



United States Department of Agriculture  
Forest Service

## **Decision Notice**

### **Dry Wash Reservoir Expansion and Pipeline**

**Moab-Monticello Ranger District**

**Manti – La Sal National Forest**

**San Juan County, Utah**

**May 2014**



**For Information Contact: Joel Nowak**

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**435.587.2041 or 435.636.3364**

**Decision Maker: Allen Rowley**

**Forest Supervisor**

**Manti-La Sal National Forest**

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# Introduction

An environmental assessment (EA) and Finding of No Significant Impact (FONSI) has been prepared in response to a special use application proposing to expand the Dry Wash Reservoir and install a pipeline from the reservoir to an existing pipeline. This document is hereby incorporated by reference. This decision notice documents my decision to implement the proposed action as described in chapter 2 of the EA. The proposed action provides for authorization of a special use permit to the proponent to occupy National Forest Service lands to construct, operate, and maintain the proposed facilities.

## Decision

I have reviewed the analysis presented in the EA for the Dry Wash Reservoir Expansion and Pipeline Project, including the comments from the public received on the EA, government to government consultation, and the project's anticipated effects, with the interdisciplinary team, Forest staff, and Regional Office. As a result, I have decided to implement the proposed action as described in this document. My decision includes the expansion of the Dry Wash Reservoir, realignment of National Forest System Road 0095, providing access to the reservoir for recreation activities and installation of a pipeline from the reservoir to the existing Blue Mountain pipeline.

My decision was made following a review of the project's record that reflects consideration of relevant scientific information, consideration of responsible opposing views, and review of the EA/FONSI which documents the environmental impacts of implementing the project. Specifically, I am making the following decisions:

***Whether or not to authorize the proponent to occupy National Forest System land by issuing a special use permit to construct, operate, and maintain the proposed facilities:***

My decision will allow the proponent to occupy National Forest System land by issuing a special use permit to construct, operate, and maintain the proposed facilities. The analysis in the EA/FONSI, with established Forest Service design features, has shown that the occupancy will not cause a significant impact on the human environment.

***Under what terms and conditions of use would the proposed facilities be authorized?***

The Forest will issue a special use permit which will include standard permit clauses and additional clauses developed in conjunction with the EA, along with Forest Service design features as described in **Error! Reference source not found.**, in the EA. This will allow for implementation of the proposed operations while ensuring the protection of natural resources to the extent possible. Construction and operations will be inspected and monitored by the Forest Service permit administrator.

## Decision Details

The reservoir expansion is approved and the construction process will include:

1. Removing the existing outlet piping and replace it with an upgraded design. Some pipe and concrete will be required to construct the outlet works.
2. Raising the dam by 18 feet, utilizing 160,000 cubic yards of material to enlarge the dam. The dam will be a homogenous earthfill dam. All the borrow material for the dam construction will be taken from wherever suitable material is available within the high water mark of the proposed reservoir. The majority of the material will be gathered in the western portion of the reservoir

basin near the existing roads.

3. Importing up to 6,000 cubic yards of riprap from off National Forest System lands to protect the upstream face of the dam and outlet channels from erosion. The construction contractor will be responsible to provide the additional riprap from an approved source. The riprap will likely be imported on National Forest System Road 0095 in rock trucks capable of hauling up to 15 cubic yards of rock on each trip.
4. The downstream face of the dam will be reclaimed and seeded to match the adjacent vegetation type. Mulch and/or other soil amendments may be required depending on topsoil quality/quantity.
5. Realigning two-thirds of a mile of the existing National Forest System Road 0095. This section of the road would be constructed to match the design and standards of the existing road. This section of the road would be constructed to meet Forest Service design standards outlined in Forest Service Handbook 7709.56 – Road Preconstruction Handbook. This construction would take approximately 2 weeks. A cross section diagram of this proposed road section is located in **Error! Reference source not found.**, in the EA. The portions of this road used to import construction materials will also be regularly maintained by the construction contractor. The county easement will be amended to include the new section of road and remove the old section.
6. Reconstructing the spillway channel in a location away from the critical infrastructure on the main portion of the dam. The spillway channel will be excavated around the east side of the reservoir and tied back into the existing spillway channel. The new channel will be lined with riprap where the channel has significant erosion potential.
7. Prior to construction the reservoir will be drained and allowed to dry out. The reservoir gate will be opened to allow whatever water that is stored to drain. The bed of most of the reservoir should already be dry because of the low water level from the fall of 2013. No water will be diverted into the reservoir during construction. Most of the construction activities will take place outside the muddy areas, so construction can begin immediately after the reservoir is drained.
8. Reservoir construction is expected to take approximately 180 days to complete. Construction is anticipated to occur during the summer and fall of 2014, and will likely be completed in summer of 2015.

