BLM

Record of Decision for the Ruby Pipeline Project

July 12, 2010

U.S. FISH & WILDLIFE SERVICE

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

FOREST SERVICE
U.S.
DEPARTMENT OF AGRICULTURE

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NATIONAL SYSTEM OF PUBLIC LANDS

United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Environmental Impact Statement CP09-54-000
Case File Numbers: 2880 NVN-084650, OR-64807, UTU-82880,
And WYW-171168 (W0350)

RECORD OF DECISION

Ruby Pipeline Project
Decision to Grant Rights of Way and Temporary Use Permits

Lincoln and Uinta Counties, Wyoming
Rich, Cache and Box Elder Counties Utah
Elko, Humboldt and Washoe Counties, Nevada
Lake and Klamath Counties, Oregon

U.S. Department of the Interior

Bureau of Land Management
Nevada State Office
Kemmerer Field Office, Wyoming
Salt Lake Field Office, Utah
Elko and Winnemucca District Offices, Nevada
Lakeview Resource Area and Klamath Falls Resource Area, Oregon
Surprise Field Office, California

With the Concurrence of:

U.S .Department of the Interior, Bureau of Reclamation, Klamath Basin Area Office
U.S. Department of the Interior, U.S. Fish and Wildlife Service, Region 6
U.S. Department of Agriculture
Fremont-Winema National Forest, Uinta-Wasatch-Cache National Forest, and Modoc National Forest

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Reno, Nevada 89502
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July 12, 2010

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ATTACHMENTS

ACRONYMS AND ABBREVIATIONS

ACAD	Antelope Creek Archaeological District
ACHP	Advisory Council on Historic Preservation
APE	Area of Potential Effect
COE	U.S. Army Corps of Engineers
AO	Authorized Officer
BGEPA	Bald and Golden Eagle Protection Act
BA	Biological Assessment
BO	Biological Opinion
BLM	U.S. Department of the Interior, Bureau of Land Management
Certificate	Certificate of Public Convenience and Necessity
ESA	Endangered Species Act
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EPAct	Energy Policy Act
FERC	Federal Energy Regulatory Commission
FLPMA	Federal Land Policy and Management Act
FRAP	Federal Rules of Appellate Procedure
HPTP	Historic Properties Treatment Plan
IRA	Inventoried Roadless Area
KFRA	Klamath Falls Resource Area
KBAO	U.S. Department of the Interior, Bureau of Reclamation Klamath Basin Area Office
kV	Kilovolt
LRMP	Land and Resource Management Plans
LUP	Land Use Plans
LOP	Limited Operating Period
MOA	Memorandum of Agreement
MBTA	Migratory Bird Treaty Act
MLA	Mineral Leasing Act
MP	Milepost
NEPA	National Environmental Policy Act
NFMA	National Forest Management Act
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
NWR	National Wildlife Refuge
NRCS	U.S. Department of Agriculture, Natural Resources Conservation Service
NDOW	Nevada Department of Wildlife
NLAA	Not Likely to Adversely Affect
NOA	Notice of Availability
NOI	Notice of Intent
NTP	Notice to Proceed

ACRONYMS AND ABBREVIATIONS (CONTINUED)

PG&E	Pacific Gas & Electric Company
POD	Plan of Development
Reclamation	U.S. Department of the Interior, Bureau of Reclamation
ROD	Record of Decision
RMP	Resource Management Plan
ROW	Right-of-Way
Ruby	Ruby Pipeline LLC
SHPO	State Historic Preservation Officer
SUP	Special Use Permit
TUP	Temporary Use Permit
TCP	Traditional Cultural Property
DOI	United States Department of the Interior
USFS	U.S. Department of Agriculture, Forest Service
USFWS	U.S. Department of Interior, Fish and Wildlife Service
VMS	Visual Management System
VQO	Visual Quality Objectives
VRM	Visual Resource Management
WIU	Wilderness Inventory Units
WSA	Wilderness Study Area

Introduction

The Federal Energy Regulatory Commission (FERC) is responsible for authorizing construction and operation of interstate natural gas pipelines. FERC issues Certificates of Public Convenience and Necessity (Certificate) for natural gas pipelines under Section 7 of the Natural Gas Act of 1938 (NGA), as amended, and authorizes construction and siting of facilities for the import or export of natural gas under Section 3 of the NGA. FERC also authorizes construction and operation of natural gas pipelines per the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348). Accordingly, FERC served as the Lead Agency for Ruby Pipeline LLC's (Ruby) application for the Ruby Pipeline Project. FERC used the Final Environmental Impact Statement (EIS) it prepared according to the National Environmental Policy Act (NEPA) to issue its Certificate for the Ruby Pipeline Project on April 5, 2010 (Attachment A). The Certificate authorizes Ruby to construct approximately 678.38 miles of 42-inch-diameter mainline natural gas pipeline, approximately 2.6 miles of 42-inch-diameter lateral pipeline, and related aboveground facilities.

The United States Department of the Interior (DOI), Bureau of Land Management (BLM) has primary responsibility for issuing right-of-way (ROW) grants and temporary use permits (TUPs) for natural gas pipelines across most federal lands pursuant to Section 28 of the Mineral Leasing Act of 1920 (MLA), as amended supplemented (30 U.S.C. 185 *et seq.*). The federal lands crossed or used as access for the Ruby Pipeline Project include lands managed by the DOI, BLM; DOI, Bureau of Reclamation (Reclamation); and the United States Department of Agriculture (USDA), Forest Service (USFS), specifically the Fremont-Winema National Forests, the Uinta-Wasatch-Cache National Forest, and the Modoc National Forest, and the DOI, United States Fish and Wildlife Service (USFWS), specifically the Sheldon National Wildlife Refuge (NWR).

This document is the Record of Decision (ROD) of the BLM for a ROW grant and TUPs for the Ruby Pipeline Project. This document also serves as the ROD for Reclamation and the USFS. This ROD was prepared in accordance with NEPA, MLA, the Federal Land Policy and Management Act (FLPMA) of 1976, and other applicable federal laws and regulations. The BLM, Reclamation, USFS, USFWS, Natural Resources Conservation Service (NRCS), the United States Army Corps of Engineers (COE), the State of Utah Public Lands Policy Coordination Office, and the Board of County Commissioners in Lincoln County, Wyoming served as Cooperating Agencies in the preparation of the Ruby Pipeline Project Final EIS pursuant to Section 204 of NEPA. The BLM, USFS, and USFWS have adopted the Final EIS per Title 40 CFR Part 1506.3, and the BLM has prepared this ROD based on information contained in the Final EIS for project-related actions affecting BLM, Reclamation, USFS, and USFWS lands. This decision will specifically affect the federal lands detailed in Attachment B, and described in the Final EIS for the project.

Decision

After extensive environmental analysis, consideration of agency, tribal, and public comments, and application of pertinent federal laws and policies, and in accordance with Title 43 CFR Parts 2800 and 2880, it is the decision of the BLM with concurrence from Reclamation, USFS, and USFWS to authorize the ROW 2880 NVN-084650 grant and associated TUP for the construction, operation, maintenance, and termination of the selected alternative for Ruby Pipeline Project across federal lands. The ROW will be for the route certificated by FERC, with the inclusion of the Newmont and Eastern Portion of the Southern Langell Valley reroutes

(Attachment B). Specifically, the BLM, with concurrence from Reclamation, USFS, and USFWS has decided to:

1. Grant a ROW authorizing the construction, operation and maintenance of a 42-inch-diameter natural gas pipeline on federal lands in Lincoln and Uinta Counties, Wyoming; Rich, Cache and Box Elder Counties, Utah; Elko, Humboldt and Washoe Counties, Nevada; and Lake and Klamath Counties, Oregon. On federal lands the permanent ROW will be 50 feet wide (including the ground occupied by the pipeline), approximately 367.87 miles long, and encompass approximately 2,290.51 acres (See Table 1 in Attachment C). The grant would be issued for a term of thirty (30) years with the right of renewal. This ROW grant is issued under authority of the MLA, as amended and supplemented (30 USC 185 et seq.) and the FLPMA (43 USC 1701 et seq.).

2. Include as part of the above ROW, authorization for the construction, operation, maintenance and termination of 3 compressor stations (on Federally managed lands), 3 meter stations, 5 launchers and receivers sites, (2 stand alone sites within the ROW and 1 at each compressor station location [Roberson, Wildcat Hills and Desert Valley]), 22 mainline valves (21 on Federal lands managed by BLM lands and 1 located on Federal lands managed by the Fremont Winema National Forest), and 3 communication towers on federal lands. See Attachment B.

3. Grant a ROW authorizing the upgrade, use, and maintenance of 185.19 acres of permanent access roads on federal lands. The ROW will be 30 feet wide and approximately 50.93 miles long. The term of the ROW will be 30 years with the right of renewal. This ROW grant is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

4. Issue a TUP in association with the Ruby Pipeline Project ROW authorizing the use of a Temporary Workspace. The TUP will encompass an area on federal lands (in addition to the permanent 50 foot right of way) that varies from 65 feet wide in shallow sloping areas to 145 feet wide on steeper slopes and encompasses approximately 3,984.80 acres. The term of the TUP will be approximately 3 years with a right of renewal. This TUP is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

5. Issue a TUP in association with the Ruby Pipeline Project ROW authorizing the upgrade, use and maintenance of 1,353.32 acres of temporary access roads on federal lands. The TUP will be 30 feet wide and 372.16 miles in length. The existing access roads are identified and discussed in the Transportation Plan in the Plan of Development (POD) (Attachment D, Appendix O). The term of the TUP will be 1 year with a right of renewal. This TUP is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

6. Issue a TUP authorizing the use of approximately 33.66 acres for Temporary Workspace on lands administered by the Bureau of Reclamation. The TUP will

encompass an area that varies from 65 feet wide in shallow sloping areas to 145 feet wide on steeper slopes. The term of the TUP will be approximately 3 years with a right of renewal. This TUP is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

7. Issue a TUP authorizing the upgrade, use, and maintenance of 7.11 acres of temporary roads on Reclamation administered lands. The TUP will be 30 feet wide and 1.96 miles in length. The term of the TUP will be 1 year with a right of renewal. This TUP is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

8. Issue a TUP authorizing the use of approximately 233.49 acres for Temporary Workspace on USFS administered lands in the Fremont-Winema National Forest. The TUP will encompass an area that varies from 65 feet wide in shallow sloping areas to 145 feet wide on steeper slopes. The term of the TUP will be approximately 3 years with a right of renewal. This TUP is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

9. Issue a TUP authorizing the upgrade, use, and maintenance of 274.84 acres of temporary roads on USFS administered lands in the Fremont-Winema National Forest. The TUP will be 30 feet wide and 75.58 miles in length. The term of the TUP will be 1 year with a right of renewal. This TUP is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

10. Issue a TUP authorizing the use of approximately 11.22 acres for Temporary Workspace on USFS administered lands in the Uinta-Wasatch Cache National Forest. The TUP will encompass an area that varies from 65 feet wide in shallow sloping areas to 145 feet wide on steeper slopes. The term of the TUP will be approximately 3 years with a right of renewal. This TUP is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

11. Issue a TUP authorizing the upgrade, use, and maintenance of 13.51 acres of temporary roads on USFS administered lands in the Uinta-Wasatch Cache National Forest. The TUP will be 30 feet wide and 3.72 miles in length. The term of the TUP will be 1 year with a right of renewal. This TUP is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

12. Issue a TUP authorizing the upgrade, use, and maintenance of 18.57 acres of temporary roads on USFS administered lands in the Modoc National Forest. The TUP will be 30 feet wide and 5.11 miles in length. The term of the TUP will be 1 year with a right of renewal. This TUP is issued under authority of the MLA, as amended and

supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). See Table 1 in Attachment C.

