

Fahn, Patrick J.

From: William McCarthy [wmccarthy@go2e3.com]
Sent: Friday, September 09, 2011 9:55 AM
To: Fahn, Patrick J.
Cc: cmorohl@nd.gov; 'Kline, Jim'
Subject: PU 11-66 GCP: Forest Service Finding of No Significant Impact
Attachments: DN_FONSI_BearPawGardenCreekNGL.DOCX; Bear Paw NGL map on NFS land.pdf

Mr. Fahn,

Attached, please find the U.S. Department of Agriculture, Forest Service document developed for Bear Paw Energy's Garden Creek NGL Pipeline Project (PU 11-66), it is the Finding of No Significant Impact.

Please contact me if you have questions or seek additional information.

Best regards,

Bill McCarthy

E3 Environmental, LLC

651.282.0650 Office

651.319.7456 Mobile

888.414.2048

www.go2e3.com



Enhancing Execution
with Experience



Please consider the environment before printing this e-mail.

33 PU-11-66 Filed: 9/9/2011 Pages: 11
U.S. Department of Agriculture, Forest Service
document

Bear Paw Energy, LLC

Bill McCarthy

DECISION NOTICE
AND
FINDING OF NO SIGNIFICANT IMPACT
Bear Paw Energy, L.L.C.
Garden Creek NGL Pipeline Project

Sections 5, 6, and 7 T147N, R103W, Sections 7, 9, and 10, T147N, R104W, Sections 2, 11, and 12, T147N, R105W, Sections 23, 26, 27, 32, 33, and 34, T148N, R103W, Sections 34 and 35, T148N, R105W, 5th Principle Meridian, McKenzie County, North Dakota

USDA FOREST SERVICE
DAKOTA PRAIRIE GRASSLANDS
MCKENZIE RANGER DISTRICT

Responsible Official: Ronald E. Hecker, District Ranger
McKenzie Ranger District
1901 South Main Street
Watford City, ND 58854

For Further Information Contact: Kim Grotte, Project Leader
McKenzie Ranger District
1901 South Main Street
Watford City, ND 58854
(701) 842-2394, Extension 12
kgrotte@fs.fed.us

NOTES TO REVIEWERS

Equal Employment Opportunity Act - EEO Statement

“The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual’s income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA’s TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202)720-6382 (TDD). USDA is an equal opportunity provider and employer.”

Data Accuracy - The Forest Service uses the most current and complete data available. GIS data and product accuracy may vary. They may be developed from sources of differing accuracy, accurate only at certain scales, based on modeling or interpretation, incomplete while being created or revised, etc. Using GIS products for purposes other than those for which they were created may yield inaccurate or misleading results. The Forest Service reserves the right to correct, update, modify, or replace GIS products without notification. For more information, contact: Dakota Prairie Grasslands, 240 W. Century Ave, Bismarck, ND 58503; (701) 250-4443.

Summary

As the Responsible Official for the Bear Paw Energy, L.L.C. Garden Creek NGL Pipeline Project Environmental Assessment, I have decided to implement the Proposed Action. This document provides the rationale for my decision, summarizes findings in the Environmental Assessment, explains why an Environmental Impact Statement was not prepared, and provides information on how to appeal my decision.

The Decision and Rationale

BACKGROUND

The McKenzie Ranger District received an application from Bear Paw Energy, L.L.C. (Bear Paw) for a Special Use Permit to construct a 10-inch steel natural gas liquids (NGL) pipeline. The pipeline is needed to transport natural gas liquids from the Garden Creek Gas Plant to Bear Paw's rail loading facility located just south of Sidney, Montana. The proposed project is located on National Forest System Lands (NFS) in Sections 5, 6, and 7 T147N, R103W; Sections 7, 9, and 10, T147N, R104W; Sections 2, 11, and 12, T147N, R105W; Sections 23, 26, 27, 32, 33, and 34, T148N, R103W; and Sections 34 and 35, T148N, R105W, all within the 5th Principal Meridian, McKenzie County, North Dakota.

