be present on the location during drilling of the groundwater well will be a water well drilling rig, a backhoe for water and power line installation, a temporary pond for tailings, a water truck for removal of water from tailings pond, a dump truck to remove tailings and utility pickups.

The right-of-way would consist of a pad site that measures approximately 50-feet by 50-feet containing 0.057 acres, an underground power line and pipeline linear right-of-way 30 feet wide and approximately 150 feet in length containing 0.103 acres.

The proposed action is in Lincoln County, New Mexico. The legal land description is:

T. 9 S., R. 15 E., Lincoln, County, New Mexico, N.M.P.M.:
Section 7: SW1/4SW1//4;
Section 18, NW1/4NW1/4.

A field examination was conducted by Dan Baggao and Michael McGee.

B. Alternatives

I. No Action

Under this alternative the application would be rejected. The supplemental well site as proposed is located in an area next to an existing primary well site maximizing multiple occupancy as directed in Roswell Resource Management Plan (RMP).

There are no alternate locations which would have significantly less environmental impacts or any clear advantages over the proposed action. Therefore the alternative of changing the location of the project is not analyzed further.

III. AFFECTED ENVIRONMENT

General Setting. The proposed action is located approximately four miles southeast of the Village of Capitan on US Highway 380.

Both the surface and mineral estates are in public ownership. An inspection of the Master Title Plats revealed the following title information:

Right-of-way - NM 65888, water well site and pipeline held by the Village of Capitan.

Right-of-way – NM 97025, a supplemental (backup) water well site held by Village of Capitan.

Right-of-way - NM 67290, power line right-of-way held by

Affected Resources. The following critical elements have been evaluated and are either not present or are not affected by the proposed action or the alternatives in this EA.

- Farm Lands (Prime and Unique)
- Floodplains
- Native American Religious Concerns
- Threatened or Endangered (T&E) Species (plant & animal)
- Wastes, Hazardous and/or Solid
- Wetlands and Riparian Zones
- Wild and Scenic Rivers
- Wilderness

The impact of the proposed action and alternatives to minority or low-income populations or communities has been considered and no significant impact is anticipated.

A. Air Quality:

The area of the proposed action is considered a Class II air quality area. A Class II area allows moderate amounts air quality degradation. The primary sources of air pollution are dust from blowing wind on disturbed or exposed soils and exhaust emissions from motorized equipment.

B. Soil

The Soil Survey of Lincoln County, New Mexico,(USDA Soil Conservation Service 1980) was used to describe and analyze impacts to soil from the proposed action. The soil map units represented in the project area are:

The proposed well site is in an area of the soil type Deacon Loam, with a slope of 0 to 8 percent. Permeability is moderately slow, runoff is medium and the hazard of water erosion is moderate. The hazard of soil blowing is high.

C. Vegetation

The vegetation found in the proposed project area is mainly pinyon pine(*Pinus edulis.*), one-seed juniper (*Juniperus monosperma*), blue grama (*Bouteloua gracilis*), and annual forbs.

D. Range/Livestock Grazing

The proposed project is not located within a grazing allotment.

E. Areas of Critical Environmental Concern (ACECs)

Fort Stanton is designated as an ACEC under the Roswell Resource Management Plan. Management of public land resources within the ACEC follows guidance from the Ft. Stanton ACEC Final Activity Plan (NM-060-2000-0141).

F. Wildlife

Key wildlife species utilizing the project area include mule deer, pronghorn antelope, raptor species, coyote, ground squirrel, gopher, badger, and numerous non-game avian species. See the Fort Stanton Habitat Management Plan for a complete list of wildlife species occupying the Fort Stanton area.

G. VRM/Recreation

Visual Resource Management:

Facilities that rise above eight feet, would provide a geometrically strong vertical and horizontal visual contrast in form and line to the characteristic landscape and vegetation, which have flat, horizontal to slightly rolling form and line.

Under visual resource Class III, the method for repeating the basic elements would be to remove strong vertical and horizontal contrast through use of low-profile facilities as reflected in the Roswell RMP (1997, p. AP1-4). Depending on the production nature of the well site, multiple low-profile condensate and/or oil or produced water tanks would be necessary to accommodate the project.