The pipeline construction is approved and will include:

1. Installation of 12-inch HDPE pipe for approximately 5,000 linear feet from the reservoir to the existing 12-inch city pipeline.
2. The pipeline construction corridor will be approximately 15 feet wide. All construction activities will stay within the corridor.
3. The pipeline segment from the reservoir to the first elbow will be installed to the east of the drainage bottom so as to not impact the wetland.
4. The pipeline will be buried at a depth of 3 feet below the existing ground surface.
5. Construction of the pipeline will take approximately 30 days.

Road access to the reservoir is approved and will include:

1. The northern segment of the old county road will remain open and a small turn-around/parking area will be provided at the south end of this road near the high water mark of the new reservoir; exact location to be determined before construction begins. The turn-around/parking area will be designed by the permittee and approved by the Forest Service prior to construction.

2. Remove and reclaim the entire northern segment of the current county road, both above and below high water mark, to junction of the old county road.
3. FSR 55225 from the new county road to the junction of the old county road will remain open to motor vehicle use.
4. FSR 55245 from the old county road to the dam will remain open to motor vehicle use.
5. An unnamed spur road from the old county road to the current water's edge, currently being used to access the reservoir pool, will remain open to motor vehicle use.

Disturbed areas near the reservoir will be utilized for staging of equipment and supplies during construction. A staging area will be needed at both ends of the pipeline to enable construction (see **Error! Reference source not found.**, in the EA). The projects will likely be completed under separate construction contracts and may not occur simultaneously. Construction of the proposed reservoir expansion and pipeline is anticipated to begin in the summer of 2014, pending approvals.

See **Error! Reference source not found.**, in the EA that resulted from the environmental analysis.

## Rationale for the Decision

In reaching my decision, I considered the following factors, all of which are documented in the EA: preliminary work with proponent and other stakeholders; the proposal developed to minimize foreseeable environmental impacts; the proposal's consistency with the Manti-La Sal Forest Plan; consistency with other applicable laws and regulations; Tribal consultation and coordination; and the results of the public participation process.

### Preliminary Work to Develop Proposal

Initially, Blanding City came to the Forest Service with a proposal to install a pipeline from the Dry Wash Reservoir to the existing 12-inch pipeline. Separately, the San Juan Water Conservancy District proposed expanding the reservoir. Both proposals had limited details or plans to minimize environmental impacts. The Forest Service worked extensively with both entities to develop a combined proposal that would benefit all stakeholders while minimizing the anticipated environmental impacts. Some of the preliminary activities included conducting onsite meetings to visualize impacts to wetlands, recreation, cultural and paleontological resources, and brainstorming on how to alleviate these impacts and to create more and different recreation opportunities, and conducting meetings and phone calls with the engineering firm to increase efficiency of the proposed work and maximize opportunities to work within existing disturbed areas.

### Consistency with the Manti-La Sal National Forest Plan

The proposed action, as described, is in conformance with Forest Plan management direction. Many Forest Plan standards and guidelines are relevant to this project. A list of these standards and guidelines, along with a project consistency checklist completed for the proposed action, can be found in the project record.

## Consistency with other Applicable Laws and Regulations

### **Federal and State Permit Requirements**

In addition to the Forest Service special use permits for the dam, pipeline, and road re-alignment, the State of Utah requires a Dam Safety Construction Permit prior to construction. This permit has been submitted. Following construction, the State requires a Standard Operating Procedures Plan be submitted. A draft of this plan is located in **Error! Reference source not found.**, in the EA. The final review and approval of this plan by the State would not take place until construction of the dam is complete. The Standard Operating Procedures for Dry Wash Reservoir would provide detailed instructions for the observation, operation, and maintenance of Dry Wash Reservoir. This information would provide operating personnel the information needed to perform the required duties (inspections and maintenance) associated with the dam and reservoir.