PURPOSE AND NEED

The Dakota Prairie Grasslands (DPG) Land and Resource Management Plan (hereafter referred to as the Grasslands Plan) has identified natural gas pipeline construction and operations as a valid use. It is within the scope of the Forest Service public service to grant special use permits for activities that cannot be reasonably met on private lands and are in the public's interest

(Grassland Plan, pp. 1-26). Therein lies the purpose for this proposed action.

THE SELECTED ALTERNATIVE

As the Responsible Official for this project, I have decided to approve the Proposed Action for the project across NFS lands.

The Proposed Action is to issue a special use permit to Bear Paw to occupy National Forest System lands in order to construct and use a 10-inch natural gas liquids (NGL) pipeline. The proposed pipeline on National Forest System (NFS) lands will be approximately 60,000 feet (about 11.3 miles) long with a 50-foot temporary construction right-of-way. Following construction, the right-of-way will be reduced to a 20-foot right-of-way for operation and maintenance. The pipeline will be buried in a single trench with a minimum of 4 feet of soil cover. The disturbed area will be reclaimed immediately following construction. The new 10-inch pipeline will be constructed of carbon steel with external fusion bond epoxy coating. An integrity management program will be implemented for the project, consisting of an induced current cathodic protection system to control corrosion and extend the life of the pipeline system.

See the attached map of the proposed action.

The following design criteria and monitoring will be applied to the proposed action:

Design Criteria and Monitoring

- The project is designed to follow existing pipelines and roads as much as possible.
- Any crossing of Bay Coulee will be bored under the coulee to protect resources.
- If the project is planned to occur between February 1 and August 15 of 2012 or any subsequent year, a supplemental raptor survey will be conducted to determine any

new raptor activity. Raptor surveys cannot commence until after April 10 to ensure all potential raptor species are included.

- No work will be done during periods of wet soil conditions.
- No construction activities will be allowed from March 1 to July 15 to minimize potential affects to nesting migratory birds.
- No construction activities will be allowed during the sharp-tailed grouse lekking season (March 1-June 15) on segments of the project within 1 mile of an active sharp-tailed grouse display grounds.
- If a whooping crane is sighted within 0.5 miles of the project area, Bear Paw will cease all project activities and contact the U.S. Fish and Wildlife Service; only after coordination with that agency and after the bird have left the area, will project activities resume.
- Disturbed areas will be seeded with a native grass species mix as included with the Special Use Permit (Seed mix #12). The project segment in Section 2, T.147N., R105W., contains clayey and alkaline soils and will be reseeded with a inland salt grass, alkali grass, and western wheat grass at a rate of at least 12 lbs. of pure live seed/acre.
- All vehicles and equipment used in this project will be cleaned with a high-pressure hose prior to entering the Grasslands to prevent the spread of noxious weeds. Construction should begin on the western end of this project with cleaned and washed equipment through Sections 34 and 35, T.148N., R105W., and Section 2, T.147N., R.105W. to avoid dispersal of invasive seed and root fragments into the native plant communities.
- Construct temporary fence around known sensitive plant species populations during

construction and reclamation to ensure that sites are not disturbed.

- Monitoring will include periodic inspections during various phases of the project to ensure compliance with this decision.

In addition, the Standard Special Use Permit Terms and Conditions will be in effect.

RATIONALE FOR MY DECISION

My criteria for making a decision on this project was based on how well the management actions analyzed in the EA addressed the Purpose and Need of the project, Grasslands Plan goals and objectives, management area direction and the standards and guidelines for the project area.

My decision to select the Proposed Action was based on the following:

- The project is consistent with the Grasslands Plan objectives for special uses.
- Field surveys and specialist reports identified that the proposed action would have no impact or would minimally impact wildlife, archeological or botanical resources.
- Public scoping and comment did not reveal any concerns about the project that could not be mitigated.

Public Involvement

The proposal was provided to the public, other agencies and tribes for comment during scoping from May 4, 2011 to May 24, 2011. Input was used in the EA. Legal notice of a 30-day comment period for the EA was published in the Bismarck Tribune

on July 25, 2011. No comments were received.

Summary of the Environmental Analysis

The environmental assessment (EA) for this project, titled Bear Paw Energy, L.L.C. Garden Creek Natural Gas Liquids Pipeline Special Use Application, documents the analysis of the proposed action and a no action alternative. The EA is incorporated by reference into this Decision Notice and Finding of No Significant Impact. A brief summary of the EA is presented here.