Through color manipulation, by painting well facilities to blend with the rolling to flat vegetative and/or landform setting with a gray-green to brownish color, the view is expected to favorably

blend with the form, line, color and texture of the existing landscape. The flat color Juniper Green from the standard environmental colors also closely approximates the brownish color of the setting. All facilities, including the well house, would be painted this color. Painting Stipulation: Juniper Green

The construction of an access road and other ancillary facilities, other than facilities greater in height than eight feet, would slightly modify the existing area visual resources. To further implement visual goals of a Class III setting, the well pad and pits would be designed to reduce vegetative and soil disturbance with the pits either dug provided as steel pits, black, gray or brush brown in color. The access road, well pad, pit(s) and berm(s) would be similar to the texture and horizontal line found throughout the setting. This strategy would be generally acceptable to the various visitors and workers in this setting.

Cumulative adverse visual impacts can be avoided by gradually moving into a more appropriate vegetative/landform setting color scheme. Facilities with low-profile horizontal line and form would facilitate favorable blending as older facilities go out of production and are removed.

Recreation:

The water well activities would have little or no affect on recreational opportunities within this area. Large blocks of pubic land would allow recreationists to use it and avoid water well facilities within the area.

Recreational opportunities occurring in the proposed project are hunting, hiking, horseback riding, mountain biking, sightseeing, camping, picnicking and wildlife viewing. Animals hunted include mule deer, pronghorn, elk, quail, coyote and rabbit.

Cave/Karst:

While the proposed action is located in the High Potential Karst Area, no surface cave/karst features were observed in the immediate vicinity of the proposed actions.

H. Cultural Resources

An archaeological inventory survey has been completed. The BLM log number for this survey is 06-R-067-A. No cultural material was found; therefore there will be no effect to cultural resources.

I. Water Resources

The proposed groundwater well will be drilled to a total depth of approximately 650 feet and it will be developed in the San Andres Limestone. The proposed groundwater well is a replacement well for groundwater well H 685-S-3 located in T. 9 S., R. 14 E., Section 12, SESESE. The Village of Capitan commissioned John Shomaker and Associates, Inc, to complete a hydrology report for the groundwater replacement well (See Exhibit H). The Village's two existing wells the H 685-S-4 located in T. 9 S., R. 15 E., Section 18 NESWNE well and the H 685-S-2 well located in T. 9 S. R. 15 E., Section 18

NWSENE are also developed in the San Andres Limestone. The San Andres is overlain by the Artesia Group – Grayburg Formation, which in turn, is overlain by Santa Rosa Sandstone. Water zones also exist in these formations. The Village is presently relying on the H 685-S-4 well and the H 685-S-2 wells as its sole source of water. The proposed groundwater well will be used as a backup source for water for the Village of Capitan if problems occur with the S-4 and S-2 groundwater wells.

The water quality parameters of groundwater well H-685-S4 located in T. 9 S., R. 15 E., Section 18 232, are 1,100 mg/L TDS; 1,400 mmhos/cm electrical conductivity; 170 mg/L total alkalinity; and 8.05 pH. The quality and quantity of water from the proposed well is expected to be similar to the quality and quantity of the water from the S-4 well.

The only surface water near the proposed action is Salado Creek. It flows west to east and is approximately 1000 feet from the site of the proposed well at its nearest point. The creek lies at the bottom of an eight percent slope about 80 feet below the well site.

J. Invasive, Non-native Species: There are no known populations of invasive or non native species within the project area.

IV. Environmental Impacts

Impacts of the Proposed Action.

This environmental assessment addresses impacts associated with the proposed action, namely drilling and completing a municipal water well for use as a back-up to the Village of Capitan's existing groundwater wells H 685-S-4 and H 685-S-2. The abandoned groundwater well H 685-S-3 is located on private surface. Therefore, the only impacts due to the proposed action are those associated with surface disturbing activities and drilling the new well bore.

Air quality would temporary be impacted with pollution from exhaust emissions, chemical odors, and dust that would be caused by the motorized equipment used to construct the water well pad, and by the drilling rig that will be used to drill the well. Dust dissemination would discontinue upon completion of the construction phase of the well pad. Air pollution from the motorized equipment would discontinue at the completion of the drilling phase of the operations. The winds that frequent the southeastern part of New Mexico generally disperse the odors and emissions. The impacts to air quality would be greatly reduced as the construction and drilling phases are completed.

