



**EARTHWORKS**  
earthworksaction.org

Scott Hall, Realty Specialist  
Farmington Field Office  
Bureau of Land Management  
6251 College Blvd  
Farmington, NM, 87492  
shall@blm.gov

Gary Torres, Field Manager  
Farmington Field Office  
Bureau of Land Management  
6251 College Blvd., Suite A  
Farmington, NM 87492  
gtorres@blm.gov

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RE: Scoping comments for the proposed Piñon Pipeline Draft Environmental Assessment.

Dear Mr. Hall and Mr. Torres,

Earthworks welcomes the chance to submit scoping comments on the proposed Piñon Pipeline Right of Way (ROW) Draft Environmental Assessment (EA). Earthworks is a nonprofit organization dedicated to protecting communities and the environment from the adverse impacts of mineral and energy development while promoting sustainable solutions. Our Southwest Circuit Rider applies this mission statement to work within the San Juan Basin, often in collaboration with other local groups.

We understand the proposed pipeline to be capable of moving 50,000 barrels of oil per day, which, according to a public presentation by Saddle Butte at a scoping open house meeting in Lybrook on December 4<sup>th</sup>, 2014, is five times more than the current oil production from the Lybrook/Chaco area. At this meeting, both Saddle Butte and BLM indicated that the purpose and need for the pipeline is to create an easier (and presumably, more cost-effective) method of bringing more oil to the market due to the capacity limitations of an existing 1950's-era pipeline. Currently, the difference between oil produced by high volume hydraulic fracturing (fracking) in the region and what the existing pipeline can handle is moved by truck. The pipeline proposes to offer an alternative to trucking and reliance on a pipeline that may be at the end of its useful life. The scoping meeting notification letter clearly asserts this<sup>1</sup>:

*The need for the project is to provide adequate takeaway capacity for the large amount of product currently under extraction and to meet the need to transport future volumes. Currently one (smaller) pipeline and trucking are the only available ways to export the crude out of the area to any delivery point. Saddle Butte proposes to alleviate the restriction by*

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*building the Piñon Pipeline system, thereby providing ample capacity for the current predictions of crude oil production.*

The proposed action clearly is intended to facilitate increased production from the oil field. Therefore, environmental analysis of the proposed action must include analysis of the indirect and cumulative impacts associated with BLM's foreseen increase in oil production. Using BLM's own reasoning, without the pipeline, substantial increases in oil production are unlikely to occur.

It is not possible for BLM to adequately consider indirect and cumulative impacts without a full Environmental Impact Statement (EIS) for the project, an updated Resource Management Plan Amendment (RMP-A) that considers the unique impacts of fracking rather than more conventional types of oil and gas development, and a Master Leasing Plan (MLP) that would offer additional impact analysis of leasing decisions and allow for more public participation during the leasing process.

While we appreciate the ability to submit scoping comments for the EA, we hope these comments will ultimately apply to a full EIS. In addition, we hope that the Record of Decision (ROD) for the Piñon EIS will not be signed until after the RMP-A and MLP are largely completed. Indeed, comprehensive indirect and cumulative impact analysis of the pipeline cannot be achieved until these broader analyses are complete and their findings and frameworks applied to the analysis of the pipeline. Under BLM's suggested approach, however, the agency appears eager to issue a ROD for the pipeline in only a matter of months, with construction of the pipeline beginning in the summer of 2015 and being completed before the year's end. This is unacceptable; in doing so, the agency will be clearing the way for a potential five fold increase in oil production long before any substantive impact analysis or updated planning efforts are complete for this vast increase in oil production.