13. Issue a TUP authorizing the use of roads on Sheldon National Wildlife Refuge subject to USFWS ROD and Special Use Permit (SUP), including its terms and conditions (see Attachment O). Total acreage will be approximately 177.34 acres. The term of the TUP and SUP will be 3 years with a right of renewal. This TUP is issued under authority of the MLA, as amended and supplemented (30 USC 185 *et seq.*) and the FLPMA (43 USC 1701 *et seq.*). The SUP is also allowed under MLA and is required by the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668d-688ee). See Table 1 in Attachment C.

14. In accordance with Title 43 CFR Part 2800, Ruby has provided the BLM with a final POD, entitled the Ruby Pipeline Project Plan of Development dated June, 2010 (Attachment D), which details how the pipeline and associated facilities will be constructed in compliance with ROW/TUP terms, conditions, and stipulations. This POD is approved and will be made a part of the ROW/TUP grant. Ruby shall construct, operate and maintain the facilities, improvements and structures within the ROW, and areas authorized by the TUPs in strict conformity with the POD. Any relocation, additional construction, or use that is not in accordance with the approved POD shall not be initiated without the prior written approval of the Authorized Officer (AO).

Prior to any construction or other surface disturbance associated with the ROW grant and TUPs, Ruby shall receive written Notices to Proceed (NTPs) from the Authorized Officer or delegated agency representative. Any NTP shall authorize construction or use only as therein expressly stated and only for the particular location, segment, area, and use described.

Agency Standards

The ROW grant and TUPs must comply with agency (BLM, Reclamation, USFS, USFWS, COE and FERC) stipulations described and referenced in the attachments to this ROD.

Bonding

Ruby will post a performance bond in the amount of $42 million to ensure adequate adherence to all terms and conditions on federal lands. The bond will apply to the following:

Accommodating all cultural resources post-field work costs associated with implementing the approved treatment plans in Wyoming, Utah, Nevada, Oregon or other cultural resources mitigation measures. Such costs may include, but are not limited to: treatment; field work; post-field analyses, research, and final report preparation; interim and summary report preparation; and the curation of project documentation and artifacts collected (except for Native American Graves Protection and Repatriation Act-related human remains and cultural artifacts) in a DOI-approved curation facility and long term administrative costs associated with reporting and condition assessments.

Restoration and reclamation of disturbed areas and other requirements relative to the construction phase of the project. Upon completion, or partial completion of

construction-related reclamation requirements, the AO may reduce or terminate the amount of the bond.

Liability for damages or injuries resulting from releases or discharges of hazardous materials.

The bond may be released as specific tasks are completed and accepted by the BLM. This bond must be maintained in effect until temporary improvements used during construction are removed, and restoration and reclamation of the ROW has been accepted by the AO.

Decommissioning on Federal Lands

Upon termination of the ROW, all facilities on federal lands will be decommissioned in accordance with an abandonment plan that will be reviewed by the BLM, Reclamation, USFS, and USFWS. The aboveground pipeline at compressor and meter stations will be completely removed, including all related aboveground equipment and foundations, and the station sites will be restored to as near original condition as possible. The underground pipe will be purged of gas, cleaned, isolated from interconnections with other pipelines, sealed, and left in place. All access roads not required to meet federal transportation needs will be removed and the sites reclaimed to agency standards.

State and Federal Legal Requirements

This ROD also requires Ruby to meet the requirements of the other major authorizing agencies for this project concerning any necessary federal and state permits, licenses, and/or approval and consultation requirements on federal lands as identified in Table 1.5-1 found on pages 1-25 to 1-30 of the Final EIS for the Ruby Pipeline Project.

Compliance and Monitoring

Ruby will provide compliance environmental inspectors/monitors for pipeline construction, access road upgrades, and aboveground facility construction. These monitors will report directly to the BLM, Reclamation, USFS, USFWS and FERC. Their role and responsibility is to ensure compliance with all terms, conditions, and stipulations of the ROW grant and TUPs, FERC's Certificate, and other permits, approvals and regulatory requirements as described in Section 1.5 of the Final EIS. The environmental inspectors/monitors shall follow the Environmental Compliance Monitoring Plan included as Appendix U of the POD dated June 2010 (Attachment D). Ruby will also be responsible for monitoring the reclamation and stabilization of the pipeline over the long term. Included in this requirement, among other things, is the yearly monitoring of the ROW for invasive plants and, if necessary, spraying as outlined in the Noxious and Invasive Weed Control Plan included in Appendix H of the POD (Attachment D).

Terms, Conditions, and Stipulations

This decision is contingent on meeting all terms, conditions and stipulations for federal lands listed below:

1. Ruby shall follow the construction procedures and mitigation measures described in its application and supplements as identified in the Final EIS as modified by the

conditions of approval (FERC/EIS No. 0232F, FERC Docket No. CP09-54-000). These mitigation measures are included with this ROD as Attachment A.

2. Ruby shall comply with the standard stipulations of the ROW grant and TUPs (Attachment E).

3. Prior to any construction or other surface disturbance associated with the ROW grant and TUPs, Ruby shall receive written Notices to Proceed (NTPs) from the AO or delegated agency representative. Any NTP shall authorize construction or use only as therein expressly stated and only for the particular location, segment, area, and use described.

4. In accordance with Title 43 CFR Part 2800, Ruby has provided the BLM with a POD dated June 2010 (Attachment D) detailing how the pipeline and associated facilities will be constructed in compliance with the ROWs and TUPs terms, conditions, and stipulations. Ruby shall comply with all required environmental protection measures outlined in the POD to the satisfaction of the BLM, Reclamation, USFS, and USFWS. These measures include the standard stipulations of the ROW grant and TUPs.

5. Ruby shall construct, operate and maintain the facilities, improvements and structures within the ROW and areas authorized by the TUPs in strict conformity with the POD dated June 2010 (Attachment D), which is part of the grant. Any relocation, additional construction or use that is not in accordance with the approved POD shall not be initiated without the prior written approval of the AO.

6. Ruby shall comply with all requirements set forth by FERC in its Certificate (Docket No. CP09-54-000) found in Attachment A of this ROD.

7. Ruby shall comply with the terms and conditions of the Memoranda of Agreement (MOAs) written by FERC and signed by the State Historic Preservation Officers (SHPOs) in Wyoming, Utah, Nevada, and Oregon.

8. Ruby shall implement all activities described in the Description of the Proposed Action and the Terms and Conditions of the Biological Opinion (BO) written by the USFWS found in Attachment F of this ROD.

9. Ruby shall implement and comply with the following voluntary commitments: Letter of Commitment Regarding the Endangered Species Act Conservation Action Plan, the Cooperative Conservation Agreement and an Associated Conservation Plan for Greater Sage-Grouse and Pygmy Rabbit, the Voluntary Conservation Plan for Migratory Birds, and the Conservation Agreement for Ruby Pipeline Project Limited Operating Period Encroachments in Nevada (Attachments G-J).

Notice to Proceed

This Decision does not authorize Ruby to commence construction of any project facilities for the Ruby Pipeline Project or proceed with other ground-disturbing activities in connection with the Ruby Pipeline Project on Federal lands. Ruby shall not commence construction of project facilities or proceed with any ground-disturbing activities related to the Ruby Pipeline Project on Federal lands until Ruby: (1) in accordance with 43 C.F.R. § 2807.10, receives a written notice to proceed from the BLM's AO authorizing Ruby to commence construction of project facilities or proceed with other ground-disturbing activities in connection with the Ruby Pipeline Project, and (2) complies with all pre-construction requirements included in FERC's April 5, 2010, order certifying the Ruby Pipeline Project, 13 FERC ¶ 61,007, including written confirmation from FERC's Director, Office of Energy Projects, that Ruby has complied with Condition 44 of Appendix A to FERC's April 5, 2010 order certifying the Ruby Pipeline Project, 13 FERC ¶ 61,007.

Appeal of this Decision

Section 313(b) of the Energy Policy Act (EPAct) of 2005, which amended the NGA, grants the United States Court of Appeals original and exclusive jurisdiction to review Federal decisions to issue, condition, or deny a Federal authorization for any facility that will be constructed or operated subject to 15 U.S.C. § 717b or 15 U.S.C. 717f:

> The United States Court of Appeals for the circuit in which a facility subject to section 717b of this title or section 717f of this title is proposed to be constructed, expanded, or operated shall have original and exclusive jurisdiction over any civil action for the review of an order or action of a Federal agency (other than the Commission) or State administrative agency acting pursuant to Federal law to issue, condition, or deny any permit, license, concurrence, or approval(hereinafter collectively referred to as "permit") required under Federal law, other than the Coastal Zone Management Act of 1972.

This Decision is an order or action of a Federal agency issuing a permit, as that term is used in EPAct, 15 U.S.C. § 717r (d)(1), because it is an agency decision to issue and condition a BLM ROW grant for the use of Federal lands involved in the Ruby Pipeline Project, which is a facility that will be constructed and operated pursuant to 15 U.S.C. § 717f. Accordingly, this Decision is appealable directly to an appropriate United States Court of Appeals in accordance with 15 U.S.C. § 717r and the Federal Rules of Appellate Procedure (FRAP).

FRAP 4(a)(1)(B) states that in cases where "the United States or its officer or agency is a party, the notice of appeal may be filed by any party within sixty (60) days after the judgment or order appealed from is entered." Similarly, the NGA requires that any party aggrieved by a FERC order on rehearing file a notice of appeal with the appropriate United States Court of Appeals within sixty (60) days, 15 U.S.C. § 717r (b). Thus, any notice of appeal of this Decision must be filed in an appropriate United States Court of Appeals within sixty (60) days of the date of this Decision.

Mitigation and Monitoring

The environmental protection measures Ruby incorporated into its POD dated June 2010 (Attachment D) and the additional terms and conditions stipulated in this ROD will minimize the

resource impacts from the project. These measures constitute all practical means to minimize environmental harm and are described in the POD and the other attachments to this ROD. Implementation of an environmental monitoring and compliance plan during construction will ensure that all environmental protection measures are completed in accordance with the Final EIS, POD, the ROD, the BO and FERC's authorizing Order, which also includes all of the conservation plans: : Letter of Commitment Regarding the Endangered Species Act Conservation Action Plan, the Cooperative Conservation Agreement and an Associated Conservation Plan for Greater Sage-Grouse and Pygmy Rabbit, the Voluntary Conservation Plan for Migratory Birds, and the Conservation Agreement for Ruby Pipeline Project Limited Operating Period Encroachments in Nevada (Attachments G-J).

This ROD is based on a review of the record that shows a thorough analysis of environmental impacts. The environmental consequences of constructing and operating the Ruby Pipeline Project were evaluated by FERC and the Cooperating Agencies as required by NEPA. The environmental analysis evaluated impacts to 12 resource categories: geology, soils, water, vegetation, wildlife, fisheries and aquatic, special status species, land use and visual, socioeconomic, cultural, air quality and noise, and reliability and safety. Three levels of impact duration were considered: short-term (up to 3 years following construction), long-term (from 3 to 50 years after construction) and permanent (more than 50 years required to return to pre-construction conditions). An impact was considered to be significant if it will result in a substantial adverse change in the physical environment or natural condition. Pursuant to 40 CFR 1508.7, the Final EIS provided cumulative impacts analysis for the Ruby Pipeline Project. This included consideration of past, present and reasonably foreseeable actions in the project area and whether, and to what extent, those actions would contribute to the cumulative effects to the environment. The most significant environmental impacts to emerge from the scoping comments, agency and tribal consultations, and FERC's evaluation of resource impacts are described below.

