
**DECISION NOTICE
and
FINDING OF NO SIGNIFICANT IMPACT
for the
Dutton Pipeline Project**

**USDA Forest Service
San Juan National Forest
Pagosa Ranger District
Mineral and Archuleta Counties, Colorado**

I. Introduction

This Decision Notice documents my decision to approve the Dutton Pipeline Project. The project involves the construction of a water transmission pipeline that will provide water to the Pagosa Area Water and Sanitation District (PAWSD) service area. My decision is based on an environmental assessment (EA) prepared for the Dutton Pipeline Project, dated July 2004. I have documented important elements of the management alternative I have selected for implementation and the rationale for my choice. This notice also references the mitigation measures planned within the project area that will be implemented with my decision.

The Dutton Pipeline project EA documents the environmental effects of the proposed pipeline project as well as the continued use of a portion of the existing Dutton Ditch. In accordance with the National Forest Management Act (NFMA) and National Environmental Policy Act (NEPA), an interdisciplinary team of Forest Service specialists (ID team) conducted the analysis and documented the results in an EA. The EA on which I based my decision is available for review at the Pagosa Ranger Station in Pagosa Springs, Colorado or on the Forest Service website at <http://www.fs.fed.us/r2/sanjuan/projects/projects.shtml>.

The project is located in Township 36 & 37 North, Range 1 West in Archuleta and Mineral Counties, Colorado. A project map, "Exhibit A", is attached.

II. Purpose of and Need for Action

Background

The Pagosa Area Water and Sanitation District has held a special use permit for the Dutton Ditch since 1987. The ditch diverts water from Fourmile Creek and travels for approximately five miles to the Dutton Creek drainage. The District draws water primarily during the fall and winter months for domestic water uses. There are two other users of the ditch, Tom Smith and Inez Seavy. These users primarily draw water during the summer months for the agricultural irrigation purposes.

PAWSD has applied for a Special Use Permit which proposes to replace the existing Dutton Ditch with a pipeline to continue to meet long-term domestic water demand within the District's service area, which includes Pagosa Springs.

PAWSD is a local municipal taxing authority. On November 5, 2002 the District received voter approval for issuance of General Obligation Bonds, a portion of which is to be used for this project.

Need for the Project:

- **There is a need to increase the supply of water to the PAWSD service area to meet future projected demand (Davis Engineering Study, 2003 p. 9).**

The Davis Engineering Study indicates that future populations within the District's service area will increase 7% annually from 2005 to 2010 and 4% from 2011 to 2025. Existing water supply is inadequate to meet projected demand.

- **There is a need to provide for an efficient water delivery system.**

Within the ditch water is lost as a result of seepage. In addition water cannot always be diverted when PAWSD water rights are in priority (winter) since sections of the ditch stop flowing due to freezing. The capacity of Dutton Ditch has declined due to accumulation of sediment. In addition, where portions of the ditch pass over sensitive geologic areas ditch stabilization has been problematic due to breaches. This has resulted in a reduced carrying capacity from ± 14 c.f.s 15 years ago to a present capacity of ± 6 c.f.s

- **There is a need to have an economical water delivery system.**

The PAWSD 10-year average annual maintenance cost for the Dutton Ditch is \$20,000. In some years costs have been nearly \$100,000. This includes costs incurred in repairing ditch breaches and resulting mass soil movement.

- **There is a need to significantly reduce environmental impacts resulting from mass movement and geologic failures associated with breaches of the Dutton Ditch.**

The ditch traverses some unstable geologic areas and breaches have caused extensive mass soil movement, erosion and road damage in areas adjacent to current the ditch alignment.

Purpose of the Project:

Tied to the needs described above, the purposes of this project are to:

- **Contribute to an adequate future supply of domestic water for the PAWSD service area.**

Compared to the ditch, the proposed pipeline would be a more efficient carrier of water. Carrying capacity of the pipeline would accommodate the District's Dutton Ditch water rights as well as future conditional rights. There would be no water loss associated with evaporation, seepage and winter freezing. The District could more frequently and efficiently divert water when it is in priority during the winter months.

- **Reduce the maintenance costs of the current water delivery system.**

It is projected that annual maintenance costs of the pipeline would be around \$8,000 which is \$12,000 less than current ditch maintenance costs.

- **Significantly reduce the probability of environmental impacts resulting from water delivery system operations.**

Compared to the existing ditch, the proposed pipeline, properly designed, will reduce the risk of failures that could result in breaches along with associated environmental effects.

III. Scoping and Public Involvement

The proposal was listed in the San Juan National Forest Schedule of Proposed Actions (SOPA) in the March - May 2003 edition and has been in every quarterly SOPA since that time. Tribal scoping for this project was initiated on April 18, 2003. General public initial scoping for this proposal occurred from June 10 to July 2, 2003. In addition to initial scoping letters, articles discussing the Dutton Pipeline project were published in the Pagosa Springs Sun on June 12 and 26, 2003 and on June 10 and 17, 2004. The comment period ran from, May 29 to July 19, 2004.