Grasslands Plan Direction

The EA and this Decision tier to the 2001 Northern Great Plains Final Environmental Impact Statement for the Dakota Prairie Grasslands Land and Resource Management Plan (Grasslands Plan) and its associated Record of Decision, signed July 31, 2002.

The Dakota Prairie Grasslands-wide goal for special uses is to improve the capability of the Nation's forests and grasslands to provide a desired level of uses, values, products, and services (Grasslands Plan, p. 1-5).

The objectives for minerals and energy resources and special uses are to: 1) Provide opportunities for oil and gas exploration and development consistent with Plan direction; 2) Ensure reclamation provisions of operating plans are completed to standard; and 3) Ensure operations are meeting requirements and are in compliance with the terms of their permits; 4) Respond in a timely manner to applications for special use permits, mineral leasing exploration and development (Grasslands Plan, pp. 1-6 and 1-8).

Standards & Guidelines for Special Uses include: 1) Place all new pipelines underground; 2) Route new pipelines in a manner as to minimize visual impacts and conform to approved corridors, and when these facilities leave corridors, they should be subordinate to the landscape; 3) Approve only special-use applications that cannot reasonably be met on private lands unless it is clearly in the public interest; 4) Minimize disturbance by co-locating roads, pipelines, gathering lines, and power lines for energy resource development (Grasslands Plan, pp. 1-12 and 1-26).

Grasslands-wide Standards and Guidelines for infrastructure are also referenced in the Grasslands Plan (pp. 1-26 and 1-27).

The proposal lies within Management Area (MA) 6.1 – Rangeland With Broad Resource Emphasis.

This MA is primarily a rangeland ecosystem managed to meet a variety of ecological conditions and human needs. Ecological conditions will be maintained while emphasizing selected biological structure and composition that consider the range of natural variability. These lands often display high levels of development, commodity uses, and activity; density of facilities; and evidence of vegetative manipulation. Users expect to see other people and evidence of human activities. Facilities supporting the various resource uses are common. Motorized transportation is common on designated roads and two-tracks. Oil and gas leasing development are allowed. (Grasslands Plan, p. 3-43).

Issues

Public and internal processes were used to determine which issues concerning the proposed action would be addressed in the environmental analysis. No significant issues were identified; however, resources

such as soil; water; threatened, endangered and sensitive species; and cultural resources were addressed in the EA to inform the public and decision maker.

Alternative Development

The alternatives considered in detail were the Proposed Action, previously described, and No Action. Under the No Action alternative, the Bear Paw Energy, L.L.C. Special Use Permit application would not be approved. Bear Paw would not be allowed to construct and operate the natural gas liquids pipeline across NFS lands.

Effects

Cultural resources; soil and water; threatened, endangered and sensitive wildlife and plant species; raptors; and management indicator species were all

analyzed by resource specialists. Direct and indirect effects from the proposed action would all be very small to nonexistent; therefore, the project would not contribute to cumulative impacts to resources. Design criteria and mitigation ensure that the project has little to no impact on resources. The project meets both Grasslands-wide and Management Area direction.

The No Action alternative would have no impacts to any resources, but would not meet the purpose and need of the project.

Comparison of Alternatives

Table 1 summarizes the ability of the two alternatives to meet the purpose and need for the project, and summarizes their impact to resources.

Table 1: Summary comparison of alternatives

<i>Comparison</i>	Proposed Action	No Action
Responds to the purpose and need.	Meets the need for Bear Paw Energy, L.L.C. to have access across NFS lands for their pipelines.	Does not respond to the purpose and need.
Impact to NFS resources.	Has no or very little impact to resources.	Has no impact to resources.

Finding of No Significant Impact

From the results of the site-specific analysis documented in the EA, I find that the Proposed Action is not a major Federal action and will not significantly affect the quality of the human environment, either individually or cumulatively with other activities in the general area. Therefore, an Environmental Impact Statement is not needed. This finding is based on the following factors set forth in 40 CFR 1508.27.

