

UNITED STATES DEPARTMENT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
Billings Field Office  
5001 Southgate Drive  
Billings, MT 59101

**CATEGORICAL EXCLUSION REVIEW AND APPROVAL**

**BACKGROUND**

**BLM Office:** Billings Field Office

**NEPA Number:** DOI-BLM-MT-A010-2016-0004-CX

**Project Name:** Black Hills Northwest Wyoming Gas Utility Company, LLC., Assignment

**Case File/Allotment/Serial Number:** MTM 066807

**Scoping Date:** 12/7/15

**Project Location (including county):**

Principal Meridian, Montana  
T. 9 S., R. 23 E.,  
Sec. 33, Lots 1, 2, N1/2SE14;  
Sec. 34, Lot 1, NW1/4SW1/4;

The area described contains 8.758 acres in Carbon County.

**DESCRIPTION OF THE PROPOSED ACTION**

Energy West Development currently holds a perpetual right-of-way for an Oil & Gas pipeline in the above described lands in Carbon County, Montana. The pipeline is 7,630 feet in length, 50 feet wide and varies between 3½ to 4½ inches in diameter. Approximately one half of this ROW falls within the Silvertip utility corridor. Black Hills Northwest Wyoming Gas Utility Company, LLC., submitted an application for assignment of this ROW from Energy West Development.

This action is being considered per regulation in 43CFR2807.21(a) which cites “With BLM’s approval, you may assign, in whole or in part, any right or interest in a grant.

The purpose for this proposed action is to serve the need of Black Hills Northwest Wyoming Gas Utility Company, LLC., by reviewing the request to assign this existing ROW to them. No material changes will be made to the pipeline system and will continue operations as previously operated by Energy West Development in compliance with all federal and state regulations.

The ROW is currently in good standing. The rent has been paid up through December 31, 2018. A recent compliance check of the area revealed no issues.

Black Hills Northwest Wyoming Gas Utility Company, LLC., has submitted all the proper paperwork including articles of organization for the limited liability company.

**LAND USE PLAN CONFORMANCE:**

**Land Use Plan Name:** 2015 Billings Resource Management Plan and Rocky Mountain Record or Decision

**Date Approved/Amended:** September 2015

**Title V of the Federal Land Policy and Management Act of October 21, 1976 (90Stat.2776; 43 U.S.C. 1761)**

The proposed plan is in conformance with the **2015 Billings Resource Management Plan and Rocky Mountain Record of Decision; Chapter 3 Management Decisions** as follows:

**MD R\RLP 1: Analyze requests for land use authorizations and apply mitigation measures as appropriate (Appendix H).**

**MD R\RLP 7: Terms and conditions for ROW's corridors and development areas will incorporate BMPs.**

**COMPLIANCE WITH NEPA**

The proposed action described above generally does not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS), as it has been found to not individually or cumulatively have significant effect on the human environment. The applicable Categorical Exclusion reference is Chapter 11 of the Department of Interior's Manual Part 516, Appendix 1 E. Realty (9) which states:

*Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorization.*

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and, as documented below, none of the extraordinary circumstances described in 43 CFR 46.215 apply.

**Extraordinary Circumstances**

**The project would:**

1. Have significant impacts on public health or safety.

<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> There would be no impacts on public health or safety as this ROW grant has been in place since 1961 and no problems have been identified as a result of granting this ROW in 1961.
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2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas.

<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> There would be no impacts to natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks, sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas. The proposed action consists of a transfer of ownership of the ROW. There are no surface disturbing or construction activities occurring as a result of the proposed action.
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3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].