### **Federal Water Pollution Control Act**

The objective of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act, is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters by preventing point and nonpoint pollution sources. The watershed condition indicators were evaluated for the watershed and fisheries analysis, which can be used as surrogates for the chemical, physical, and biologic integrity of the water bodies that could be impacted by implementing the project. Construction of the dam, the pipeline, or the road re-alignment would not affect the watershed in the project area. The 100 acre-foot conservation pool of water would sustain a fishery in the reservoir during low water periods.

### **Executive Order 11988, Floodplain Management and Executive Order 11990, Protection of Wetlands**

There are no floodplains present in the project area and the proposed action would not increase the risk of flooding or the risk of damage to human life and property and would not be contrary to Executive Order 11988 – Floodplain Management.

There is a small wetland area in the channel just below the dam which covers approximately 0.17 acres. Approximately 0.03 acres of the wetland would be eliminated due to dam construction. Mitigation measures identified in this chapter of the EA would more than compensate for the loss of the 0.03 acres of wetland area.

### **Endangered Species Act**

The Endangered Species Act (ESA; 16 USC 35 §1531 et seq. 1988) provides for the protection and conservation of threatened and endangered plants and animal species. All alternatives were assessed to determine their effects on threatened and endangered plant and animal species. The U.S. Fish and Wildlife Service provide the Forest Service with a list of threatened, endangered, proposed, and candidate species to consider in project planning. This list is generally updated as needed. There are no federally listed threatened or endangered species or designated critical habitat in the project area.

### **Migratory Bird Treaty Act**

The Migratory Bird Treaty Act (MBTA) decreed that all migratory birds and their parts (including eggs, nests, and feathers) were fully protected. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. The original intent was to put an end to the commercial trade in birds and their feathers that had wreaked havoc on the populations of many native bird species. On January 17, 2001, President William Clinton signed an Executive Order (E.O. 13186) directing executive departments and agencies to

take certain actions to further implement the Migratory Bird Treaty Act (MBTA) (FR Vol. 66, No.11, January 17, 2001).

The Forest Service and U.S. Fish and Wildlife Service have entered into a memorandum of understanding (MOU) to promote the conservation of migratory birds as a direct response to E.O. 13186 (USDA Forest Service and USDI FWS 2008). One of the steps outlined for the Forest Service is applicable to this analysis: “*Within the NEPA process, evaluate the effects of agency actions on migratory birds, focusing first on species of management concern along with their priority habitats and key risk factors. (p.6)*” The Forest Service additionally agreed, to the extent practicable, to evaluate and balance benefits against adverse effects, to pursue opportunities to restore or enhance migratory bird habitat, and to consider approaches for minimizing take that is incidental to otherwise lawful activities. Impacts to migratory birds should be limited to short-term construction disturbance with no loss of nesting habitat. See chapters 3 and 4 for of this EA more details.

### **Facilitation of Hunting Heritage and Wildlife Conservation (Executive Order 13443)**

On August 16, 2007, President George Bush signed an EO directing appropriate federal agencies to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat (FR Vol. 72, No. 160, August 20, 2007). Construction would not take place during hunting seasons of any game animals. See chapters 3 and 4 of this EA for more detail.

### **Prime Farmland, Rangeland, and Forest Land (USDA Regulation 9500-3)**

There are no prime or unique farmlands within the project area.

### **National Historic Preservation Act**

The National Historic Preservation Act (NHPA) of 1966 is the principle, guiding statute for the management of cultural resources on National Forest System lands. Section 106 of NHPA requires federal agencies to consider the effects of their activities and programs on historic properties. Historic properties are significant cultural resources that are included in or eligible for inclusion in the National Register of Historic Places. The criteria for National Register eligibility and procedures for implementing Section 106 of NHPA are outlined in the U.S. Code of Federal Regulations (36 CFR Parts 60 and 800, respectively).

Bighorn Archaeological Consultants, LLC completed Class I and III inventories for the project area. No new cultural sites were found during their survey. Three existing sites documented in prior surveys were located and re-evaluated. Based on their work, Bighorn recommended a determination of no adverse effect for this project.

### **Environmental Justice—Executive Order 12898**

In accordance with E.O. 12898 (59 FR 32, 1994), all action alternatives were assessed to determine whether they would have disproportionately high and adverse human health effects (including social and economic) on minority or low-income human populations. No populations that meet the criteria for minority or low income are present (EPA Environmental Justice View web site, 3-9-2011).