CONTEXT

The setting of this project is in a localized area with implications only for the immediate area. The EA discusses the resources that will be affected by this project and displays the environmental consequences on those resources.

INTENSITY

1. Impacts that may be both beneficial and adverse: Both beneficial and adverse effects have been taken into consideration when making this determination of significance. The action does not rely on beneficial effects to balance potentially significant adverse environmental effects. Impacts

associated with the project are discussed in the EA. These impacts are within the range of those identified by the Grasslands Plan.

2. The degree to which the proposed action affects public health or safety: Proposed activities would not significantly affect public health and safety. Enforcement of air and water quality infractions is within the North Dakota Department of Health's jurisdiction.

There is nothing out of the ordinary concerning public safety and health in regard to permitting this natural gas pipeline.

3. Unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farms, wetlands, wild and scenic rivers, or ecologically critical areas: The geographic area does contain unique cultural or historic resources. There are no parklands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas within the affected area.

4. The degree to which the possible effects on the quality of the human environment are likely to be highly controversial: Based on the involvement of Forest Service resource specialists and members of the public, I do not expect the effects of the selected alternative to be highly controversial in a scientific context.

5. The degree to which the possible effects on the human environment are uncertain or involve unique or unknown risks: Scoping did not identify highly uncertain, unique or unknown risks. The possible effects on the human environment are not highly uncertain nor do they involve unique or uncertain risks. The process for natural gas transportation through pipelines is highly regulated by the Forest Service and North Dakota State agencies to protect the

human environment. We have developed hundreds of miles of natural gas pipeline on the McKenzie Ranger District and I find nothing unique to this proposal that poses a significant risk to human environment.

6. The degree to which the action may establish a precedent for future actions with significant effects or presents a decision in principle about future consideration: This project is not setting a precedent for future actions with significant effects. Natural gas pipelines on the McKenzie Ranger District, Little Missouri National Grasslands are not without precedence and are consistent with Forest Service policy. As stated above, we have developed hundreds of miles of natural gas pipelines on the District, consistent with Forest Service direction.

The Proposed Action represents a site-specific project that does not set precedence for future actions or present a decision in principle about future considerations. Any proposed future project must be evaluated on its own merits and effects.

7. Whether the action is related to other actions with individual insignificant but cumulative significant impacts: The EA discloses the direct, indirect, and cumulative effects of the proposed action. Based on the information presented in the EA, there is no indication that this proposal will result in a cumulatively significant impact to the environment.

8. The degree to which the proposed actions may adversely affect districts, sites, highway structures, or objects listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources: Archeological surveys were completed for the project. The result of the survey was that no historic properties would be affected with the proposed pipeline route. The

projects were cleared to proceed by the Forest Service Archeologist. There will be no direct, indirect or cumulative impacts to cultural or historic resources.

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973:* There are no known resident Threatened or Endangered (T&E) animal or plant species or critical habitat in this segment of the Little Missouri National Grassland. Therefore, this project would have no effect on T&E species.

10. *Whether the proposed action threatens a violation of Federal, State, or local law or requirements proposed for the protection of the environment:* This action meets Federal, State, and local laws and requirements imposed for the protection of the environment; and meets disclosure requirements of the National Environmental Policy Act.

Findings Required by Laws and Regulations

The Proposed Action is consistent with applicable laws, regulations, policy and direction including the Dakota Prairie Grasslands Plan, the Historic Preservation Act, the Endangered Species Act, the Clean Water Act, the Clean Air Act, the Migratory Bird Treaty Act, Environmental Justice, and applicable Mineral Laws, Regulations, & Orders.

Appeal Opportunities and Implementation

The 30-day comment period for this project ended on August 24, 2011. Since no comments were received during the comment period, this decision is not subject to appeal (36 CFR 215.12 (e)(1)).

This decision is subject to appeal by the special use permit applicant, Bear Paw Energy L.L.C, pursuant to 36 CFR 251, Subpart C.

Implementation of this project, as per 36 CFR 215.9, may occur immediately upon publication of the Notice of Decision in the Bismarck Tribune.

For further information on this decision, contact Kim Grotte, Pipeline Specialist with McKenzie Ranger District, at 701-842-2394 ext 12.

RONALD E. HECKER
District Ranger

Date