IV. Decision

Based on the analysis documented in the final EA and agreement between PAWSD and ditch user Inez Seavy (represented by her grandson Anthony Trujillo), it is my decision to implement a modified version of Alternative 3. My decision to implement this modified Alternative 3 includes adoption and implementation of all mitigation measures described in the EA on pp. 8-10.

The proposed action would involve the construction of approximately 29,000 feet of 18 to 30 inch pipe. The first 3,800 feet of the pipeline route would follow the existing Dutton Ditch corridor, the remainder of the route will follow Forest Service roads to a connection with the existing pipeline extension which delivers water to Hatcher Reservoir.

Because there has been no agreement, as yet, between PAWS and Tom Smith for Mr. Smith to enter the pipeline, I must allow for the possibility that the Dutton Ditch would continue to operate, or that Mr. Smith would utilize the pipeline for the first 3800 feet and the existing ditch for the rest of the transmission. For the first 3,800 feet, the pipeline, except for minor curve straightening, would be bedded and set within the Dutton Ditch. The pipe will then be covered over with soil and reseeded if all parties agree to locate within the ditch. If Mr. Smith elects to continue to use the entire length of the ditch, the first 3800' of the ditch will be reconstructed following the pipeline installation. I recognize that two methods of water transmission are not the most desirable option from a public lands perspective; however, it is the prerogative of the ditch holder to not enter into an agreement with PAWSD. Should there be an agreement to share the pipe, Alternative 3 will be implemented in its entirety, including breaching and rehabilitation of the existing ditch, where necessary. Along Forest Service roads, the pipeline would be buried up to 10' deep either next to or in the Forest Service Roads. The new pipeline would have capacity to carry the 35 c.f.s of Dutton Ditch water sufficient to carry the absolute and conditional rights of all potential parties.

Proposed pipeline appurtenances would include a collection inlet and feeder pipeline at Cade Creek, which is tributary to Dutton Ditch. This collection point and associated water right, referred to as sidewater collection, will allow the pipe to capture and convey runoff from Cade Creek which has contributed to Dutton Ditch. Other features of this alternative include:

- Pipeline construction would occur over a period of approximately five months. The work could extend into the winter season, weather and road conditions permitting.
- A permit and operating plan would be issued for pipeline operations.

VI. Other Alternatives Considered

Alternative 1 is the "No Action" alternative and proposes no change in management activities in the analysis area at this time.

A third alternative (Alternative 2) was considered that was similar to Alternative 3 except the Dutton Ditch would not be abandoned.

VII. Rationale for My Decision

Factors I considered included:

- ❑ purposes of and needs for the project (EA, pgs 2-3)
- ❑ the environmental consequences of implementing Alternative 2 (EA, pgs 12-43)
- ❑ benefit to local community
- ❑ our ability to implement mitigation measures (EA, pgs 8-10)
- ❑ the effectiveness and type of mitigation measures (EA pp. 8-10)
- ❑ the biological evaluations and assessments, (on file, Pagosa District Office)
- ❑ agreement amongst all the affected Dutton Ditch water users
- ❑ ongoing environmental impacts

In addition, the ID Team conducted the NEPA process in compliance with the Endangered Species Act, Forest Service Region 2 Sensitive Species policies, the Clean Water Act, the Clean Air Act and the National Historic Preservation Act.

Issues:

Some issues were raised during initial scoping. All issues raised were carefully considered. I am confident they have been adequately addressed and/or will be sufficiently mitigated to a level of insignificance. The ID Team did not identify any key issues.

Other Considerations:

After careful review, information contained in the EA (pp. 12-43) demonstrated to me that continuing current management under Alternative 1 - No Action would not address the purpose and need for the project.

Sensitive, Threatened and Endangered Species

The EA and associated Biological Evaluation and Assessment assesses the effects on a number of sensitive, threatened or endangered species. For wildlife species (EA pp. 22-26, 36-37, and 43), my decision will have “no impact” on 3 species, “no effect” on 4 species, and a “may adversely affect individuals, but not likely to affect populations or result in a loss of viability” for 10 species.

For fisheries, given this project involves continued water diversion there would be a “may affect, likely to adversely affect” for 2 endangered fish species, and a may affect individuals of but not populations of 3 sensitive fish species (EA pp. 25 – 26). The U.S. Fish and Wildlife Service issued a Biological Opinion (June 17, 2004; ES/GJ-6-CO-04-F-010), which concurred with the Forest Service’s finding and also concluded that the proposed action “is not likely to jeopardize the continued existence of the Colorado pikeminnow and razorback sucker, and the proposed action in not likely to destroy or adversely modify designated critical habitat.”