### **Tribal Consultation and Coordination**

Efforts were made to involve local tribal governments and to solicit their input regarding the proposed action.

The Hopi Tribe responded to the scoping notice and requested a copy of the cultural report to review prior to their submitting any comments on the project. No other tribes have expressed an interest in the project but they have been contacted about this project as part of the tribal consultation process. SHPO concurred

with the recommendations found in the cultural resources report and the district Forest Archaeologist submitted the recommendations to the tribes for a 30-day consultation period.

## Public Participation

The Forest Service began the public involvement process by listing the proposal in the Manti-La Sal National Forest Schedule of Proposed Actions (SOPA) starting April 1, 2013. The Forest Service Public Involvement Plan, approved on August 5, 2013, identified the scoping process that was followed for this project. The process was also explained in the scoping letter that was mailed to interested parties. A scoping letter was sent out during the business week starting Monday, July 21, 2013 to 173 people and organizations.

An internal scoping meeting was held with an interdisciplinary team (IDT) of Forest Service resource specialists. The Forest also published a legal notice of proposed action in the Sun Advocate (newspaper of record) on July 23, 2013, and in the San Juan Record on July 24, 2013, providing a formal 30-day comment period. Four comment letters were received in response to these notices. The comments and responses to those comments are summarized in Appendix C of the EA.

# Administrative Review and Objection Rights

This draft decision notice is subject to a 45-day objection and review period as set forth by Forest Service regulations at 36 CFR 218. Individuals, NGOs, state and local governments, Indian Tribes, businesses, and partnerships who have submitted timely, specific written comments regarding the project may file an objection. These comments must have been submitted during project scoping or during any other instance where the responsible official sought written comments. Other federal agencies may not file objections.

The starting date for the 45-day objection and review period is the day after publication of the legal notice of this draft decision notice in the newspaper of record for the Manti-La Sal National Forest, the Sun Advocate newspaper located in Price, Utah. The objection must be filed in writing with the review officer, Nora Rasure, Regional Forester for the Forest Service Intermountain Region:

Nora Rasure, Regional Forester  
Intermountain Region  
US Forest Service  
324 25th Street, Ogden, Utah 84401  
Fax: 801-625-5277  
Email: [appeals-intermtn-regional-office@fs.fed.us](mailto:appeals-intermtn-regional-office@fs.fed.us)

The objection must include the name, address and telephone number of the objector; the name of the proposed project; the name and title of the responsible official; and the name of the national forest and ranger district on which the proposed project will be implemented. The objection must contain a description of those aspects of the project addressed by the objection, including:

- Specific issues related to the proposed project
- If applicable, an explanation of how the objector believes the environmental analysis or draft decision specifically violates law, regulation or policy
- Suggested remedies that would resolve the objection
- Supporting reasons for the reviewing officer to consider
- A statement that demonstrates the connection between prior written comments on the particular project or activity and the content of the objection, unless the objection concerns an issue that arose after the designated opportunities for comment

If an objection is filed, the reviewing officer will respond in writing to the objection within 45 days following the end of the objection filing period. This period may be extended by an additional 30 days at the discretion of the reviewing officer.

Prior to issuance of the reviewing officer's written response to an objection, either the reviewing officer or the objector may request a meeting to discuss issues raised in the objection and potential resolution of the objection. After review of the objection, the reviewing officer will provide a written response to the objection. No further review from any other Forest Service or U.S. Department of Agriculture official of the reviewing officer's written response to the objection is available.

As the responsible official for this decision, I will not sign the decision notice until the reviewing officer has responded in writing to all objections and all concerns and instructions identified by the reviewing officer in the objection response have been addressed in accordance with the 36 CFR 218 regulations.

## Implementation

If no objections are filed within the 45-day time period, implementation of the decision may occur on, but not before, the fifth business day following the end of the objection filing period. If objections are filed, implementation may occur on, but not before, the reviewing officer has responded in writing to all objections and all concerns and instructions identified by the reviewing officer in the objection response have been addressed.

## Contact

For additional information concerning this decision or the Forest Service objection process, contact:

Joel Nowak

Lands Special Uses, Minerals and Roads

Moab/Monticello Ranger District

[joelnowak@fs.fed.us](mailto:joelnowak@fs.fed.us)

360-765-2251 or 435-636-3364

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Allen Rowley

Acting Forest Supervisor

Manti-La Sal National Forest

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Date