Project Construction and Operation

The BLM requires project proponents to prepare a POD (Attachment D) as part of the ROW granting process (43 CFR 2884.11). To reduce construction impacts, Ruby will also implement its project-specific Upland Erosion Control, Revegetation and Maintenance Plan (Attachment D, Appendix D) for upland areas and Wetland and Waterbody Construction and Mitigation Procedures (Attachment D, Appendix F) for wetland and waterbodies as required by FERC. The Compliance Plan (Attachment D, Appendix U) and FERC's Implementation Plan will be used to implement post construction restoration efforts. These and other mitigation plans and procedures are referenced in and included as appendices to the Final EIS and the POD.

Geology, Paleontology and Soils

Potential geologic hazards in the project area include seismicity, landslides, and subsidence. Ruby has prepared site-specific measures to reduce the risk associated with these geologic hazards, including the use of heavier-walled pipe, pipeline realignment to avoid specific faults, and postseismic event field evaluation. Ruby will also construct the pipeline to control runoff and erosion thereby minimizing the potential for slope failures.

Several areas along the proposed route were identified to have a moderate to high potential for containing important paleontological resources. Ruby has prepared an Unanticipated Discoveries Plan for Paleontological Resources (Attachment D, Appendix K) to monitor for and address the discovery of significant resources during construction.

Long-term or permanent impacts to soils will occur within areas containing cryptobiotic soil crusts. Ruby will implement the mitigation measures contained in its Restoration and Revegetation Plans for soil management, seeding, restoration, and monitoring; and in its project-specific Upland Erosion Control, Revegetation, and Maintenance Plan (Attachment D, Appendix D), as well as FERC's recommended measures.

Water Body Crossings, Water Use, and Wetlands

The Ruby Pipeline Project will cross 1,069 ephemeral, intermittent, and perennial water bodies and channels (some multiple times) within 11 major watershed basins. All water body crossings will be conducted in accordance with all federal and state regulations and permit requirements, and Ruby will minimize impacts by following measures identified in its project-specific Wetland and Water Body Construction and Mitigation Procedures (Attachment D, Appendix F), water body crossing commitments with the USFWS, water body crossing actions described in the Description of the Proposed Action of the BO (Attachment F) as well as the Terms and Conditions for stream crossings identified in the BO, and additional FERC recommended measures. The federal and state regulations, the Ruby Wetland and Water Body Plan, and the water body crossing actions described in the Description of the Proposed Action of the BO as well as the Terms and Conditions of the BO apply to both public and private lands.

Ruby will use about 402 million gallons (1,233.7 acre-feet) of water from surface and groundwater sources for hydrostatic testing of the pipeline and for dust control. Water withdrawal and discharges will be conducted in accordance with all federal and state regulations and permit requirements. To minimize impacts to surface and groundwater, Ruby has committed to certain water appropriation timing restrictions, withdrawal rate limitations, intake screening requirements, biocide treatments and neutralization, discharge restrictions, and other measures.

Construction and operation of the pipeline will not result in the permanent filling of any wetlands, although forested wetlands within the maintained pipeline ROW will be converted to herbaceous or shrub-scrub wetlands. Ruby will reduce temporary impacts to wetlands by following the project-specific Wetland and Water Body Construction and Mitigation Procedures and by following additional measures on federal lands as required by land management agencies. Ruby will also be required to obtain authorization from the COE to discharge dredge or fill material into Waters of the United States, including wetlands.

Federally Listed Species

The final Biological Assessment (BA), dated January 2010, determined the Project is likely to adversely affect nine federally-listed fish (Colorado pikeminnow [*Ptychocheilus lucius*], humpback chub [*Gila cypha*], razorback sucker [*Xyrauchen texanus*], bonytail chub [*Gila elegans*], Lahontan cutthroat trout [*Oncorhynchus clarki henshawi*], Warner sucker [*Catostomus warnerensis*], Modoc sucker [*Catostomus microps*], Lost River sucker [*Deltistes luxatus*], and shortnose sucker [*Chasmistes brevirostris*]; proposed critical habitat for Lost River sucker and

shortnose sucker; and designated critical habitat for Warner sucker and the four Colorado River fishes. The BA concluded that the Project's proposed action may affect, but is not likely to adversely affect (NLAA), and black-footed ferret (*Mustela nigripes*) and Ute ladies'-tresses (*Spiranthes diluvialis*).

Measures to minimize impacts on streams with federally-listed fish and associated riparian habitats include constructing the project across these sensitive streams and their associated critical habitat during agency recommended periods, restricting water appropriations from these waterbodies, restoring stream bed and banks to preconstruction conditions, using appropriate short- and long-term erosion control measures, replanting woody riparian habitats after construction, implementing monitoring programs to identify restoration problems, and implementing remedial actions when restoration problems are identified, restricting extra workspaces within 50 feet of these water bodies, and limiting the construction ROW to 115 feet across water bodies. Ruby will adopt the seasonal timing restrictions within the Endangered Species Act (ESA) fish basins that were recommended by the agencies. Ruby will utilize proper fish handling techniques should fish be entrapped between the upstream and downstream dams during a dry-ditch crossing.

The USFWS finalized its BO for the Ruby project in June of 2010 (Attachment F). In the BO, USFWS reviewed the best available scientific and commercial information available regarding the current status of the federally-listed fish, and designated critical habitat for Warner sucker, Colorado pikeminnow, humpback chub, razorback sucker, and bonytail chub within the action area. The BO determined the effects of the project on these ESA fishes and their designated critical habitats, and cumulative effects to these ESA fishes and their designated critical habitats. In the BO, the USFWS concluded that the project is not likely to jeopardize the continued existence of Lahontan cutthroat trout, Warner sucker, Modoc sucker, Lost River sucker, shortnose sucker, Colorado pikeminnow, humpback chub, razorback sucker, and bonytail chub, or adversely modify or destroy designated critical habitat for Warner sucker, Colorado pikeminnow, humpback chub, razorback sucker, and bonytail chub. The USFWS also agreed with the BA that the determination for ferret and Ute-ladies'-tresses was may affect NLAA.

The USFWS anticipates that activities associated with the project are reasonably certain to result in incidental take of Lahontan cutthroat trout, Warner sucker, Modoc sucker, Lost River sucker, and shortnose sucker. Incidental takes, in the forms of harm and mortality, will occur because of adverse effects from project water body crossings. The BO lists reasonable and prudent measures, with their implementing terms and conditions, designed to minimize the impact of incidental take of these fish that might otherwise result from the project. These terms and conditions also provide measurable criteria to determine if the anticipated level of incidental take of these species has been exceeded.

For Colorado River fish (Colorado pikeminnow, humpback chub, bonytail, and razorback sucker), the USFWS exempt all take in the form of harm that will occur from the depletion of water from the occupied habitats listed in the BO (see Attachment F). Water depletions above the amounts addressed in the BO will exceed the anticipated level of incidental take and are not exempt from the prohibitions of Section 9 of ESA. The implementation of the USFWS's nondiscretionary Recovery Program is intended to minimize impacts of water depletions and, therefore, the actions implemented by the Recovery Program serve as reasonable and prudent

measures for minimizing the take that result from this project's water depletions. Any amount of water withdrawal above this level will exceed the anticipated level of incidental take.

Endangered Species Act Conservation Action Plan

BLM, USFS, USFWS, Ruby, and state wildlife management agencies have drafted a Letter of Commitment by Ruby Pipeline regarding the ESA Conservation Action Plan for the Ruby Pipeline Project (Attachment G) for ESA-listed species impacted by project implementation (Appendix M of the Final EIS). The actions identified in the ESA Conservation Plan Action Plan are voluntary on the part of Ruby, and are not part of FERC's Proposed Action in the BA. The specific actions identified in the plan will be subject to NEPA and additional ESA analysis separate from the analyses presented in the Final EIS and BO for the Ruby Pipeline Project.

Conservation projects for ESA fish species include monitoring and distribution surveys, evaluation and improvement of a prototype fish ladder, passage improvements at dams, funding for fish passage and screening projects and *Tamarisk* removal among other stream improvement projects. For the black-footed ferret, Ruby will contribute to the assessment of prairie dog colonies. Private lands were identified for purchase as conservation easements to conserve Ute ladies'-tresses. Ruby is responsible for the total estimated cost for all of the conservation actions in the Plan with an additional unknown cost for the purchase of conservation easement to benefit the Ute ladies'-tresses orchid.

The conservation actions outlined in the ESA Conservation Action Plan will provide conservation benefits to listed species and their habitats, and assist with conservation and/or recovery of these species. The ESA Plan conservation actions (1) have been extracted from listed species recovery plans, other ESA action plans, or recovery team activities; (2) reflect high priority actions for these listed species and critical habitats; and (3) and will assist with conservation of listed species. The final level of funding that Ruby will provide to fund the conservation projects identified in the ESA Action Plan has been determined through coordination with the USFWS.

Sage-Grouse and Pygmy Rabbit Conservation Agreement and Conservation Plan

In March 2010, the USFWS announced that the greater sage-grouse is warranted for listing under ESA, but is precluded by higher priority listing activities. As a result, the greater sage-grouse is currently a candidate for listing with no statutory protection under ESA and management of the species and its habitats remain the responsibility of the states and land management agencies, including BLM. About 143 miles of high-quality greater sage-grouse habitat is crossed by the Project (33.8 in Wyoming, 42.6 in Utah, and 66.5 in Nevada). In addition, 357 miles of moderate- to low-quality habitat are crossed (14.4 in Wyoming, 142.2 in Utah, 174.8 in Nevada, and 25.5 in Oregon).

Eighty-three pygmy rabbit areas were observed along the ROW in Wyoming, Utah, and Nevada during surveys in 2009 (FEIS 2010). The burrow complexes were delineated as follows: 12.0 acres in Wyoming, 25.5 acres in Utah, 24.8 acres in Nevada, and none in Oregon.

In addition to the avoidance, minimization, and mitigation requirements to protect greater sage-grouse noted in the POD (Attachment D), Ruby has committed to providing additional habitat compensation in all four states. Ruby, BLM, and the wildlife management agencies in Wyoming,

Utah, and Nevada, with the USFWS supporting the conservation effort, executed a Cooperative Conservation Agreement and an Associated Conservation Plan for Greater Sage-Grouse (Conservation Agreement and Plan, Attachment H). These documents are conditions established by FERC as part of the Certificate of Public Convenience and Necessity.

Potential projects listed in the Conservation Agreement and Plan will benefit greater sage-grouse and/or pygmy rabbit, as well as other wildlife species. The list of projects was created based on management needs found in the state and local working group sage-grouse plans. Sagebrush steppe restoration projects will improve habitat by reducing the effects of invasive and encroaching western juniper. Rangeland improvement projects include seeding overgrazed areas, invasive weed control, and implementation of adaptive grazing management. Riparian, spring, and wetland enhancement projects will provide brood rearing habitat for sage-grouse and water sources for various wildlife. In some cases, aspen stands, springs, and meadows will be fenced and water piped to a trough outside the fence for livestock, wild horses, and big game species. Other existing fences will be repaired to exclude horses and livestock from important habitats. To protect habitat from catastrophic fire, firebreaks will be mowed and fuelbreaks created. Conservation easements will be purchased in important sagebrush habitats and private lands acquired and managed to improve sagebrush habitat. Research projects will be funded, including sage-grouse seasonal use surveys using telemetry and helicopter surveys and conducting inventory and research projects to study pygmy rabbit habitat use and behavior. Collectively, these projects will contribute to restoring vegetation and reducing the threat of habitat fragmentation.

The Conservation Agreement and Plan identifies appropriate compensation ratios and acreages to offset the residual impacts associated with pipeline construction and to compensate for the spatial and temporal loss of habitat that will occur as a result of project construction activities. The objective is to replace lost habitat services with like services, providing replacement for the interim and permanent injury caused by the project.