The construction of the access road and well pad would physically disturb about .009 acres of topsoil and would expose the substratum soil. The exposed soil would be susceptible to wind blowing and water erosion. Surfacing the exposed soil on the access road and well pad would minimize these impacts. The impact to the soil would be remedied upon reclamation of the well when vegetation re-establishes.

Additional soil impacts associated with lease development would occur when heavy precipitation causes water erosion damage. When water saturated segment(s) on the two track access road become impassable, vehicles may still be driven over the road. Consequently, deep tire ruts would develop. The access road will be maintained as a two track road.

Impacts from the proposed action are minimal and short-term in nature. Soil and rock movement would occur primarily during construction activity. Increased use of the BLM easement and access road would cause damage to the road. Total removal of vegetation would take place in the immediate

area of the site containing the water well facilities and the location of buried powerline and pipeline. However, even if disturbance occurs over the entire 50-foot by 50 foot right-of-way limits, less than one acre of vegetation would be removed. However, some soil loss will occur from soil blowing winds, as a natural result from exposing of soil during construction of the site. Some vegetation would be crushed by vehicles during installation of the power poles. A reduction in AUMs would not occur.

There are no known populations of invasive or noxious weed species on the proposed access road and well pad (pipeline, rights-of way, fence line etc.)

Infestations of noxious weeds can have a disastrous impact on biodiversity and natural ecosystems. Noxious weeds affect native plant species by out-competing native vegetation for light, water and soil nutrients. Noxious weeds cause estimated losses to producers \$2 to \$3 billion annually. These losses are attributed to: (1) Decreased quality of agricultural products due to high levels of competition from noxious weeds; (2) decreased quantity of agricultural products due to noxious weed infestations; and (3) costs to control and/or prevent the noxious weeds.

Further, noxious weeds can negatively affect livestock and dairy producers by making forage either unpalatable or toxic to livestock, thus decreasing livestock productivity and potentially increasing producer' feed and animal health care costs. Increased costs to operators are eventually borne by consumers.

Noxious weeds also affect recreational uses, and reduce realty values of both directly influenced and adjacent properties.

Recent federal legislation has been enacted requiring state and county agencies to implement noxious weed control programs. Monies would be made available for these activities from the federal government, generated from the federal tax base. Therefore, all citizens and taxpayers of the United States are directly affected when noxious weed control prevention is not exercised.

Impacts to Salado Creek are not expected because the creek is a long distance away, the slope is adequately vegetated to filter sediment, and the surface disturbance is confined to a small area.

No significant impacts are anticipated or will result under the proposed action to the Fort Stanton ACEC.

Impacts from the proposed construction activity may cause temporary disruption of wildlife activity within the immediate vicinity of the project area. More mobile species such as small mammals and birds would temporarily leave the site during actual construction/maintenance activities but should return in a short period of time.

Visual resources would not be significantly affected since the proposed right-of-way is located adjacent to the existing primary well site area. The proposed well site right-of-way would have minimal to no impact on the current recreational uses of the area.

No significant impacts are expected to ground water due to the proposed action. Water zones in the Santa Rosa Sandstone and Artesia Group would be cemented off from the San Andres Limestone.

Village is presently relying on the H 685-S-4 well and the H 685-S-2 well as its sole source of water. The application for a back-up well in the same vicinity suggests that they will continue to rely heavily on this source in the future. The Village's population has increased rapidly in recent years and continued growth is expected. Increasing water demand will challenge the Village to provide an adequate water supply to its residents.

Though the H 685-S-4 well and the H 685-S-2 wells has provided a dependable high-quality water supply to the Village since 1985, it is questionable whether the well could sustain increased pumping rates without its quality being impaired. The H 685-S-3 wells casing has failed and high sulphate groundwater has entered into the casing of the well at a depth of approximately 125 feet which has contaminated the groundwater. The cost to redrill the H 685-S-3 well is possible but the costs would be more than drilling a new groundwater well at a new location. The contamination that occurred in the H 685-S-3 well is not likely to occur in the proposed well on public land, because of the required casing.

Impacts of the Alternatives.

The "No Action" alternative denies the application. This alternative would result in no environmental impacts but would leave the Village of Capitan without a supplemental well to pump water to the citizens of Capitan should the primary water well pump fail. There have been no significant or unmitigatable impacts identified which would warrant selection of this alternative.