There will be “no impact” on any sensitive plant species. There is no habitat present for any threatened or endangered plant species, so there will be “no effect” on any threatened or endangered plant species (EA, p. 13).

Management Indicator Species and Population Viability

The Management Indicator Species (MIS) analysis (EA pp. 26-35) indicates that this decision would not cause significant impacts upon analyzed MIS populations or habitat trends.

Geology

The existing ditch crosses several sensitive geologic areas and past breaches have caused damage to the surrounding environment and road. The most sensitive geologic area occurs along the first 3,800 feet of the Dutton Ditch. The modified Alternative 3 I have selected will abandon this portion of the ditch and greatly reduce the risk of future breaches and landslides in this area. However, there is still geologic risk involved for that portion of the ditch that will remain in operation.

Response to Compliance Issues and Established Management Goals

The selected modified alternative complies with requirements of the National Forest Management Act, the National Environmental Policy Act, the Clean Water Act, the Clean Air Act, the Endangered Species Act, and the National Historic Preservation Act. The selected alternative is effective in meeting the Purpose of and Need for the proposed action and Forest Plan goals and objectives (EA, pp. 1-3).

VIII. Findings of Compliance

Compliance with the National Forest Management Act (NFMA)

The National Forest Management Act requires documentation of several specific findings at the project level. These findings concerning my selected alternative are described below.

Forest Plan Consistency

All resource plans are to be consistent with the Forest Plan (16 USC 1640(i)). The Forest Plan guides all natural resource management activities (36CFR 219.1(b)). All administrative activity must be based on the current Forest Plan (36 CFR 210.10(e)). The ID team reviewed and affirmed that the selected modified version of Alternative 2 is consistent with current Forest Plan management direction (EA pg 3).

IX. Finding of No Significant Impact (FONSI)

My personal review of the environmental consequences displayed in the environmental assessment for the Dutton Pipeline Project (EA, pp. 12-43) and my understanding of the level of anticipated effects which were disclosed, indicates this is not a major federal action with significant effect on the quality of the human environment. I also understand that there will be no significant effect on the quality of the biological or physical environment. My finding considers both the context and the intensity of environmental consequences of the selected alternative.

An Environmental Impact Statement will not be prepared for this proposal. This determination is made based on the Dutton Pipeline Project EA. It also considers the following factors:

1. The project conforms with the direction provided in the 1992 Amended Land and Resource Management Plan for the San Juan National Forest (EA p. 3).
2. No irreversible or irretrievable commitment of resources will occur (EA pp. 12-43).
3. The action will not have a significant effect on the quality of the human environment, either as an individual action or as part of the cumulative effects of other past, present, and planned actions within this analysis area (EA pp. 42-43).
4. The action does not affect public health and safety.
5. The effects of the action on the human environment are not highly uncertain, nor do they involve unique or unknown risks. These effects are not likely to be highly controversial.
6. The action is not precedent-setting. It does not establish a precedent for future actions that may have a significant effect on the environment. It does not represent a decision in principle about a future consideration.
7. The action will not adversely affect districts, sites, highways, structures, or objects listed in, or eligible for listing in the National Register of Historic Places. The project will not cause loss or destruction of significant scientific, cultural or historic resources.

The project analysis considered the unique characteristics of the geographic area and will not cause loss or destruction of significant parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

8. For fisheries, given this project involves continued water diversion there would be a “may affect, likely to adversely affect” for 2 endangered fish species. The U.S. Fish and Wildlife Service issued a Biological Opinion (June 17, 2004; ES/GJ-6-CO-04-F-010), which concurred with the Forest Service’s finding and also concluded that the proposed action "is not likely to jeopardize the continued existence of the Colorado pikeminnow and razorback sucker, and the proposed action in not likely to destroy or adversely modify designated critical habitat." (EA pp. 25). There would be no adverse affects to the other threatened and endangered species analyzed.
9. This action complies with other federal, state, and local laws and requirements imposed for the protection of the environment.
10. The effects of this action on the quality of the human environment are not likely to be highly controversial.

X. Implementation

Pursuant to Forest Service regulation at 36 CFR 215.9 (c) (1), implementation of the selected alternative may begin immediately after publication of the Legal Notice for this decision in the Durango Herald, the paper of record.

XI. Appeal Rights

Pursuant to Forest Service regulation at 36 CFR 215.12 (e) (1), this decision is not subject to appeal.

For additional information concerning this decision or the environmental analysis, contact Rick Jewell, Pagosa Ranger District, Post Office Box 310, Pagosa Springs, Colorado 81147, or call (970) 264-1509.

/s/ Mark W. Stiles

Mark W. Stiles
Forest Supervisor

9/24/04

Date

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Literature Cited

Davis Engineering January 13, 2003. Preliminary Engineering Study of Water Supply Alternatives for the Pagosa Area Water and Sanitation District, 58 pp.