Funds for the conservation of sagebrush-dependent species will be managed by either the state wildlife agency or a third-party nongovernmental, nonprofit conservation organization in each state affected by the project, agreed upon by the signatories to the Sage-Grouse and Pygmy Rabbit Conservation Agreement between Ruby Pipeline and the states.

Raptors and Other Migratory Birds

The Migratory Bird Treaty Act (16 USC 703-711) (MBTA) is a federal law that implements the United States' commitment to international conventions with Canada, Mexico, Japan, and Russia for protection of shared migratory bird resources. With respect to those actions so identified, the BLM is required to develop and use principles, standards, and practices that avoid take, developing any such conservation efforts in cooperation with the USFWS.

In addition to the MBTA, the Bald and Golden Eagle Protection Act (50 CFR 22.3 [72 Federal Register 31132]) (BGEPA) prohibits knowingly taking, or taking with wanton disregard for the consequences of an activity, any bald or golden eagle or their body parts, nests, chicks or eggs, which includes collection, molestation, disturbance, or killing. Protections under the BGEPA include provisions not included in the MBTA such as the protection of unoccupied nests and the definition of take that includes the prohibition of disturbing eagles.

Migratory Bird Conservation Measures Plan

In addition to adhering to the commitments listed in the POD (Attachment D), Ruby, in collaboration with the USFWS, has prepared the Voluntary Conservation Measures in Ruby's Voluntary Plan for Migratory Birds (Attachment I). The conservation measures in the Plan were volunteered by Ruby and have been agreed upon by Ruby and USFWS as a commitment that Ruby will adhere to in order to avoid and minimize adverse impacts on migratory bird habitats. The USFWS and Ruby will consider the Plan as a good faith effort to reduce impacts of habitat loss from development and operation of the project. These conservation measures in the Plan are further outlined in Ruby's POD and provide additional conservation benefits that go beyond typical avoidance, minimization, and compensatory conservation measures.

Limited Operating Periods

Along the entire route of the Ruby Pipeline Project, the BLM and the respective state game agencies recommended limited operating periods (LOP) for various species, particularly greater sage-grouse and big game. Attachment J is the LOP agreement for the Ruby Pipeline Project. These LOPs were developed in each state using the best available data on habitat use by season and recommended as described in the applicable land use plans (LUPs). LOPs are employed primarily to avoid disturbance impacts to species during construction. All LOPs associated with species and seasonal use areas were identified during Nevada's Habitat Characterization Matrix process as described in the POD (Attachment D, Appendices I and S).

Ruby and the agencies recognize the nature of LOP encroachments to be highly variable in their impacts to wildlife. This variability depends, among a multitude of potential factors, on conditions of weather, current habitat availability, and the natural variation in seasonal habitat utilization by these species. Unlike a finite computation of ground disturbance, the impact of an LOP encroachment may range from short-term to long-term or from population-level to negligible in extent. LUPs in Nevada direct the agencies to work to minimize wildlife impacts to the maximum extent possible. LUPs in Nevada recommend specific operating periods in and around sage-grouse leks as they relate to both distance and human activity during the morning and evening hours as well as variable restricted uses and buffers around concentrated big game use areas. To that end the agencies developed LOPs to encompass as full an array of seasonal habitats as possible; applying considerably more restrictions than those addressed in the LUPs. Ruby has designed construction spreads to avoid impacts to all of the sage-grouse leks and has further delayed construction to avoid as many areas of identified nesting, early and late brood-rearing habitats as possible. Likewise, construction scheduling avoids to the maximum extent big game migration corridors and wintering areas.

Subsequently, during the process of developing construction timelines, Ruby indicated to Nevada BLM that some pipeline construction spreads will encroach on certain of these LOPs. Due to overlapping LOP's, construction through certain areas of Nevada would not be possible. LOPs recommended in early summer through fall were the most difficult to accommodate and represent a small percentage of the recommended LOPs. The POD (Attachment D, Appendixes I and S) contains extensive mitigations to minimize the impacts of these encroachments such as minimization of the time for ditches to remain open and bridging open ditches at intervals to provide access. After detailed discussions between the agencies and Ruby, and numerous timeline adjustments by Ruby to accommodate these LOPs to the maximum extent possible it

was determined that construction within certain LOP's could not be totally avoided. The agencies determined that allowing construction to occur during the limited operating period would not have a significant impact on wildlife, but through additional mitigation efforts, wildlife as a whole would benefit. Ruby agreed to a compensation formula for providing additional conservation funding as a result of these potential impacts.

In an effort to most accurately portray the LOP encroachments, Ruby, the BLM, and NDOW have executed the "Conservation Agreement for Ruby Pipeline Project Limited Operating Period Encroachments in Nevada" (Attachment J). In that agreement, Ruby agreed to provide compensation based on a "march chart," which is an operational timeline that Ruby will develop and transmit to the BLM for review and approval. Ruby and the BLM will overlay the march chart with the prescribed LOPs for sage-grouse and big game. The BLM will then provide Ruby with the calculated LOP compensation based on the approved march chart and any LOP encroachments before Ruby will be allowed to proceed with any construction or other ground-disturbing activities within the state of Nevada. Areas of encroachment will be clearly defined by milepost and calculated using a negotiated per-acre value. Ruby and the agencies recognize that other operational adjustments may occur during construction that could either increase or decrease this calculation.

Visual Resources

The character of the visual resources in the project area varies because the landscape reflects the dominant landforms, unique geologic patterns, distinct biotic communities, and multiple land uses of an area. These characteristics were assessed over the length of the Project for the Proposed Alignment, the Sheldon Alternative, and the Black Rock Alternative.

The analysis of visual resources also determined the consistency with the BLM Visual Resource Management (VRM) system and the USFS Visual Management System (VMS).The programs identify management objectives for maintaining the visual setting that apply to the lands under their respective management. The BLM determined that effects to the visual character of the landscapes from the project will not be in compliance with VRM objectives at four locations in central and western Nevada, without additional mitigation measures. The USFS determined that, without additional mitigation measures, the project will not meet its Visual Quality Objective at one location – Rogger Meadow – in south central Oregon. Forty-two additional sensitive locations were also identified in coordination with agency visual resource specialists. In addition to standard measures, site-specific visual mitigation measures were developed for all 47 locations. Ruby subsequently incorporated the mitigation measures for each location into its POD (Attachment D, Appendix P). Site-specific mitigation measures include:

- Enhanced reclamation and restoration procedures to reduce visual contrast in highly visible areas,
- Creating irregular edges along the construction alignment to reduce its distinct linear nature and
- Sculpting and staining rock cuts to resemble adjacent rock features to reduce visibility.

Wilderness Resources

In some areas, the Ruby Pipeline Project route is located near lands managed for wilderness and roadless values, including designated wilderness, wilderness study areas (WSAs), and inventoried roadless areas (IRAs). To ensure a consistent analysis of the effects of construction and operation of the Ruby Pipeline along the proposed and alternative alignments, the BLM district and field offices in Wyoming, Utah, Nevada, and Oregon conducted an inventory of lands under their jurisdiction affected by the project to determine the presence of wilderness characteristics.

Ruby Pipeline will have no direct effect on any wilderness area or WSAs and will affect one IRA and eight wilderness inventory units (WIUs) that the BLM has determined to have wilderness character. The effect to the eight WIUs is the minimum necessary to meet the purpose and need of the action, while also minimizing effects to lands with wilderness characteristics. Other alternative routes would have either directly affected WSAs, which is not allowed under agency policies (Sheldon Alternative) or degraded more acres of lands with wilderness characteristics (Black Rock Alternative).

Cultural Resources

Ruby has conducted cultural resources inventories of the proposed pipeline route, as well as surveys of extra work spaces, staging areas, access roads, construction camps, and aboveground facilities in all states that will be crossed by the project. Supplemental to pedestrian cultural resources inventory, Ruby has sponsored ethnographic studies of Native American tribes who have identified segments of the pipeline that have traditional, cultural, and religious values. Reports evaluating the visual impacts on cultural resources have been prepared for the Elko and Winnemucca Districts of Nevada, as well as for the portion of pipeline passing through lands managed by the BLM Surprise Field Office and BLM, Reclamation, and USFS lands in the states of Oregon and California.

Ruby and their contractors have provided FERC, BLM, Reclamation, and USFS with reports for all surveys, evaluations, and special studies, including ethnographic studies and visual assessments of pipeline impact to historic properties. Ruby, in consultation with FERC, BLM, Reclamation, and USFS, is drafting Historic Properties Treatment Plans (HPTPs) to address historic properties that will be adversely affected by the project. These HPTPs are currently being reviewed by FERC, BLM, and Reclamation, and upon agency approval, will be submitted to SHPOs and tribes for review and comment.

As lead federal agency for compliance with Section 106 of the National Historic Preservation Act (NHPA), FERC has initiated consultation with SHPOs in Wyoming, Utah, Nevada and Oregon, as well as Native American tribes who have traditionally occupied lands along the pipeline route. Based on concerns regarding adverse effects (e.g., visual, auditory) to cultural resources located outside the direct Area of Potential Effect (APE) in California, FERC initiated consultation with the California SHPO. After initial consultation, the California SHPO delegated its consultation role to the Oregon SHPO.

FERC has drafted state-specific MOAs with SHPOs and cooperating agencies to resolve adverse effects that will occur to National Register of Historic Places (NRHP)-eligible historic properties

as a result of pipeline construction. The Advisory Council on Historic Preservation (ACHP) is participating as a signatory to these MOAs. BLM intends to work with the signatories to ensure that MOAs contain appropriate provisions for effective execution of HPTPs, including phased evaluation of NRHP-eligibility of cultural resources in Nevada and Oregon, as well as data recovery of NRHP-eligible sites that cannot be avoided by microreroutes of the pipeline. National Register listing is stipulated in the Oregon MOA to resolve adverse effects to the Langell Valley Multiple Property Traditional Cultural Property (TCP). All MOAs provide for additional cultural resources inventory, evaluation, and treatment to accommodate construction variances and pipeline reroutes to avoid previously identified NRHP-eligible properties. When the MOAs are executed, they will implement the HPTPs. The MOAs cannot be signed until the applicable HPTP is accepted by all appropriate cooperating agencies.

Resolution of adverse effects to NRHP-listed and eligible historic properties, including TCPs, is being addressed in MOAs and their associated HPTPs developed through consultation with the relevant SHPOs, ACHP, and other consulting parties, including consulting Native American tribes, as appropriate, for each of the four states crossed by the Ruby Pipeline Project. All four MOAs must be fully executed and approved prior to the BLM authorizing Ruby to undertake any construction or other ground-disturbing activities in connection with the Ruby Pipeline Project. All treatment of historic properties shall be conducted in accordance with the MOAs and HPTPs.

Alternatives Including the Proposed Action

Proposed Action

Ruby proposes to construct and operate a buried natural gas pipeline and related above ground facilities. The mainline 42-inch-diameter pipeline will be approximately 678.38 miles long, beginning at Opal Hub in Lincoln County, Wyoming at MP 0.0, proceeding west through Wyoming, Utah, Nevada, and Oregon, and terminating near the Oregon-California state line in Klamath County, Oregon (MP R678.38). On federal lands, the proposed action for the Ruby Pipeline Project includes construction of approximately 367.87 miles of new 42-inch diameter buried natural gas pipeline. These federal lands are managed by the BLM's Kemmerer Field Office, Wyoming; Salt Lake Field Office, Utah; Elko and Winnemucca District Offices, Nevada; Surprise Field Office; and the Lakeview Resource Area and Klamath Falls Resource Area, Oregon; the Reclamation, Klamath Basin Area Office, Klamath Falls, Oregon; the USFS Uinta-Wasatch-Cache National Forest, Ogden, Utah and Fremont-Winema National Forests, Lakeview, Oregon. The Project will also require use of existing access roads on the USFWS Sheldon NWR in Nevada and the Modoc National Forest and Alturas BLM Field Office in California.

