

**MOU between the Bureau of Land Management
and
Nevada Department of Wildlife**

**For Use of Voluntary Enhancement Funds Supplied by Ruby Pipeline in Connection with
the Sage-Grouse and Pygmy Rabbit Cooperative Conservation Agreement**

Purpose:

The purpose of this Memorandum of Understanding between the U.S. Department of the Interior, Bureau of Land Management, Nevada State Office and the Nevada Department of Wildlife is to outline and formulate a cooperative plan to ensure the efficient and effective use of voluntary enhancement funds supplied by Ruby Pipeline LLC in connection with sage-grouse and pygmy rabbit conservation.

Authorities:

- A. The authorities for the Bureau of Land Management (BLM) to enter into and engage in the activities described within this MOU include, but are not limited to:
 - 1. Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
- B. Regulations implementing the above authorities:
 - 1. Bureau of Land Management planning regulations (43 CFR 1601 et seq.)
- C. The authorities for the Nevada Department of Wildlife (NDOW) to enter into this MOU include, but are not limited to:
 - 1. Nevada Revised Statute (NRS) sections 501.351 and NRS 277.045
 - 2. Fish and Wildlife Coordination Act, 16 U.S.C. 661
 - 3. Sikes Act, 16 U.S.C. 670a *et seq*

These authorities will also apply to other subsequent and mutually agreed to instruments necessary to fulfill this MOU.

Procedures:

Ruby Pipeline LLC has provided voluntary enhancement funding in connection with the “Ruby Project Cooperative Conservation Agreement for Greater Sage-Grouse and Pygmy Rabbit.”

The funds for Nevada represent a portion of the total amount supplied based upon a percentage of sage-grouse and pygmy rabbit habitat crossed by the Ruby Pipeline Project.

The funds supplied are to be used to support projects recommended by the BLM and/or NDOW specifically related to sage-grouse and pygmy rabbit issues generated by the Ruby Pipeline

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Project. The guidelines for sage-grouse and pygmy rabbit expenditures are outlined in the “*Ruby Project Cooperative Conservation Agreement for the Greater Sage-Grouse and Pygmy Rabbit – Appendix C – Nevada-Proposed State Agency Conservation Projects.*” The above document should be referred to in clarifying any questions relative to this MOU.

All funds received from Ruby Pipeline LLC in connection with the Conservation Agreements (CAs) will be housed in an NDOW 4451 account for projects designed to (1) enhance habitats crossed by the Ruby Pipeline Project, (2) add to the state of knowledge of these species or (3) provide protection of high quality habitat by acquisition. This account will be interest-bearing and the funds will be available for appropriate matching to enhance project capabilities. Use of the funds must be used directly to offset impacts to sagebrush steppe communities, sage-grouse, pygmy rabbit, and related wildlife issues generated by the Ruby Pipeline Project and may not be used for any other purpose.

No overhead charges will be withdrawn by NDOW for the management of the accounts to maximize use of the funding for on-the-ground activities.

Forty percent of the total funds will be allocated for multi-jurisdictional and landscape-level projects. The remaining funds will be separated into 3 sub-accounts (Elko, Winnemucca and Surprise) based upon the impact assessment steps used to justify the total funding as described in Appendix C of the CA. The allocations for sage-grouse and pygmy rabbit will be based on the “Nevada Habitat Characterization Matrix Impact Assessment Process” and weighted ratios contained therein across Nevada. A minimum target of 10% of the total funding received from Ruby Pipeline LLC will be used to fund pygmy rabbit projects.

A technical team of resource specialists comprised of representatives from both agencies in each area will recommend projects to a Management Team. Recommended projects will be brought forward using a common format that will indicate land status (public/private), any in-kind matching funds, other partners, NEPA status, timeframe for completion, monitoring requirements and funding availability. The technical team or management team may require modification of this format in order to expedite the process and facilitate review and approval.

The Management Team composed of the Nevada BLM Deputy State Director for Natural Resources, Land and Planning and the NDOW Habitat Division Chief will review all proposed projects. Any project to be funded through the Agreement and located on federal land must be approved by the Nevada BLM Deputy State Director for Natural Resources, Land and Planning. Any project to be funded through the Agreement but will not be located on Federal land must be approved by the NDOW Habitat Division Chief. Projects involving federal and non-federal lands must be approved by both individuals. No project shall receive funding until it is approved. Should they disagree on any issue; the decision will be elevated to the Nevada BLM State Director and the Director of NDOW for a final decision. Neither Agency will have veto power outside its jurisdictional boundaries (e.g. BLM may help with the evaluation process but will recuse from approval or voting for projects occurring on state or private land; NDOW will do likewise for projects occurring strictly on public land).

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Projects may be managed by either agency or the Nevada Partners for Conservation and Development depending upon the details of the project, the location of the project and the ability of that agency/organization to provide project management support. It is understood that a portion of the project funding will support project administration, NEPA compliance, materials, contract fees, appraisals and other direct project-related purchases.

The BLM will ensure that project activities located on public lands are in compliance with the National Environmental Policy Act and land management plans for the specific project location.

The managing entity will provide a full accounting of expenditures and a report of project completion which will be supplied to Ruby Pipeline LLC upon their request.

Administration:

All funds supplied by the Ruby Pipeline LCC will be expended within 5 years of receipt of the funds from Ruby Pipeline LLC, unless the duration is extended in accordance with section VIII of the Ruby Project Cooperative Conservation Agreement for Greater Sage-Grouse and Pygmy Rabbit.

No funds disbursed by Ruby pursuant to this Agreement may be used by any agency to unlawfully augment any agency's federal appropriations, whether in violation of the United States Constitution, Title 31, U.S.C. Section 1301(a) (the —Purpose Statute), Title 31, U.S.C. Section 3302(b) (the —Miscellaneous Receipts Act), or other applicable law.

This agreement will expire on October 12, 2015 which is 5 years from the date that funds were received from Ruby Pipeline LLC unless extended as outlined below or 30-days following a written notice provided to the Agreement Partners. The duration may be extended in one year increments in accordance with section VIII of the Ruby Project Cooperative Conservation Agreement for Greater Sage-Grouse and Pygmy Rabbit until funds are expended if all parties agree in writing.

Either party may propose changes to the MOU during its term by providing written notification to the other party. Such changes will be in the form of an amendment and will become effective upon signature by the MOU participants.

This instrument is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

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This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

Agreed:

For 
Director, Nevada Department of Wildlife

12/7/10
Date



Ronald Wenker
Nevada State Director, Bureau of Land Management

11/30/2010
Date