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11 June 2024

William J. Eaton, District Ranger
Jicarilla Ranger District, Carson National Forest
1110 Rio Vista Lane, Unit # 2
Bloomfield, NM 87413

RE: Robert L. Bayless, Producer LLC, Proposal to Construct, Drill, Maintain, and Produce From an Oil and Natural Gas Well Pad, Jicarilla Ranger District, Carson National Forest, NMDGF No. NMERT-3552.

Dear Mr. Eaton,

The New Mexico Department of Game and Fish (Department) has reviewed the proposed oil and natural gas well project referenced above. Robert L. Bayless, Producer LLC is proposing to drill, maintain, and produce from an oil and natural gas well pad and to construct and operate associated, ancillary pipelines. The proposed project is identified as the La Jara 1-2 001H (La Jara). The La Jara well pad location will contain 16 well heads and is in the La Jara Mancos Unit. The total proposed new surface disturbance is estimated to be approximately 36.5 acres. The Department provides the following recommendations to minimize impacts to wildlife and habitats.

To minimize the likelihood of adverse impacts to migratory bird nests, eggs, or nestlings during project construction activities, the Department recommends that ground disturbance and vegetation removal activities be conducted outside of the primary breeding season. That season for migratory songbirds and most raptors is 1 March – 1 September; for golden eagle (*Aquila chrysaetos canadensis*) and great horned owl (*Bubo virginianus*) it is 1 January – 15 July. If ground disturbing and clearing activities must be conducted during the breeding season, the area should be surveyed for active nest sites (with birds or eggs present in the nesting territory) and avoid disturbing active nests until young have fledged. For active nests, establish adequate buffer zones to minimize disturbance to nesting birds. Buffer distances should be a minimum of 100 feet from songbird and raven nests; 0.25 miles from most raptor nests; and 0.5 miles for ferruginous hawk (*Buteo regalis*), golden eagle, peregrine falcon (*Falco peregrinus*), and prairie falcon (*Falco mexicanus*) nests. Active nest sites in trees or shrubs that must be removed should be mitigated by qualified biologists or wildlife rehabilitators. Department biologists are available to consult on nest site mitigation and can facilitate contact with qualified personnel.

Open trenches and ditches associated with oil and gas pipelines and ancillary construction activities can trap small mammals, amphibians, and reptiles and can cause injury to large mammals. Implementing the general trenching conservation measures outlined in

the Department's Trenching Project Guidelines will help minimize unnecessary mortality of wildlife. Best management practices should include, at minimum, the following mitigation measures.

- Whenever possible, locate trenching activities within previously disturbed areas, such as existing road or pipeline Right-of-Way. To the extent possible, avoid trenching in undisturbed habitat.
- Trench during the cooler months (October – March).
- Utilize concurrent trenching, pipe- or cable-laying, and backfilling. Keep trenching, pipe- or cable-laying, and backfilling crews as close together as possible to minimize the amount of open trench at any given time. When trenching activities are temporarily halted (e.g., overnight, weekends, holidays, weather shutdowns), protect wildlife from accessing any open trench between digging and backfilling operations by using one or more of the methods described below.
- Avoid leaving trenches open overnight. When trenches cannot be backfilled immediately, escape ramps should be constructed at least every 90 meters and preferably every 30 meters. Escape ramps can be constructed parallel or perpendicular to the existing trench. The escape ramp slope should be less than 45 degrees (1:1). If pipe or cable has been installed but backfilling has not occurred, escape ramps may need to be constructed on both sides of the trench, since, unless the pipe is elevated enough to allow animals to move underneath it, the pipe or cable may block access of amphibians, reptiles, and small mammals to the ramps if only constructed on one side.
- Trenches that have been left open overnight should be inspected the following day by a qualified biological monitor and trapped animals removed as soon as possible, especially where state- or federally-listed threatened or endangered amphibians, reptiles, or small mammals occur. Untrained personnel should not attempt to remove trapped wildlife because of the potential to injure animals and the possibility of injury from venomous snakes. Required tools for removal will include snake tongs for removing snakes and a dip net for capturing and removing amphibians and small mammals. Many animals trapped in a trench will burrow under loose soil. To the extent possible, the biological monitor should disturb loose soil in the trench to uncover and remove trapped animals. Animals should be relocated at least 50 meters away from the open trench in undisturbed habitat.
- When pipe has been laid in the trench, end caps should be placed on the open end(s) of the pipe to preclude animals from entering. Pipe staged outside the trench should be capped until placed in the trench or checked for wildlife before being placed into the trench.
- Most wildlife can be protected by constructing silt fence completely around the open trench. Silt fence should be supported from sagging by t-posts, rebar, or stakes and buried at the base to preclude animals from moving below the fence. If construction of a silt fence is a required best management practice for erosion control, then, to preclude the need for a biological monitor, escape ramps, and concurrent backfilling, the guidelines for silt fence installation and maintenance in the Trenching Project Guidelines should be followed.