In addition to the pipeline, the permanent facilities on federal land associated with the Ruby Pipeline Project include aboveground facilities and access roads. Authorized temporary facilities include temporary extra workspaces, staging areas, water appropriation sites, construction camps, temporary housing facilities, contractor yards, communication sites, pipe yards, access roads, and access road improvements.

A summary of ROW length and acreage and access roads for each jurisdiction is presented in Table 1 in Attachment C. The proposed action also includes an approximately 2.6 mile lateral pipeline and 44 aboveground facilities which are indicated in Attachment B. Twenty-two of these aboveground facilities will be wholly or partially located on federal land. Besides the

MLVs, there are some facilities that double up with Launcher/Receiver sites. Water appropriation sites will be located on and off the construction ROW to facilitate well drilling and water appropriation for hydrostatic testing, dust abatement, and equipment cleaning. Water well sites are indicated in Attachment B.

Related Actions

Nonjurisdictional Facilities

FERC identified the following three facilities that will be built in association with the Ruby Pipeline Project that were beyond FERC's jurisdiction: 1) approximately 2.5 miles of electric power line for the Roberson Creek Compressor Station, 2) about 4.5 miles of electric power line for the Desert Valley Compressor Station, and 3) an approximately 1000-foot-long intrastate pipeline to interconnect Ruby's proposed pipeline with existing facilities at the Oregon-California border. These facilities are further described below.

According to Ruby, Rocky Mountain Power intends to construct electric transmission and distribution facilities to supply the proposed Roberson Creek Compressor Station at MP 5.7 in Lincoln County, Wyoming. These facilities would include about 1.5 miles of 230-kilovolt (kV) electric transmission line, approximately1.0 mile of 25-kV electric distribution line, 16 associated pylons (14 wood "H" frame structures and 2 steel poles, each about 70-feet tall and about 645-feet apart with associated guy wires), a switching station (on a 400-by-550-foot site), a meter (on a 50-by-70-foot site), an access road (about 30 feet wide and 1,300 feet long), and other related components. Rocky Mountain Power would require a 150-foot-wide ROW for the line. About half the line would be located on BLM-administered land and the remainder would be located on private land.

Harney Electric Cooperative plans to construct an approximately 4.5-mile-long, 14.4/24.9 kV electric distribution line that would extend from Harney Electric Cooperative's existing electric transmission grid to the proposed Desert Valley Compressor Station at MP 476.4 in Humboldt County, Nevada. The distribution line would be sited along Harney Electric Cooperative's existing power line ROW, which is located entirely on BLM-administered land on the east side of the Humboldt County's Bottle Creek Road ROW. The line would be installed within the easterly 35 feet of Harney Electric Cooperative's existing 75-foot-wide ROW. An aerial crossing of the Bottle Creek Road ROW is required to extend the distribution line from Harney's existing ROW on the east side of the road to the compressor station site on the west side of the road. The facilities would consist of about 60 single wood poles with appropriate guy anchors.

Pacific Gas & Electric Company (PG&E) would construct minor pipeline facilities to connect to the proposed pipeline at the Oregon-California border at MP R678.38. These facilities would include up to 1,000 feet of intrastate (i.e., non-FERC-jurisdictional) natural gas pipeline, valves, over-pressure protection, communication equipment, and other appurtenant facilities. The PG&E facilities would be within or adjacent to existing PG&E ROWs and aboveground facilities in Modoc County, California.

While Rocky Mountain Power's and Harney Electric Cooperative's electric power lines would not fall under FERC's jurisdiction, they are subject to NEPA review by the BLM. FERC included them in the environmental review and they are discussed throughout Section 4 of the Final EIS. The power lines also may be required to undergo an environmental review by the

Wyoming Department of Environmental Quality under the Wyoming Industrial Information and Siting Act and by the Nevada Public Utilities Commission under the Nevada Utility Environmental Protection Act, as applicable. The pipeline facilities proposed by PG&E would undergo an intensive environmental review by the California Public Utilities Commission under the California Environmental Quality Act. All proponents of non-jurisdictional facilities would be required to obtain and adhere to other necessary federal, state, and local permits.

The decision on whether to approve these ROWs will occur after the issuance of this ROD. NEPA documents to support this decision will either tier to the Final EIS for this project or will be evaluated independently under NEPA. Any additional ROWs for previously unidentified and unanalyzed non-jurisdictional facilities (e.g. the Humboldt Telephone Company underground, fiber optic, lateral line) will require independent NEPA review and analysis.

Alternatives Considered

FERC and the eight Cooperating Agencies considered various alternatives to determine if any would be reasonable and environmentally preferable to the Proposed Action. Section 3.0 of the Final EIS for the Ruby Pipeline Project discusses in detail the No Action Alternative, Postponed Action Alternative, several energy alternatives, several system alternatives, 15 major route alternatives, and 16 minor route variations.

No Action Alternative

FERC and the Cooperating Agencies considered the No Action Alternative in the Final EIS. Implementation of this alternative would result in the identified environmental impacts not occurring. The stated project purpose and need would not be met and it is likely that other energy projects would be proposed that could have similar or more environmental impacts. For these reasons, this alternative was considered but not analyzed in detail.

Major Route Alternatives

In addition to the certificated route, the Final EIS identified and evaluated 15 major route alternatives for the Ruby Pipeline Project to determine if any would help to avoid or reduce impacts to sensitive environmental and cultural resources that will be crossed by the proposed pipeline. Three of these route alternatives (Terrace Basin, Willow Creek and Southern Langell Valley) were determined to achieve the project objectives, to be technically and economically feasible, and to offer an environmental advantage over the proposed route. Ruby subsequently modified its proposed route to incorporate all three route alternatives in supplemental filings with FERC. A summary of each major route alternative is listed in Table 1, along with the milepost location and primary reason for consideration. The three major route alternatives that were recommended by FERC and subsequently adopted by Ruby in its proposed alternative are shown in italics. A brief summary of each alternative is also provided. More detailed information may be found in Section 3.4 of the Final EIS.

Table 1. Summary of Major Route Alternatives Evaluated in the Final EIS.		
Route Alternative	MP	Reason for Consideration
Northern Route	0.0-608.0	Major alternative corridor option
Central Route	0.0-580.0	Major alternative corridor option
I-80 Corridor	0.0-672.6	Major alternative corridor option
North Kemmerer	0.0-173.1	Avoid Cache Valley
Route 30	0.0-173.1	Avoid Cache Valley; follow State Route 30
Questar	84.0-104.3	Follow existing corridor through Cache National ForestF
South Brigham City	105.5-158.1	Move to south side of Brigham City
Terrace Basin	189.8-209.7	Follow existing roads; avoid salt-scrub habitat
West-Wide Energy Corridor	270.0-675.2	Follow designated energy corridor
AT&T East	302.6-349.9	Follow existing AT&T corridor
Willow Creek	349.2-410.6	Follow existing AT&T corridor; avoid wetland impacts
Sheldon	483.2-599.7	Follow more existing road corridor
Black Rock	424.2-562.2	Follow more existing road and transmission line ROW
Jungo-Tuscarora	424.2-675.2	Follow more existing road and transmission line ROW
Southern Langell Valley	643.2-675.2	Avoid sensitive cultural resource area and avoid crossing a NRCS Wetland Reserve Program (WRP) Easement and crossing three Reclamation ditches and/or streams

The location of the Southern Langell Valley Route was selected without archaeological surveys. Archaeological surveys subsequent to the FEIS identified numerous cultural resource sites that would potentially be impacted by this Southern Langell Valley Route. Ruby has provided additional field work and design to make micro-realignments to avoid these cultural sites. (Refer to the “Eastern Portion of the Southern Langell Valley Route Variation” discussion later.)

Two major route alternatives underwent a more detailed analysis in the Final EIS, but were not certificated by FERC as part of the project. They are described below.

Sheldon Alternative

During preliminary project planning, Ruby identified the Sheldon Route Alternative as one possible route across northwestern Nevada. Ruby dropped the Sheldon Route Alternative prior to filing its application with FERC. However, the BLM and Nevada Department of Wildlife (NDOW) requested that the Sheldon Route Alternative be evaluated in the Final EIS to, among other things, assess whether the project's impacts on high quality, unfragmented, greater sage-grouse habitat would be smaller by following an existing road across the Sheldon NWR as opposed to creating a new corridor south of the refuge. The Summit Lake Paiute Tribe also expressed concern about the potential for the proposed route to impact traditional Northern Paiute foods, medicines, and other current or historic subsistence resources. Additionally, the tribe expressed concerns about sensitive cultural sites. The Ft. Bidwell Tribe also expressed similar concerns about this route. BLM will work with Ruby to investigate microreroutes to minimize impacts to sensitive cultural resources prior to issuing notice to proceed with construction activities along this portion of the pipeline.

The Final EIS indicates that the Sheldon Route is technically and economically feasible and may result in less environmental impacts on some resources as compared to the certificated route. In particular, it appears that it would reduce impacts on greater sage-grouse and would avoid many of the resource concerns of the Summit Lake Paiute Tribe and all of the concerns of the Ft. Bidwell Tribe. The USFWS believes that additional fieldwork along the Sheldon Route would reveal that the route's biological and cultural resources are at least equal in value to those found on the certificated route. FERC acknowledged that the USFWS could not concur with the ROW grant for the Sheldon route.

Black Rock Alternative

The Black Rock Alternative was originally identified by NDOW as an alternative that could reduce impacts to wildlife habitat by following existing roads (U.S. Highway 95, Jungo Road, and State Secondary Route 34) south of the certificated route. According to NDOW, the proposed route crosses greater sage-grouse habitat that is especially high quality and unfragmented. Like the Sheldon Route Alternative, the Black Rock Alternative would have avoided impacting this type of habitat by virtue of being collocated with roads along a large part of its route. This route adds approximately 42 miles to the overall length of the pipeline.

The Final EIS states that the Black Rock Route is technically feasible; however, it may be economically infeasible. In the Draft EIS, FERC questioned whether Ruby's cost assessment was complete because it did not account for certain cost savings that FERC believed could be achieved with the route alternative, such as less archaeological data recovery, fewer construction skips, and reduced mitigation. FERC also noted that Ruby selected its proposed route over both the Northern Route (about 38 miles shorter) and Central Route (about 68 miles shorter) Alternatives, suggesting that pipeline length, while an important factor, is not the sole determining factor in the eventual cost feasibility of the project. Ruby restated its position during the Draft EIS comment period that the alternative would not result in a cost savings, but would, in fact, be substantially more costly to build than the proposed route. Ruby cited several reasons for this position, including an expected substantial increase in costs for cultural resource data

recovery, an increase in construction skips and mitigation required for avoiding Category I pygmy rabbit habitat and cultural resource sites, severe topographic conditions along portions of the alternative, and the addition of a fifth compressor station.

FERC concluded that the overall footprint of the alternative (41.9 extra miles, 19.6 miles of which is Greenfield ROW; 284 acres of additional extra workspace; and 73.5 miles of extra access roads) would create a larger environmental footprint which would not significantly outweigh the benefits to be gained for certain resources. FERC further concluded that the reduction in impacts on greater sage-grouse leks, mule deer habitat, and perennial streams provided by the Black Rock Alternative would not necessarily confer an environmental advantage over the certificated route because of the added impacts on pygmy rabbit habitat, pronghorn crucial winter habitat, wetlands, national historic trails, recreation, and air quality. The Black Rock Alternative would also cross 21 more nonfederal landowners than the corresponding segment of the certificated route. Relevant comparisons of resource specific effects are provided later in this document.