In addition to analyzing the direct impacts within the ROW itself, as part of BLM's mandate to consider indirect and cumulative impacts resulting from the pipeline, the agency must consider the following. If BLM is to suggest that the RMP-A and/or MLP will sufficiently address these issues under the reasonably foreseeable development scenarios, then the findings can be applied to the Piñon EIS easily. Otherwise, the following analysis must be completed for the Piñon pipeline originally, as it is unacceptable for BLM to permit the pipeline without considering:

**All future surface disturbances reasonably foreseen as a result of the proposed action**

A substantial increase in oil production allowed for by the proposed action must consider the impacts to surface resources reasonably foreseeable to result from it. BLM should attempt to estimate the total surface disturbance of additional wells that would be drilled under a 50,000 barrel per day production scenario, the mileage of access roads associated with them, and the footprints of all associated outbuildings, injection wells, processing plants, etc. This estimate should be generated using a statistical amalgamation of actual similar development scenarios to generally determine total surface occupancy based on the projected volumes of oil production. While this will certainly be a rough estimate, it is better than the alternative of not attempting it. Analysis of soil erosion, loss of rare plants, and threats to medicinal plants used by the region's tribes should be completed. Wildlife impact analysis should also be

performed, both for resident species and migratory mammals, based on the projected surface disturbance.

### **Air emissions, including greenhouse gas emissions**

Using the same methodology for indirect and cumulative impact analysis, air quality must be evaluated for ozone, particulate pollution, fugitive dust, methane, radionuclides, benzene, toluene, ethylbenzene, xylene, hydrogen sulfide, carbon dioxide, and all other gasses known to create threats to human and ecosystem health, including all greenhouse gasses, particularly methane. As BLM was recently made aware, NASA has determined that the largest source of methane emissions in the United States is within the San Juan Basin and is attributed to oil and gas development. As you know, methane is 86 times more potent as a greenhouse gas than carbon dioxide. Therefore, the Farmington Field Office has a duty to consider the impacts of this pipeline and the oil leasing, permitting, and development that it enables on global and local climate change – arguably the most significant environmental threat of modern times and one that BLM cannot overlook in its decisions that would result in more pollution. Air impact analysis must not be limited to the pipeline itself, but the indirect and cumulative impacts of the broader expansion of oil and gas development in the region.

### **Draft CEQ guidance on considering climate change impacts in NEPA**

In December 2014, the White House Council on Environmental Quality released draft guidance on considering climate change impacts in NEPA for all federal agencies. BLM must consider this guidance regarding the Piñon Pipeline project, and we believe the guidance is consistent with our comments above dealing with indirect and cumulative impacts of the pipeline, as well as evaluation and quantification methods regarding greenhouse gasses from those broader impacts. Below are key excerpts from the guidance with page numbers cited to the document which can be found at:

[www.whitehouse.gov/sites/default/files/docs/nepa\\_revised\\_draft\\_ghg\\_guidance.pdf](http://www.whitehouse.gov/sites/default/files/docs/nepa_revised_draft_ghg_guidance.pdf)

*“...agencies are encouraged to analyze greenhouse gas emissions early in the planning and development of proposed projects.”* (footnote, p.2)

*“Agencies should consider the following when addressing climate change: 1.) the potential effects of a proposed action on climate change as indicated by its GHG emissions.”* (p.3)

*“This guidance discusses direct, indirect, and cumulative impacts analysis of a proposed action’s reasonably foreseeable emissions and effects.”* (p.4)

The Guidance also encourages agencies to:

*“highlight the consideration of reasonable alternatives”* (p.4)

*“take into account available GHG quantification tools”* (p.4)

*“select the appropriate level of action for NEPA review at which to assess the effects of GHG emissions and climate change...and that the agency set forth a reasoned explanation for its approach.”* (p.4)

In addition:

*“It is essential that federal agencies not rely on boilerplate text to avoid meaningful analysis, including consideration of alternatives or mitigation.”* (40 CFR § 1500.2, 1502.2)

The guidance “...allows an agency to present the environmental impacts of the proposed action in clear terms and with sufficient information to make a reasoned choice between the no-action and proposed alternatives and mitigations, and ensure the professional and scientific integrity of the discussion and analysis.” (p. 8-9)

“When an agency determines that evaluating the effects of GHG emissions from a proposed Federal action would not be useful to the decision-making process and the public to distinguish between the no-action and proposed alternatives and mitigations, the agency should document the rationale for that determination.” (p. 10)