The Department does not support the use of open “frack water ponds” to hold the large volume of recycled hydraulic fracturing fluids that are generated during oil and gas well drilling operations. The Department strongly recommends the use of closed loop containment systems utilizing large above-ground tank batteries. Closed containment systems require minimal or no maintenance and can be relocated to another site when no longer needed. Closed containment systems also eliminate soil contamination, reduce reclamation expenses, and will not attract wildlife.

If closed containment systems are not used, ponds or open above-ground tanks should be covered or netted to exclude flying and terrestrial animals from contacting sources of potentially contaminated water and to prevent wildlife entrapment. Extruded plastic, knit or woven netting material is preferred. Monofilament nylon netting should not be used due to its tendency to ensnare wildlife and cause injury or death. All materials should be resistant to corrosion and ultraviolet radiation. The Department recommends a mesh size of $^{3}/_{8}$ of an inch to exclude smaller animals. If potential snow loading needs to be addressed, a maximum mesh size of 1.5 inches is acceptable. Netting must be held taut and securely fastened to a rigid and adequately supportive frame or cross-hatched wire cables to prevent sagging into drilling fluids. Regular inspection and maintenance are critical to repair holes and restore tension to prevent sagging. Conduct site inspections as soon as possible following heavy snow or high wind events to assess netting for damage and clear excessive snow loading if necessary. The Department is available for consultation regarding netting options for site-specific pond sizes and containment needs. During drilling operations, it is important to prevent wildlife from entering and becoming trapped in stockpiled drill pipes. Capping piping is the most effective way to prevent wildlife entry but, at a minimum, each section of pipe should be visually inspected prior to use to verify that wild animals are not inside.

Loud, persistent noise can disturb wildlife and have behavioral and/or physiological impacts. Behavioral responses can include the temporary or permanent displacement of birds and other wildlife from the affected area. Physiological effects may range from temporary elevation in pulse rates to chronic stress that adversely impacts wildlife health. Wildlife life histories can be negatively impacted by high noise levels that overwhelm natural sounds and communications among individual animals. Oil and gas development activities may expose wildlife to noise from drilling, compressors, and pumping stations, and the establishment of larger, multi-well pads as proposed for the La Jara project can result in longer periods of elevated noise levels during well pad development. To reduce the potential impacts to wildlife from noise disturbance, the Department recommends evaluating the well pad site (including a 1,300-foot buffer) prior to well pad development to identify potential habitat for state- or federally-listed Threatened or Endangered species, raptor nesting or roosting sites, and notable signs of intensive wildlife use. If any of these noise-sensitive features are present, the Department recommends that mitigation measures be implemented to maintain noise levels at or below 48.6 dB(A) Leq at 400 feet in all directions from the noise source. This is consistent with the Bureau of Land Management's noise policy described within the Notice to Lessees and Operators on Onshore Oil and Gas Leases within the Jurisdiction of the Farmington Field Office (NTL 04-2 FFO).

For post-construction reclamation of the project area, the Department recommends that the project proponent use only native plant species and that the reclamation seed mix is designed to enhance local pollinator habitat. The Department also recommends that only certified weed-free seed be used to avoid inadvertently introducing non-native species to the reclamation site. Any alternate seeds used to substitute for primary plant species that are unavailable at the time of reclamation should also be native. When possible, the Department recommends using seeds that are sourced from the same region and habitat type as the reclamation site and suggests including seeds from a region that represents potential future climatic conditions at the site.

Thank you for the opportunity to review and comment on the proposed oil and natural gas well project. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist, at (505) 270-6612 or ronald.kellermueller@dgf.nm.gov .

Sincerely,

Virginia Seamster

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Virginia Seamster, Ph.D.
Assistant Chief for Technical Guidance

cc: USFWS NMES Field Office