Route Variations Analyzed in the Final Environmental Impact Statement

The Final EIS evaluated 16 minor route variations as options to avoid or reduce impacts to site-specific, environmentally sensitive resources crossed by the proposed route. Route variations were also identified and evaluated in response to landowner requests, to avoid facilities, or in response to challenging terrain conditions. Ruby subsequently proposed 6 additional route variations to the proposed route in the Final EIS which would provide an environmental or construction advantage. FERC recommended and Ruby agreed to modify the proposed alternative to include all of the route variations after the Draft EIS was issued. An additional route variation, Barrel Springs Western Route Variation, was evaluated subsequent to the release of the Final EIS. After consideration, FERC determined that there was not a compelling reason to require Ruby to modify its proposed alignment, which is adjacent to a power line corridor and an associated access road.

Route Variations Not Analyzed in the Final Environmental Impact Statement

Eastern Portion of the Southern Langell Valley Route Variation

The BLM Klamath Falls Resource Area (KFRA), in consultation with the Klamath Tribes, identified potential concerns with the original route through the Antelope Creek Archaeological District (ACAD). Given some other noncultural concerns with that original route, Ruby suggested that the BLM KFRA and the Klamath Tribes develop an acceptable alternative to the south that avoids the ACAD as well as the other noncultural concerns. The route that was selected by the BLM KFRA and the Klamath Tribes is now known as the Southern Langell Valley Alternative. A complete cultural resource survey was completed for this area (Dobschuetz et al. 2010).

Recent route adjustments to the Southern Langell Valley Route, referred to as the Eastern Portion Southern Langell Valley Variation, were made to avoid several cultural resource sites that were identified through survey. This route variation will reduce site impacts by way of numerous small route adjustments and by “boxing out” or limiting the construction ROW along portions of Ruby’s work space. The section of the Southern Langell Valley route analyzed in the Final EIS is approximately 14 miles in length and its 300 foot corridor encompasses 361 acres of

land. The Eastern Portion of the Langell Valley Variation is approximately 14 miles in length and the 300 foot corridor encompasses 360 acres of land.

The proposed Eastern Portion of the Southern Langell Valley Route Variation is in compliance with the land use plan decisions, objectives, terms and conditions. The proposed route variation is essentially similar to the proposed action and within the same analysis area. Resource conditions are sufficiently similar to those analyzed in the FEIS. The range of alternatives analyzed in the existing NEPA document is appropriate with respect to the route variation given current environmental concerns, interests, and resource values. The existing analysis is adequate and it can be reasonably concluded that the new information would not substantially change the analysis of the route variation. The direct, indirect, and cumulative effects that would result from implementation of the route variation are similar (both quantitatively and qualitatively) to those analyzed in the FEIS. Attachment K provides the documentation of LUP conformance and determination of NEPA adequacy for the Eastern Portion of the Southern Langell Valley variation.

Newmont Route Variation

The Draft EIS included a recommendation that Ruby incorporate the Willow Creek Route Alternative to address the BLM's request during the scoping process to consider a route that mainly follows an abandoned AT&T cable ROW and the Jungo-Tuscarora Road. After the Willow Creek Route alternative was incorporated into the Final EIS, the BLM requested a minor modification in the route to address an existing mining use along the route, and the potential for future expansion of the mining operation. The proposed Newmont route variation is approximately 4.8 miles long and the 300 foot corridor encompasses 177.3 acres of land. The existing route was approximately 3.7 miles long and its 300 feet corridor encompasses 135.9 acres of land

The proposed Newmont RouteVariation is in compliance with the land use plan decisions, objectives, terms and conditions. The proposed route variation is essentially similar to the proposed action and within the same analysis area. Resource conditions are sufficiently similar to those analyzed in the FEIS. The range of alternatives analyzed in the existing NEPA document is appropriate with respect to the route variation given current environmental concerns, interests, and resource values. The existing analysis is adequate and it can be reasonably concluded that the new information would not substantially change the analysis of the route variation. The direct, indirect, and cumulative effects that would result from implementation of the route variation are similar (both quantitatively and qualitatively) to those analyzed in the FEIS. Attachment L provides the documentation of LUP conformance and determination of NEPA adequacy for the Newmont Route Variation.

Cumulative Impacts

The Final EIS included a cumulative impact analysis for the Ruby Pipeline Project to determine if modification of the project or additional mitigation measures will be necessary to avoid any identified impacts to the environment that will result from the incremental impact of the action when added to other past, present, and reasonable foreseeable actions. Projects and activities included were those having impacts on resources that overlap with the predicted impacts of the Ruby Pipeline Project. Where the analysis indicated a potential for cumulative impacts,

information was quantified to the extent feasible. The temporal range of the analysis was based on whether the effects will be short-term, long-term, or permanent. Most impacts will occur during the construction phase of the project. The temporal range was extended for any impacts resulting from construction or operation of the project that will result in long-term or permanent impacts.

The analysis concluded the majority of the cumulative impacts will be temporary and minor. However, long-term impacts on vegetation and land uses could occur if the other current and reasonably foreseeable future projects analyzed are constructed and result in similar vegetation/land use impacts. In areas where permanent aboveground components are constructed there will be impacts on future land use. Additionally, construction of projects in the same vegetation types will result in the long-term and permanent loss of sagebrush and timber resources and an incremental increase in habitat fragmentation. The project will result in some short- and long-term benefits to the local economy associated with tax revenues, opportunities for employment, earned wage income, and purchases of goods and materials.

Environmentally Preferable Alternative

The environmentally preferable alternative is the proposed action described in Section 2.0 of the Final EIS for the Ruby Pipeline Project as modified to include the Newmont and Eastern Portion of the Southern Langell Valley reroutes and mitigation measures required by FERC, BLM, Reclamation, USFS, USFWS, and other federal agencies. This alternative is referred to in this ROD as the selected alternative.

Management Considerations

The BLM administers its ROW program to: 1) authorize all ROW uses on federal lands in the most efficient and economical manner possible; 2) manage ROW use of federal lands through a system of ROW corridors; 3) maximize the use of performance stipulations through the use of construction, operation, and maintenance plans (POD); and 4) assure to the greatest extent possible that all identified impacts are mitigated and that the terms and conditions of the ROW grant are complied with (BLM Manual Section 2801).

The Final EIS for the Ruby Pipeline Project identified and addressed the impacts associated with Ruby's proposed alternative across all land jurisdictions, including federal lands. The BLM, with concurrence of Reclamation, the USFS, and USFWS, has selected the proposed action analyzed in the Final EIS as modified by the Eastern Portion Southern Langell Valley Variation, the Eastern Portion of the Newmont Route Variation, and mitigation measures required by FERC, BLM, Reclamation, USFS, USFWS, and other federal agencies. Review of data supplied for the project; field investigations; scoping; literature research; alternatives analysis; and contacts with federal, tribal, state, and local agencies and members of the public indicates that construction and operation of the selected alternative will result in some adverse environmental impacts. As detailed in the Final FEIS, these impacts will be reduced or mitigated with the implementation of Ruby's proposed mitigation measures (Attachment D).

Throughout the application permitting process, FERC and the Cooperating Agencies (including BLM, Reclamation, USFS, USFWS) used information derived from interaction with interested parties and data from resource surveys to modify and refine Ruby's proposed pipeline route to mitigate adverse impacts. FERC evaluated a No Action, Postponed Action, several system

alternatives and energy alternatives, 15 re-route proposals, and 16 additional minor route variations. The No Action and Postponed Action were evaluated and dismissed because they did not meet the purpose and need of the project. The system and energy alternatives were evaluated and dismissed because they would not offer an environmental advantage or reduce impact on the communities in which they would be located, would pose significant constructability constraints, would be uneconomic, or would create additional safety and reliability concerns when compared to their corresponding segments of the selected alternative. Three of the identified re-route proposals and all but one of the minor route variations were recommended for inclusion in the proposed route and subsequently adopted by Ruby because they were deemed to generate less environmental impact to sensitive environmental and cultural resources.

Ruby will design, construct, test, and operate its pipeline in accordance with U.S. Department of Transportation regulations specified in 49 CFR 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards". Ruby will also be subject to other applicable federal and state regulations, including U.S. Department of Labor, Occupational Safety and Health Administration requirements. Also, Ruby has prepared an Upland Erosion Control, Revegetation, and Maintenance Plan, a Wetland and Waterbody Construction and Mitigation Plan, in the POD (Attachment D, Appendixes D and F). These documents provide detailed environmental protection measures that will be implemented in the construction process.

As the Nevada State Director and designated official for the BLM, I have decided to issue a ROW grant and TUPs to Ruby for the Ruby Pipeline Project in accordance with the terms and conditions of this ROD.

Reclamation has a responsibility for managing, developing, and protecting water and related resources in an environmentally and economically sound matter in the interest of the public. The Area Manager of Reclamation's Klamath Basin Area Office (KBAO) has reviewed the proposed action to install a natural gas pipeline and analyzed the impacts of such an installation as it pertains to Reclamation's lands and facilities and determined that the implementation of the proposed Ruby Pipeline Project is compatible with Klamath Project purposes. Therefore, the Area Manager of Reclamation's KBAO concurs with BLM's decision and has determined that this decision is consistent with Reclamation policies and compatible with Reclamation's mission. The decision is supported by the analysis documented in the Ruby Pipeline Project Final EIS prepared by FERC to fulfill the requirements of NEPA, and the commission's implementing regulations under Title 18 of the Code of Federal Regulations, part 380 (18 CFR 380).

The Forest Supervisors of the Fremont-Winema National Forests and the Uinta-Wasatch-Cache National Forest have determined that the amendments discussed in Section 1.5.1 of the Final EIS are not significant and are implementing them as part of this decision to grant a ROW for the Ruby Pipeline Project to cross the Fremont National Forest and the Uinta-Wasatch-Cache National Forest. The Forest Supervisors of the Fremont-Winema National Forests, the Uinta-Wasatch-Cache National Forest, and the Modoc National Forest concur with BLM's decision and have determined that this decision is consistent with USFS policies and LUPs, as amended. The decision is supported by the analysis documented in the Ruby Pipeline Project Final EIS prepared by FERC to fulfill the requirements of NEPA, and the commission's implementing regulations under Title 18 of the Code of Federal Regulations, part 380 (18 CFR 380).

Land Use Plan Conformance

A LUP describes broad multiple use direction for managing public lands. The BLM and the USFS are subject to land use planning as required by the FLPMA and the National Forest Management Act (NFMA) of 1976 (P.L. 94-588), respectively.

Conformance with BLM Land Use Plans and Planning Processes

The BLM LUPs are called Resource Management Plans (RMP) or Management Framework Plans (MFP). The BLM evaluated whether the Ruby Pipeline Project was in conformance with 10 of its LUPs. These include plans for the BLM's Kemmerer Field Office (Kemmerer RMP, 2010), Salt Lake Field Office (Randolph MFP, 1980; Box Elder RMP, 1986), Elko District Office (Wells RMP, 1985; Elko RMP, 1987), Winnemucca District Office (Sonoma-Gerlach MFP, 1982; Paradise-Denio MFP, 1982), Surprise Field Office (Surprise RMP, 2008), Klamath Falls Resource Area (Klamath Falls Resource Area RMP, 1995), and Lakeview Resource Area (Lakeview RMP, 2003). After careful consideration, the BLM determined that the proposed action is in conformance with all of the above plans and that no LUP amendments are required.

Conformance with Reclamation Land Use Requirements

Reclamation was a cooperating agency in the preparation of the Ruby Pipeline Final EIS. Reclamation is not governed by a land use planning law that parallels FLPMA or NFMA. The proposed pipeline project crosses approximately 3.5 miles of Reclamation withdrawn land and an easement under Reclamation jurisdiction from MP R661.4 to R664.8. Measures are incorporated into this ROD for the ROW grant and are further stipulated in the attached concurrence letter issued by Reclamation (Attachment M) to ensure conformance with agency standards.

