

DECISION RECORD

DOI-BLM-NV-S010-2009-1009-EA

**BERMUDA 3745 ZONE PUMPSTATION DISCHARGE
PIPELINE, PHASE II, PARTIAL REALIGNMENT**

**BUREAU OF LAND MANAGEMENT
LAS VEGAS FIELD OFFICE
DIVISION OF LANDS
LAS VEGAS, NV**

DATE: OCTOBER 13, 2009

DECISION RECORD
for
Bermuda 2745 Zone Pumping Station Discharge Pipeline, Phase II, Partial
Realignment

EA No.: DOI-BLM-NV-S010-2009-1009-EA
BLM Serial Number: N-78907/B/ & N-78907-01

CONFORMANCE/COMPLIANCE

The proposed project is in compliance with the Federal Land Policy and Management Act (FLPMA) of 1976 and all Bureau of Land Management (BLM) land uses in Southern Nevada, the Las Vegas Resource Management Plan (RMP), the Endangered Species Act, National Historic Preservation Act, the Clean Water Act, and is consistent with the applicable plans and policies of county, state, tribal and federal agencies. I have determined that the proposed action is in conformance with the approved land use plan.

DECISION/SELECTED ALTERNATIVE

The BLM Las Vegas Field Office has determined that the permanent installation of a 48-inch diameter potable water pipeline associated with the Bermuda 2745 zone pumping station discharge pipeline, phase II, partial Right-of-Way (ROW) realignment and the associated short term ROW for related construction activities near Sloan, Nevada would not result in significant impacts to the environment. Therefore, an Environmental Impact Statement (EIS) is not required and a Finding of No Significant Impact (FONSI) has been prepared. The proposed project is in compliance with the Federal Land Policy and Management Act (FLPMA) of 1976 and all BLM land uses in the Las Vegas Resource Management Plans (RMP), the Endangered Species Act, National Historic Preservation Act, and the Clean Water Act.

An Environmental Assessment (EA) was carried out in compliance with the National Environmental Policy Act (NEPA) to evaluate the proposed access roadways that would satisfy the project purpose and need.

The selected proposed action alternative includes the installation of approximately 3,630 feet of 48-inch diameter pipeline. The 48-inch diameter pipeline is composed of mortar-lined, coated steel pipe (MLCP). Installation of the pipeline requires additional temporary use areas to accommodate the large amount of equipment and materials.

The selected alternative would minimize impacts to the desert tortoise (*Gopherus agassiz*), a threatened species. The Las Vegas Valley Water District (LVVWD) will comply with the terms and conditions that are set forth in the Biological Opinion 1-5-96-F-23R.3. A special use permit will be acquired from Clark County Comprehensive Planning Department as required.

It is my decision to implement the proposed action with the following mitigation measures.

MITIGATION MEASURES

Threatened and Endangered Species

Only one federally listed species, the Desert Tortoise, has been identified in the project area and there is no designated critical habitat. All activities within ROW area shall be in compliance with the terms and conditions of Biological Opinion File No. 1-5-96-F-23R.3

Vegetation

No rare plants exist within the project footprint. However, numerous cacti and yucca might be impacted by this proposed action. This plant material must be salvaged and transplanted out of harms way, but still within the right of way. Transplanted cacti and yucca shall be planted in a way that provides for a natural landscape, not in a row.

Liability

The Holder, as a political subdivision of the State of Nevada, shall be held liable in accordance with the provisions of 43 CFR 2807.13.

Hazardous Materials

If any Hazardous Material will be used, produced, stored, or transported on or within the ROW area or any facilities located thereon, or used in the construction, maintenance, or termination of the ROW or any of the facilities, the Applicant shall submit a Plan of Development in accordance with the requirements enumerated in the BLM Handbook 2801-1.

Migratory Birds

Migratory Bird Treaty Act of 1918 and subsequent amendments (16 U.S.C. 703-711), the Holder agrees to survey for nests of migratory birds between the periods of March 15 and July 30 and should a nestling be found the Holder will use properly qualified personnel, as agreed upon by the BLM and the Holder, to avoid the nest or minimize adverse impact to the nest and nestling, including relocation of the nest if appropriate. The Holder will consult with the Authorized Officer on a case by case basis to determine the appropriate minimization efforts.

In addition the following standard mitigation measures as they pertain to the following issues/concerns are also included:

- Discovery of any cultural and/or paleontological resources.
- Weed control.
- Compliance with applicable local, state, and federal environmental laws and regulations.
- ROW to be maintained in a sanitary condition.
- Project boundary marking.
- Pesticide use and storage.
- Maintenance of on-site records.
- Dust control and soil stabilization.

- Soil reclamation
- Mineral material removal/disposal

PUBLIC INVOLVEMENT

Consultation and coordination was carried out with the federal, state, and local agencies and interested parties, as follows:

- BLM Las Vegas Field Office staff
- Joseph Freeman- Las Vegas Valley Water District
- William Garrett-Ventajas, LLC
- Central Telephone
- Sprint Communications Co. LP
- Department of Transportation
- Nevada Energy
- Clark County
- City of Henderson
- Calnev Pipeline Co.

Comments providing substantive new information relevant to the analysis were included in the EA, FONSI and resultant mitigation measures and stipulations.

RATIONALE FOR DECISION

1. The proposed action is consistent with promoting the utilization of public lands in common with respect to engineering and technological compatibility and land use plans (43 CFR 2801.2(c)).
2. The proposed action supports coordination with State and local governments, interested individuals and appropriate quasi-governmental entities (43 CFR 2801.2(d)).
3. The recommendation to authorize ROW grants on Federal lands meets the stated objective RW-1 and RW-1-h in the RMP approved October 5, 1998.

PROTEST AND APPEAL OPPORTUNITIES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at Title 43 of the Code of Federal Regulations (CFR), Part 4, and the information provided in BLM Form 1842-1.

If an appeal is taken, your notice of appeal must be filed in the Las Vegas Field Office, Bureau of Land Management, U.S. Department of the Interior, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130, 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 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, pursuant to Title 43 of the Code of Federal Regulations, Part 4, Subpart E, 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 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. 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 regulations, 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.



Kimber Liebhauser
Assistant Field Manager
Division of Lands



Date