<b>Yes</b>	<b>No</b>	<b>Rationale:</b> The proposed action does not involve or result in highly controversial environmental effects or unresolved conflicts concerning alternative uses of available resources, as the proposed action consists of a transfer of ownership of the existing pipeline ROW.
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4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> The proposed action would not result in highly uncertain and potentially significant environmental effects nor would it involve unique or unknown environmental risks. The proposed action consists of a transfer of ownership of an existing pipeline ROW.
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5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> The proposed action would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects. The proposed action consists of a transfer of ownership of an existing pipeline ROW.
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> The proposed action does not have a direct relationship to any other actions with individually insignificant but cumulatively significant environmental effects. The proposed action is limited in scope and consists of a transfer of ownership of the existing pipeline ROW.
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> There would be no impacts to properties listed or eligible for listing on the NRHP as this is a ROW assignment with no ground disturbing activities.
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale</b> This is an existing utility with no additional rights conveyed beyond those granted by the original authorization. Future considerations may be required for protections of sage grouse habitat if it is determined the Rights-of-Way are affecting sage grouse populations within GRSG Priority Habitat Management Areas (PHMA).
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> The proposed action would not violate Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.
10. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).		

<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> The proposed project would not have a disproportionately high and adverse effect on low income or minority populations. There are no low income or minority populations present that would be effected as a result of the proposed action. Health and environmental statutes would not be compromised.
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> The proposed project would not limit access to or ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites. No Native American Religious Concerns are known in the area, and none have been noted by Tribal authorities. Should future consultations with Tribal authorities reveal the existence of such sensitive properties, appropriate mitigation and/or protection measures may be undertaken.
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> To mitigate the introduction or spread of noxious and invasive weeds, all motorized equipment would be power washed prior to entering sites. All reasonable actions to inhibit the introduction of invasive species would be taken.

**INTERDISCIPLINARY ANALYSIS:**

BLM team members conducting or participating in the preparation of this CX are listed on the cover sheet.

Environmental Coordinator: Carolyn Shene-Bybee Date: 1/20/2016

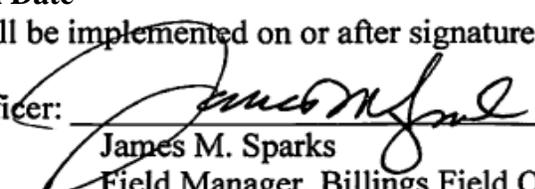
**Decision and Rationale on Action** Based on a review of the requested action described above and field office staff recommendations, it is my decision to approve the assignment of Energy West Inc. to Black Hills Northwest Wyoming Gas Utility Company, LLC., rights-of way as described in the proposed action. Black Hills Northwest Wyoming Gas Utility Company, LLC., LLC., has agreed to comply with and be bound by all the terms, conditions, and stipulation of the original right-of-way grant under the Serial Number MTM 066807.

Some Rights-of-Ways are within GRSG Priority Habitat Management Areas (PHMAs) and may require special considerations or management in the future for the protection of sage grouse habitat if it is determined the Rights-of Way are affecting sage grouse populations.

In addition, I have reviewed the plan conformance statement and have determined that the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required under the National Environmental Policy Act (as documented in the attached CX, NEPA Compliance [Section C]).

**Implementation Date**

This project will be implemented on or after signature of Authorized Officer:

Authorized Officer:  Date: 1-20-16  
James M. Sparks  
Field Manager, Billings Field Office

**Administrative Review or Appeal Opportunities**

The authority for this decision is contained in the 43CFR2800 The statutory authority underlying the regulation in this part is the Federal Land Policy and Management Act of 1976 Section 501, (43 U.S.C 1701 et seq.).

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. 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.

This decision shall take effect immediately upon the date it is signed by the authorized officer and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay. Please refer to 43CFR 2800 for appeals on rights-of-way. Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the authorized officer at 5001 Southgate Drive, Billings, MT 59101. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

If you wish to file a petition (request) pursuant to regulations 43 CFR 2801.10 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. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and 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 irreparable harm to the appellant or resources if the stay is not granted,  
and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Field Solicitor, U.S. Department of the Interior, 2021 4<sup>th</sup> Avenue North, Suite 112, Billings, Montana, 59101, not later than 15 days after filing the document with the authorized officer and/or IBLA.

**Contact Person**

For additional information concerning this decision, contact:

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