Conformance with National Forest Plans and Planning Processes

The LUPs prepared by the USFS are called Land and Resource Management Plans (LRMP). The USFS evaluated its affected LRMPs for conformance with the Ruby Pipeline Project.

Fremont-Winema National Forests

The Fremont-Winema National Forests are governed by the Fremont National Forest LRMP (USFS, 1989) and the Winema National Forest LRMP (USFS 1990). The Ruby Pipeline Project crosses the Fremont National Forest and is inconsistent with a number of standards and guidelines in its LUP. Specifically, the pipeline route passes through portions of Management Area 6 – Scenic Viewsheds; 14 – Old Growth Habitat; and 15 – Fish and Wildlife Habitat and Water Quality. It also passes through portions of Soil Capability Areas 1, 2, and 3 and scabland portions of Capability Area 13 covered by general forest standards and guidelines. For construction to occur, the Fremont National Forest LRMP needed to be amended to allow more time to attain Visual Quality Objectives (VQOs), relocate dedicated old growth, allow heavy equipment to operate through seeps and springs, and exempt the project from the detrimental soil and erosion standard and guidelines.

Accordingly, the USFS has amended the Fremont National Forest LRMP as follows:

- *General Forest Plan Standard and Guideline for Soils Management. LRMP pages 80 to 81, add item (5) under the Operational Considerations for Surface Soil Conditions*

which says: "During and immediately after construction of the Ruby Pipeline Project, the soil conditions within the activity area (construction right-of-way) will be permitted to exceed the 20 percent (20%) standard and guideline for detrimental soil condition. The implementation of Ruby's Upland Erosion, Revegetation, and Mitigation Plan will reduce erosion impacts and minimize impacts on soil productivity."

- *General Forest Standard and Guideline for Soils Management. LRMP pages 83 and 84, add a statement under item 3, Operational Considerations: "During installation of the Ruby Pipeline Project, exposed mineral soil standards displayed in Table 21 will be exceeded; however, with the extra mitigation proposed in Ruby's Upland Erosion, Revegetation, and Mitigation Plan, these standards will be achieved."*

- *Management Area 6 – Scenic Viewsheds. The Ruby Pipeline Project will cross through a portion of Management Area 6 when it crosses Forest Road 3915. The area has a VQO of foreground retention and middle ground partial retention. Item B will be added to Land Uses on LRMP page 154: "B. The cleared corridor needed to install the Ruby Pipeline Project will not immediately meet the VQO of retention and partial retention. Mitigation measures, including vegetation management and restoration actions, will occur to move the construction corridor toward current VQOs over an extended timeframe."*

- *Management Area 14 – Old Growth Habitat. The Ruby Pipeline Project will cross through a stand of dedicated old growth. The best stands either meeting or soon to meet old growth standards will be designated as replacement.*

- *Management Area 13 – Fish and Wildlife Habitat and Water Quality. The crossing of seeps and springs will be uncommon. The Ruby Pipeline Project will cross one seasonal seep. The following statement will be added under Seeps and Springs, management treatments on LRMP, page 204: "(d) Construction equipment necessary to install the Ruby Pipeline Project will be permitted in the area of seeps and springs. Implementation of Ruby's Upland Erosion Control, Revegetation, and Maintenance Plan and special construction measures will minimize impacts."*

The Evaluation Report for the Fremont National Forest LRMP Amendment is included in Appendix C of the Final EIS.

Uinta-Wasatch-Cache National Forest

There are two LRMPs that govern the Uinta-Wasatch-Cache National Forest, the Uinta National Forest LRMP (USFS, 2003a) and the Wasatch-Cache National Forest LRMP (USFS, 2003b). Approximately 1.16 miles of the Ruby Pipeline ROW will be located on the Uinta-Wasatch-Cache National Forest.

A ROD issued February 22, 2010, documents the decision to amend the Wasatch-Cache National Forest Land and Resource Management Plan (Forest Plan)[1] to allow a one-time waiver from Forest Plan subgoal 12d direction. This amendment will allow a one-time placement of the proposed Ruby pipeline outside of a designated corridor. This pipeline alignment will not become a designated Forest Plan corridor. This decision is supplied by the analysis documented in the Ruby Pipeline Project Final EIS prepared by FERC to fulfill the requirements of NEPA and FERC's implementing regulations under Title 18 of the Code of Federal Regulations, Part 380 (18 CFR 380). The USFS determined that portions of the proposed pipeline project are not consistent with the Forest Plan and a forest plan amendment is needed. This ROD documents the USFS's determination that the forest plan amendment is not significant.

Within the Cache portion of this National Forest, the Ruby Pipeline Project is inconsistent in two areas of management direction in the Wasatch-Cache National Forest LRMP. Specifically, the proposed pipeline route does not consistently follow a designated utility corridor as required by Subgoal 12d. Also, the project will require road construction related to providing access, which is not allowed under Guideline 3.2D-1.

Accordingly, the USFS amended Wasatch-Cache National Forest LRMP as follows:

LRMP page 4-25. Add a statement that will allow a onetime waiver from the subgoal 12d direction to allow placement of the pipeline outside of a designated corridor for approximately 1.2 miles. The Ruby pipeline alignment will not become a designated LRMP corridor. Any future pipeline proposed in the right-of-way will necessitate further analysis prior to any decision being made.

The proposed pipeline alignment is within the Cache-Box Elder Management Area. The broad management prescription assigned to the area where the pipeline and access roads are proposed is one of multiple resource uses where aquatic/watershed and terrestrial habitat integrity are emphasized. More specifically it is assigned a 3.2D prescription. These lands consist of terrestrial habitat areas where development is allowed for the purpose of maintaining, improving, or restoring key habitat elements. Guideline G3.2D-1 states that “timber harvest, road construction, vegetation/fuel treatment, prescribed fire and wildland fire use are allowed for the purposes of maintaining, improving, or restoring terrestrial habitat, for oil and gas exploration, for hazardous fuel reduction, and to protect property in the wildland urban interface.”

Because road construction related to providing access to a pipeline is not included as an allowed activity, this deviation from the guideline does not require an LRMP amendment. The rationale for the deviation is documented in the USFS ROD.

Appendix C of the Final EIS contains an Evaluation Report for the Uinta-Wasatch-Cache National Forest LRMP Amendment that was prepared by USFS staff.

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[1] The USFS has separate LRMPs for the Uinta NF and the Wasatch-Cache NF. These plans are not merged.

Conformance with USFWS Sheldon National Wildlife Refuge Management Plans

The USFWS was also a Cooperating Agency in the preparation of the Ruby Pipeline Final EIS and is subject to land use planning as required under the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57, 111 Stat. 1252-1260). Ruby Pipeline Company LLC will not be constructing any of the pipeline on the Sheldon National Wildlife Refuge, but there will be limited access to roads through the refuge for construction purposes. The USFWS has issued a record of decision and separate special uses permit (SUP) that addresses use of the refuge roads and land use conformance related to the Sheldon NWR. (Attachment O)

Agency and Public Involvement

Environmental Review Process

The Final EIS for the Ruby Pipeline Project was prepared pursuant to NEPA with FERC as the Lead Agency. The Cooperating Agencies assisted with the preparation of the Final EIS by providing comments, information, and analysis.

Consultation with Other Agencies

Section 1.5 of the Final EIS discusses the permits, approvals, and regulatory requirements pertaining to the Ruby Pipeline Project. Within this discussion, Table 1.5-1 lists the major permits, approvals, and consultations required, and the Final EIS will be used by numerous federal, state, and local agencies for this purpose. The geographic scope and complexity of the project necessitated extensive data gathering, consultation and analysis with agencies at all levels of government.

Additionally, FERC initiated formal and informal consultation with the USFWS pursuant to Section 7 of the ESA, as amended [7 U.S.C. § 136, 16 U.S.C. § 1531 *et seq*.]. Information from the draft BA was used to prepare the Final EIS. The BA and USFWS's BO dated June 2010 (Attachment F), was considered by the BLM issuing this ROD and cooperating agencies in concurring in this ROD.

FERC also participated in formal consultation with the Wyoming, Utah, Nevada and Oregon SHPOs and the ACHP pursuant to Section 106 of the NHPA. The California SHPO delegated consultation responsibilities to the Oregon SHPO for this project.

Tribal Consultation

Section 106 of NHPA requires federal agencies to take into account the effect of their undertakings on historic properties and to afford the ACHP a reasonable opportunity to comment. The regulations implementing Section 106 [36 CFR §800.8] encourages federal agencies to coordinate their Section 106 compliance efforts with the NEPA review process in order to facilitate early planning for cultural resources, and to accommodate timely and efficient government-to-government consultation with the tribes, as well as effective participation by the public.

As lead federal agency for compliance with Section 106 of NHPA, FERC initiated consultation with 40 federally recognized tribes by letter on March 28, 2008 informing of them of the project's prefiling status and inviting them to participate in the consultation process. FERC,

BLM, Reclamation, and USFS conducted multiple field visits and meetings to identify tribal concerns and sensitive cultural resource issues. On January 26, 2009, the BLM Nevada State Office sent letters to 31 tribes to clarify the BLM's status as a cooperating agency for issuance of the Draft EIS and to indicate its intent to provide supplementary government-to-government consultation to augment FERC's Section 106 consultation. At the request of the tribes, BLM subsequently sponsored two pan-tribal project informational meetings, held on May 19, 2009 and October 8, 2009 in Reno and Winnemucca, Nevada respectively. Government-to-government consultation between the BLM and the tribes has occurred primarily at the Field Office level and has consisted of field visits, presentations at tribal council meetings, telephone conversations, and face to face meetings at both BLM and tribal offices.

Multiple tribes have expressed concerns about the project's impacts on archaeological and historic sites, potential for damage to remote and pristine lands, and potential for destruction of sensitive and traditional cultural resources. Furthermore, many tribes have expressed dissatisfaction with government-to-government consultation efforts for the project. The agencies received numerous comments from Native American tribes and individuals during and subsequent to the Draft EIS comment period. A full record of FERC's and BLM's consultation activities and the Ruby's tribal coordination activities is provided in Chapter 4.10.3 of the Final EIS. A description of tribes concerns regarding the Draft EIS is provided in Chapter 4.10.3.1 of the Final EIS.

Tribal cultural resources concerns have largely involved siting of the pipeline in the states of Nevada and Oregon. In Oregon, consultation between the Klamath Falls Resource Area and the Klamath Tribes resulted in the identification, evaluation and eventual incorporation of a reroute of the line through the Langell Valley in order to accommodate the Tribe's concerns regarding sensitive cultural resources along the mainline route. The Klamath Falls Resource Area is continuing to work with the Oregon SHPO and Ruby on micro-reroutes of the pipeline in order to maximize avoidance of archaeological resources. The BLM will continue to work with the contractor after issuance of the ROD and prior to issuance of notice to proceed on microrerouting options. Even with the reroutes, the Klamath Tribes maintain they cannot support the project because of its impacts on cultural resources.

Barrel Springs Traditional Cultural Property

The BLM acknowledges that the Proposed Route as certificated by the FERC will have an "adverse effect" on the Barrel Springs TCP, a property eligible for listing on the NRHP. The BLM, through the efforts of Field Office Managers and archeologists from the Surprise and Lakeview Field Offices, has consulted with the Fort Bidwell Tribe (the Tribe) regarding the identification and evaluation of the cultural resources in the Barrel Springs area including the TCP. On the basis of early concerns, an ethnographic study was completed for the area. The Tribe actively participated in this study. The results of the study were used to delineate the boundary of the TCP. The BLM agrees with the assertion by the Tribe that the Proposed Route will have impacts to the TCP that cannot be mitigated. The Western Route Variation was developed based on the consultation efforts in an attempt to address the concerns of the tribe. The Tribe has observed that the Western Route Variation also impacts the TCP. Furthermore, the Tribe has expressed their belief that the Western Route Variation would impact the same, if not more, of the number and type of areas of cultural and spiritual significance as the Proposed

Route. The Tribe has stated their belief that the TCP boundary as presented in Deur's report should be adjusted.