The alternative location for this well would be to the approximately 400 feet northwest located on private land. This alternate location would be located up on a hill where the well site and facilities would dominate the view of highway traffic.

Mitigating Measures

The well would be completed according to the New Mexico Office of the State Engineer requirements for artesian completion.

Residual Impacts

Land adjacent to the proposed project has already been disturbed by a primary water well, underground powerline and pipeline and US Highway 380. It is anticipated that land along the proposed route as well as adjacent land, will continue to be used for a variety of minor right-of-way facilities, therefore, the cumulative effects of the project on the identified resources are not significant.

V. Consultation and Coordination

The comments and suggestions expressed during the consultation have been incorporated into this EA.

Issuing Office
RDO - Roswell Resource Area
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT
SERIAL NUMBER: NM NM-114117

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Village of Capitan
P. O. Box 246
Capitan, NM 88316

receives a right to construct, operate, maintain, and terminate a supplemental water well, and underground pipeline as specified in the completed application filed September 25, 2006, on public lands described as follows:

T. 9 S., R. 15 E., Lincoln, County, New Mexico, N.M.P.M.:
Section 7: SW1/4SW1//4;
Section 18, NWNW.

The lands described above contain a total length of miles.

- b. The right-of-way or permit area granted herein is 3,400' feet in length and 30 feet in width for the buried pipeline. If a site type facility, the 50' X 50' water well location facility contains 0.057 acres.
- c. This instrument shall terminate on December 31, 2015, 10 years from the effective date of this grant unless prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: N/A (government entity)

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 180 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibits A, B, C, D and E dated September 25, 2006, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- g. The holder agrees to allow the Bureau of Land Management to divert up to 30,000 gallons of water per year from the holder's water well system for use for water facilities located on the Fort Stanton ACEC.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

(Signature of Holder)

(Signature of Authorized Officer)

(Title)

Assistant Field Manager, Lands and Minerals
(Title)

(Date)

(Date)

BLM Serial Number: NM 114118 Village of Capitan
Company Reference: Water Well Access Road

STANDARD STIPULATIONS FOR PERMANENT RESOURCE ROADS
THE ROSWELL DISTRICT, BLM

The holder/grantee/permittee shall hereafter be identified as the holder in these stipulations. The Authorized Officer is the person who approves the Application for Permit to Drill (APD) and/or Right-of-Way (ROW).

GENERAL REQUIREMENTS

The holder shall minimize disturbance to existing fences and other improvements on public domain surface. The holder is required to promptly repair improvements to at least their former state. Functional use of these improvements will be maintained at all times. The holder will make a documented good-faith effort to contact the owner of any improvements prior to disturbing them. When necessary to pass through a fence line, the fence shall be braced on both sides of the passageway prior to cutting of the fence.

Holder agrees to comply with the following stipulations:

1. ROAD TRAVELWAY WIDTH:

On a nonsurfaced road the travelway of the road shall not exceed the construction of a 14 foot wide road.

2. NON-SURFACING:

A. Surfacing material is not required on the new access road travelway. The Holder has the option to surface the access road if the Holder considers it necessary. Should the Holder elect to surface the access road, the Holder shall submit a Right of Way. The Holder shall obtain written approval from the Authorized Officer prior to surfacing (Call 505-627-0340). The surfacing material, depth and type, will be determined at the time of approval.

B. The nonsurfaced access road shall have a travelway which creates the smallest possible surface disturbance and does not exceed 14 feet in width. No drive-arounds with the exception of turnouts, are allowed outside the travelway.

C. The Authorized Officer reserves the right to require surfacing of the access road at any time if deemed necessary. Surfacing may be required in the event the road deteriorates, erodes, road traffic increases, or it is determined to be beneficial for future field development. The surfacing depth and type of material will be determined at the time of notification.

D. If the new access road is not surfaced, no improvements shall be made on the access road other than to remove vegetation as necessary, road irregularities, safety issues, or to fill low areas that may sustain standing water.

5. SURFACING.

Surfacing of the road or those portions identified on the attached map may, at the direction of the Authorized Officer, be required, if necessary, to maintain traffic within the right-of-way with caliche, gravel, or other surfacing material which shall be approved by the Authorized Officer. When surfacing is required, surfacing materials will be compacted to a minimum thickness of six (may vary) inches with surfacing material. The width of surfacing shall be no less than the driving surface. Prior to using any mineral materials from an existing or proposed Federal source, authorization must be obtained from the Authorized Officer.