“Agencies are required to consider direct, indirect, and cumulative effects when analyzing any proposed Federal actions and projecting their environmental consequences.” (p. 10)

“GHG estimation tools have become widely available, and are already in broad use not only in the Federal sector, but also in the private sector, by state and local governments, and globally. If tools or methodologies are available to provide the public and the decision-making process with information that is useful to distinguishing between the no-action and proposed alternative and mitigations, then agencies should conduct and disclose quantitative estimates of GHG emissions and sequestration...” (p. 15)

“In considering when to disclose projected quantitative GHG emissions, CEQ is providing a reference point of 25,000 metric tons of CO2 emissions on an annual basis...” (p. 18)

### **Impacts to regional tourism, particularly Chaco Canyon**

Chaco Canyon – a UNESCO World Heritage Site – will face impacts as the fracking boom continues and encroaches further towards Chaco’s borders. Regional haze caused by oil and gas development, the proliferation of access roads and other infrastructure, and the diminishing darkness of night skies due to flaring should all be evaluated in the context of neighboring federally protected areas and the rights of visitors to experience Chaco Canyon in a primitive state. The desire for a more primitive experience at Chaco was already demonstrated by the civic campaign to prevent paving of the access road. BLM must consider how cumulative impacts from the pipeline will affect Chaco Canyon.

### **Impacts to groundwater**

Before approving the pipeline, BLM should publish detailed risk analysis of potential groundwater contamination occurring from increased fracking that would result from this pipeline. This analysis should inventory water wells in the area and present the findings in map format. This map should also overlay areas where development is likely to occur, and note the depth to the water table in those areas. This will provide commenters on a draft EIS a more refined idea of where contamination could occur, and whether or not people in the region would be impacted by a contamination event. This analysis should also include information regarding the known statistical probability of well casing failures from fracking, which we understand to be significant sector-wide. This analysis should also include known groundwater flow pathways so that commenters can understand how a contamination event could spread over time.

### **Flaring practices**

The draft EIS should not be released unless it evaluates in detail the expected increase in flaring associated with production increases. This should include carbon dioxide emission estimates and also quantify the royalties lost to taxpayers by way of flaring gas that should otherwise be brought to market.

### **Tribal consultation and consent**

BLM should ensure that Native American tribes consent to the ROW crossing tribal lands. BLM should be proactive in its outreach and distribute information about environmental impacts, upcoming meetings, etc., to as many tribal members as possible. BLM should document this outreach approach and the materials distributed, and make both accessible online. This will ensure that the process of tribal consultation and consent is fully transparent, and that all materials being distributed are accessible to all.

**Full disclosure of the No Action Alternative**

In all future public communications regarding this proposed action, BLM should ensure that commenters and stakeholders are aware that a No Action Alternative can be considered and that under this alternative, the pipeline would not be built based on its environmental impact.

BLM should also conduct all the above analyses regarding the direct impacts of the pipeline ROW itself.

In conclusion, BLM should:

- 1.) Consider all the above impacts, especially the indirect and cumulative impacts within a full EIS. We consider all impacts to be significant enough to the region and to the global climate to warrant a full EIS.
- 2.) Conduct the Piñon EIS to coincide with the final RMP-A and associated Master Leasing Plan, so that all analytical efforts can ‘piggyback’ on one another. We believe it is inappropriate and premature for BLM to permit the pipeline without having the benefit of the RMP-A and associated MLP analysis.
- 3.) Be proactive in its public outreach, and inform stakeholders that a No Action alternative will be considered.
- 4.) Seek consent – not only consult with – Native Americans whose lands will be impacted by the pipeline.

Please add me to any email or hard copy distribution lists associated with the Piñon Pipeline EIS.

Sincerely,

Pete Dronkers

Southwest Circuit Rider, Earthworks  
29149 Road M.4  
Dolores, CO, 81323  
(775) 815-9936

[pdronkers@earthworksaction.org](mailto:pdronkers@earthworksaction.org)