The BLM has consulted with the Tribe on the pipeline routing in general including the feasibility of the Western Route Variation. These consultation efforts have focused on identifying any mitigation measures which may be employed to minimize the impacts to the TCP from the pipeline within the Barrel Springs area and the eligible TCP. Construction procedures, mitigation treatments, reclamation design features and standards, and operational considerations have been discussed during these consultation efforts. Several adjustments, which would affect both the Proposed Route and the Western Route Deviation, were made as a result.

The BLM has attempted to further address the concerns for the TCP by consulting with the Tribe to determine if additional alignment changes to the Western Route, which would completely avoid the TCP, would make the Western Route more acceptable. The Tribe has maintained their position and has gone on record as being opposed to any pipeline route that is within the general Barrel Springs area. The Tribe has provided written and verbal statements in this regard, including a formal resolution by the Tribal Council.

Based upon the discussions and feedback from the Tribe, the Western Route Variation would not significantly reduce impacts to Tribal resources.

On balance therefore, the determination of routing of the pipeline through the Barrel Springs area reasonably falls to a weighted consideration of the other resource values present, and the effects of the pipeline over the Proposed Route versus the Western Route Variation. FERC certificated the Proposed Route because it:

- is sited adjacent to the existing Pacific DC Intertie Transmission Line that already bisects the TCP
- goes across flatter topography than the Western Route Variation
- has an existing road in association with the transmission line
- avoids introducing new disturbance into pristine areas along the Western Route Variation
- has a greater potential to reduce the 115 foot-wide work area because of the topography and existing road

In addition, the Proposed Route would cross Twelve Mile Creek near the same location as the transmission line, thereby keeping visual impacts confined to one location along the creek. Twelve Mile Creek in this area, has been analyzed by both Lakeview and Surprise Field Offices and found to be eligible for listing as a recreational river under the Wild and Scenic Rivers Act (PL-90-542, as amended.) The Proposed Route, while introducing additional disturbance within the eligible TCP area, limits this disturbance to a location already impacted by the transmission line. Given the Fort Bidwell Tribe's assessment that the areas outside of the delineated TCP are of equal traditional and cultural importance to the areas within the TCP, the Proposed Route

would seem to be the preferable route, because it would avoid further impacts to pristine habitat and landscape in the Barrel Springs area.

Public Outreach and Comments

The public involvement process for the Ruby Pipeline Project extended from winter 2008 through winter 2010. It began with a series of 10 open house meetings hosted by Ruby and was followed by a two-stage formal scoping process initiated by FERC, as Lead Agency for the project, with support from Cooperating Agencies.

Throughout the environmental review process, FERC has maintained a project docket on the Internet which contains an electronic record of project-related documents, public comments, meeting transcripts and other information that was used by federal agencies to fulfill their agency mandates and responsibilities. The project docket may be accessed at: http://www.ferc.gov.

Ruby-Hosted Open Houses

Ruby initially contacted federal and state agencies in 2008 to inform them about the proposed pipeline project and initiation of FERC's Pre-filing Process. Subsequent to this, Ruby hosted 10 public open house meetings between February 19 and March 18, 2008 to inform landowners, government officials and the general public about the project and solicit questions, comments and concerns. Ruby mailed about 3,100 invitations to these open house meetings and placed 16 advertisements in local newspapers in the project vicinity. Staff from FERC and BLM participated in the meetings to provide information regarding the federal environmental review process.

Formal Scoping

The formal scoping process for the Ruby Pipeline Project included two scoping periods, each of which was accompanied by a set of 10 federal agency-hosted public meetings. Public scoping meetings were attended by 444 participants with 76 individuals providing oral comments. During the scoping periods, FERC also received comment letters from 10 federal agencies, 18 state agencies, 7 local agencies, 8 Native American Tribes, 26 nongovernmental organizations, and 74 individuals.

Notice of Pre-Filing Environmental Review

FERC published a Notice of Pre-Filing Environmental Review for the Ruby Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings in the *Federal Register*, Volume 73, Number 6, on March 28, 2008. This notice initiated a formal early stage scoping period (to April 30, 2008) to gather public and agency comment for the Draft EIS. It also provided a summary of the proposed project, explained FERC's pre-filing process, and described preliminary land requirements for construction. For this scoping period, FERC, in cooperation with the BLM, held six public scoping meetings in April 2008 at locations along the general project route to provide the public with an opportunity to learn more about the project and solicit public comment on potential environmental issues. Ruby used this scoping information to further develop its project and to modify the route alternatives.

Notice of Intent to Prepare an Environmental Impact Statement

On September 26, 2008, FERC formally announced its intent to prepare an EIS with publication of the Notice of Intent (NOI) to Prepare an Environmental Impact Statement and Land and Resource Management Plan Amendment for the Proposed Ruby Pipeline Project, Request for Comments on Environmental Issues and Notice of Public Scoping Meetings in the *Federal Register*, Volume 73, Number 192. This NOI opened a second formal scoping period, described the revised project route, and invited public comment and participation in four additional public scoping meetings.

Review of Draft Environmental Impact Statement

FERC filed the Draft EIS with the U.S. Environmental Protection Agency (EPA) and published its Notice of Availability (NOA) of the Draft Environmental Impact Statement and Notice of Public Comment Meetings for the Ruby Pipeline Project in the *Federal Register*, Volume 74, Number 122, on June 19, 2009. The NOA invited written and electronic public comment on the Draft EIS and announced a series of seven public meetings to provide an opportunity for the public to present oral comments on FERC's analysis of the environmental and cultural impacts of the proposed project as described in the draft document. A total of 21 people commented at the meetings. FERC also received written comments on the Draft EIS from 3 federal agencies, 7 state agencies, 11 local agencies, 11 Native American tribal members, and 89 other interested parties. The formal comment period for the Draft EIS extended through August 10, 2009.

The comments received on the Draft EIS and FERC's responses are contained in Appendix AA of the Final EIS for the Ruby Pipeline Project.

Review of Final Environmental Impact Statement

The Final EIS assesses the potential environmental impacts of the construction and operation of the Ruby Pipeline Project pursuant to the requirements of NEPA. FERC concluded that approval of the proposed project, with the mitigation measures recommended in the Final EIS and the additional measures and agreements being developed by Ruby with other agencies, will have some adverse environmental impacts; with impacts being reduced to the extent practical through the implementation of Ruby's proposed mitigation measures.

The EPA published its NOA of the Final EIS for the Ruby Pipeline Project in the *Federal Register*, Volume 75, Number 12 on January 15, 2010. With the publication of that NOA, BLM initiated a 30-day public review and comment period. The BLM has considered all comments received (approximately 100) on the Final EIS in the development of this ROD. The Final EIS has been placed in the public files of the FERC and is available for public viewing on the FERC's Web site at http://www.ferc.gov. A limited number of copies are available for distribution and public inspection at: Federal Regulatory Energy Commission, Public Reference Room, 888 First St., NE.; Room 2A, Washington, DC 20426, (202) 502-8371.

Copies of the Final EIS have been mailed to Federal, State, and local government agencies; elected officials; Native American tribes; local libraries and newspapers; parties to FERC's proceeding; individuals who provided scoping comments or commented on the Draft EIS; and individuals who requested to remain on the environmental mailing list for this project. Hard copy versions of the Final EIS were mailed to those specifically requesting them; all others received a

CD- ROM version. The BLM accepted comments on the Final EIS for 30 days. Attachment N summarizes the comments and responses.

Summary of Comments on Final Environment Impact Statement

Comments on the Final EIS spanned a wide array of subject areas from administrative topics to potential resource issues. Administrative topics included process, methodology, mitigation, and alternatives analysis. Process comments focused on the notice of availability of the document to the public, submittal of information by Ruby to FERC after publication of the Final EIS, and completeness of the document given the incomplete surveys. Methodology comments focused on the method used for mapping and determining ROW maintenance protocol. Mitigation comments focused on the potential for application of proposed measures across all alternatives and the adequacy of the analysis of the proposed measures. Comments regarding the alternatives indicated an inadequate and/or unbalanced analysis of the alternatives as a whole.

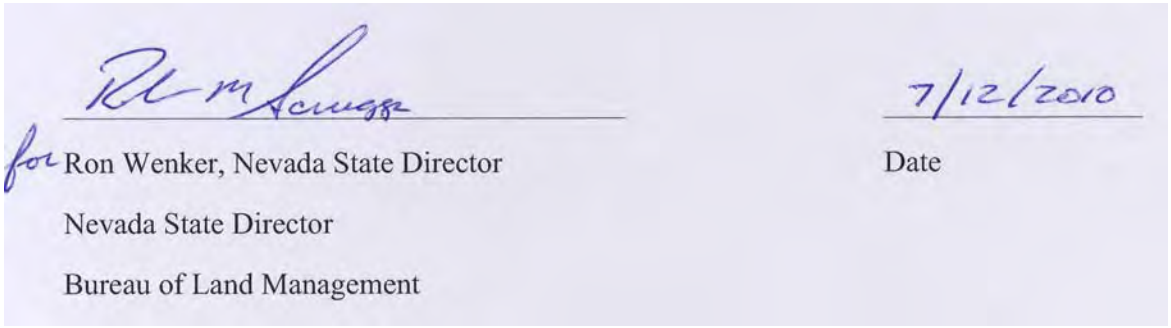
Resource topics included climate change, cultural resources, economics, fencing, grazing, human health and safety, mining, roads, vegetation, visual resources, water use, wilderness designations, and wildlife. Climate change comments centered on inadequate data and analysis of the potential climate change impact the pipeline could have. Cultural resources comments focused on the incomplete surveys and thus incomplete analysis in the Final EIS as well as the adequacy of the area surveyed and inadequate Section 106 efforts. Economic comments concerned the seemingly skewed balance between environmental costs and actual monetary costs. Inadequate information about the location and use of fencing, as well as its effects to wildlife was the focal point of fencing comments. Grazing comments discussed the need for further analysis of permitting allotments and the potential disturbance caused to these properties by the pipeline. Human health and safety comments included potential road upgrades, terrorist plots, and impacts to fault lines. Mining comments focused on the identification of and mitigation plans for all active and inactive/abandoned mines along the chosen route. Road comments focused on mitigation measures for temporary roads, inadequate mapping efforts, the potential effects to wildlife, increased use, access control, and general road disturbance. Vegetation comments centered on mitigation measures for forests and invasive species. Visual comments touched on the inadequacy of potential light pollution caused by the pipeline facilities. Water comments discussed the effects of runoff events due to the pipeline disturbed areas, the adequacy of aquifer data, public access to water areas due to new roads, and avoidance of wetlands and mitigation for those that cannot be avoided. Wilderness comments were concerned about impacts to existing areas as well as impacts to potential listings for newly identified areas. Generally inadequate analysis for wildlife impacts, especially for migratory birds, special status species, greater sage-grouse, pygmy rabbits, wild horses, and native fish were the subjects of comments regarding wildlife.

Notification of this Record of Decision

The following steps have been taken to notify the public of this decision:

1. Distributed a news release about the ROD to local and regional media;
2. Sent a postcard with information on how to access the ROD to all parties on the project distribution list;
3. Published the ROD on BLM and USFS web sites;
4. Provided a copy of the ROD to all who requested it.

Approval Signatures



Concurrence Letters for the following are provided in Attachment M:
Bureau of Reclamation, Klamath Basin Area Office
Fremont-Winema National Forests
Uinta-Wasatch-Cache National Forest
Modoc National Forest
US Fish and Wildlife Service, Sheldon National Wildlife Refuge

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