6. GATES.

A steel frame gate will be installed according to the diagrams in Exhibit C. This gate will be locked at all times. The Village of Capitan and the Bureau of Land Management will install their own combination locks on the gate. Upon termination of the right of way the gate will be removed and the fence will be restored to its original condition.

7. MAINTENANCE.

The holder shall maintain the road in a safe, usable condition. A maintenance program shall include, but not be limited to blading, ditching, culvert installation, culvert cleaning, drainage installation, cattleguard maintenance, and surfacing.

8. PUBLIC ACCESS.

Public access along this road will not be allowed. The gate will be locked and closed to public use.

9. CULTURAL RESOURCES

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.

10. SPECIAL STIPULATIONS:

- A. Upon relinquishment of the right of way all equipment will be removed from public lands.
- B. Upon abandonment of the water well the artesian well will be immediately plugged according to New Mexico Office of the State Engineer regulations:

BLM Serial Number: NM 114117 Village of Capitan

Company Reference: Water Well and Access Road

ROAD and PAD REHABILITATION SPECIFICATIONS

A. Upon abandonment of this road and pad all surfacing material shall be removed from the road and pad. Removal activities shall limit the mixing of surfacing material with underlying soils. After the surfacing material has been removed, the road and pad shall be ripped to a depth of 10 inches. The removed material can be used on existing roads in need of maintenance, or hauled to a material pit for disposal. If the material is to be used on a road or hauled to a material pit, contact the BLM Authorized Officer at (505) 627-0272 for possible additional requirements. The road shall be recontoured to as near the original topography, as possible.

Reseed the entire area with the following mixture (to be determined by DPC): Soil:

All disturbed areas are to be seeded with the seed mixture listed above. The seed and any fertilizer involved are to be applied together by broadcasting with a seed spreader, then harrowed for seed coverage. Use of a seed drill is acceptable. Appropriate measures will be taken to ensure that the seed/fertilizer mixture is evenly and uniformly planted. There will be no primary or secondary noxious weeds in the seed mixture. Seed will be tested for viability and purity in accordance with State law(s) within nine months prior to purchase. Commercial seed will be either certified or registered and the seed mixture container will be tagged in accordance with State law(s). The seed will be available for inspection by the Authorized Officer. The seeding will be repeated until a satisfactory stand is established as determined by the Authorized Officer. Evaluation of growth will not be made before completion of the first growing season after seeding. Waiver of this requirement would be considered if diligent attempts to re vegetate a site have failed and the Authorized Officer determines that further attempts would be futile.

Normally, the best time for seeding is between June 15 and September 15. However, the grantee may reseed immediately after completing surface abandonment procedures. The BLM reserves the right to require reseeded at a specific time if seed does not germinate after one complete growing season. Contact the appropriate resource area office at 627-0272 at least two working days before the start of reseeded activities or if there are any questions

BURIED 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. **SEE PSGE 4.**

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 pipeline will be buried with a minimum cover of 36 inches between the top of the pipe and ground level.

11. Blading of all vegetation shall be allowed. Blading is defined as the complete removal of brush and ground vegetation. Clearing of brush species will be allowed. Clearing is defined as the removal of brush while leaving ground vegetation (grasses, weeds, etc.) intact. Clearing is best accomplished by holding the blade 4 to 6 inches above the ground surface. In areas where blading and/or clearing is allowed, the maximum width of these operations will not exceed 30 feet.

12. 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

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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.

13. Vegetation, soil, and rocks left as a result of construction, drilling, or maintenance activity will be randomly scattered over the project area and will not be left in rows, piles, or berms, unless otherwise approved by the Authorized Officer. A berm will be left over the ditch line to allow for settling back to grade.

14. The Holder shall reseed all surface disturbed by construction activities. Seeding shall be done according to the attached seeding requirement (Exhibit E), using the attached seed mixture (as determined to meet Desired Plant Community objectives).

15. 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 Juniper Green.

16. 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.)

17. 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.

18. The period of time that any trenches or other excavations are kept open will be held to the minimum compatible with construction requirements. Open trenches will have ramps, bridges, or earthen plugs, at least six feet wide, every one-quarter mile to pass livestock and wildlife.

19. Special Stipulations:

* 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 3" 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- 114117 .