

**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)**

DECISION

**Ruby Pipeline Project
Decision to Amend Right-of-Way**

Cathodes and Roads Variance

**Box Elder County, 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
Salt Lake Field Office, Utah
Elko and Winnemucca District Offices, Nevada
Lakeview and Klamath Falls Resource Areas, Oregon
Surprise Field Office, California

With the Concurrence of:

U.S. Department of Agriculture, Fremont-Winema National Forests

1340 Financial Boulevard
Reno, Nevada 89502
775-861-6400

December 7, 2011

ATTACHMENTS

Attachment 1: Legal Descriptions by Main Line Valve and Bureau of Land Management or Forest Service Office

Attachment 2: Determination of National Environmental Policy Act Adequacy (DNA)

Attachment 3: Interdisciplinary Team Checklist

Attachment 4: Maps Supporting the DNA

Attachment 5: Concurrence Letter, Fremont-Winema National Forests

Attachment 6: Amended Right-of-Way Grant

ACRONYMS AND ABBREVIATIONS

AO	Authorized Officer
BLM	U.S. Department of the Interior, Bureau of Land Management
BO	Biological Opinion
Certificate	Certificate of Public Convenience and Necessity
COE	U.S. Army Corps of Engineers
DNA	Determination of National Environmental Policy Act Adequacy
DOI	U.S. Department of Interior
EIS	Environmental Impact Statement
EPAct	Energy Policy Act
ESA	Endangered Species Act
FERC	Federal Energy Regulatory Commission
FLPMA	Federal Land Policy and Management Act
MLA	Mineral Leasing Act
MLV	Main Line Valve
MOA	Memorandum of Agreement
NEPA	National Environmental Policy Act
NGA	Natural Gas Act
NTP	Notice to Proceed
NGPA	Natural Gas Policy Act
NRCS	U.S. Department of Agriculture, Natural Resources Conservation Service
NWR	National Wildlife Refuge
POD	Plan of Development
Reclamation	U.S. Department of the Interior, Bureau of Reclamation
ROD	Record of Decision
ROW	Right-of-Way
Ruby	Ruby Pipeline LLC
SHPO	State Historic Preservation Office
TUP	Temporary Use Permit
USDA	U.S. Department of Agriculture
USFS	U.S. Department of Agriculture, Forest Service
USFWS	U.S. Department of Interior, Fish and Wildlife Service

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 (NGA) of 1938, 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 (NGPA) 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 (FEIS) 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 in the Record of Decision [ROD], dated July 12, 2010). 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 U.S. 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 (MLA) of 1920, as amended (30 U.S.C. 185 *et seq.*). The federal lands crossed or used as access for the Ruby Pipeline include lands managed by the DOI, BLM; DOI, Bureau of Reclamation (Reclamation); and the U.S. 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, U.S. Fish and Wildlife Service (USFWS), specifically the Sheldon National Wildlife Refuge (NWR).

The BLM issued a ROD on July 12, 2010 to authorize a ROW grant and TUP for the Ruby Pipeline Project. The document also served as the ROD for Reclamation, the USFS, and the USFWS. The 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 U.S. 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 FEIS pursuant to Section 204 of NEPA. The BLM, USFS, and USFWS have adopted the FEIS per Title 40 CFR Part 1506.3, and the BLM prepared the ROD based on information contained in the FEIS for project-related actions affecting BLM, Reclamation, USFS, and USFWS lands. The decision specifically affected the federal lands detailed in Attachment B of the ROD, and described in the FEIS for the project.

On May 24, 2011 Ruby filed a proposal to amend the ROW Grant, Serial No. NVN-084650. This variation is termed the Cathode Facilities and Roads Variance.

Cathode Facilities and Roads Variance

Ruby will install cathodic protection at selected main line valve (MLV) sites. The MLV sites provide the pipeline with power (purchased or thermally electrically generated [using natural gas to generate the electricity]). Cathodic protection is needed to protect the pipeline from corrosion

and to comply with Department of Transportation requirements. Deep well cathodic protection groundbeds are already located within the ROW at most of the MLVs. With the exception of the four surface cathodic protection groundbeds that are the subject of this decision, the other surface cathodic protection groundbeds on BLM lands were included in the original ROW grant.

To be effective, a ground bed must extend at approximately 90 degrees from the pipeline, i.e. 90 degrees down, or 90 degrees perpendicular to the pipeline on the surface. The soil conditions below the ROW at the four proposed locations will not support an effective deep hole (i.e. drilled in a single hole on the ROW) groundbed. To be effective, the groundbed must extend approximately 700 feet and, again, due to the soil conditions, the only effective way for a groundbed to work at these locations is to extend along the surface. This requires that the four proposed cathodic protection groundbeds extend beyond the existing ROW.

Ruby has positioned the MLVs along access roads and the valves are set off from the road ROW edge. As a result, short access roads are needed so operations personnel do not have to drive across the ROW to get to the valves, thereby avoiding reentry into the reclaimed ROW. The “new build” roads from the existing access roads to the cathodic groundbeds/MLVs would be constructed in about two days each and would be flat bladed to allow a two-track to develop. With the exception of about 85-feet of road in the Fremont-Winema National Forests, Ruby intends to use materials that are on site and would not bring in material to construct these short roads.

The project changes are summarized below and are detailed in Attachment 1, Table 1.1

- Build surface anode groundbeds at four mainline valves (Nos. 24, 32, 34, and 41) along with related electrical power sources previously identified and a rectifier installation that will be installed within each mainline valve, which was previously authorized.
- Build 15 new permanent access roads from existing roads to MLVs, 14, 21, 24, 25, 26, 29, 31, 32, 33, 34, 35, 36, 37, 40, and 41.

Decision

After consideration of agency 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 Fremont-Winema National Forests, to make changes to the ROD issued July 12, 2010. ROW NVN-084650 is amended to allow for the construction, operation maintenance, and termination of the Cathode Facilities and Roads Variance. Specifically, the BLM:

Amends ROW NVN-084650 authorizing the construction, operation and maintenance of a 42-inch-diameter natural gas pipeline on federal lands in Box Elder County, Utah, Elko, Humboldt, and Washoe Counties, Nevada, and Lake and Klamath Counties, Oregon

On federal lands the amended ROW for the Cathode Facilities and Roads Variance will be:

- For the four surface anode groundbeds:

- MLV 24: approximately 200 ft wide by 725 ft long, 3.32874 ac
 - MLV 32: approximately 47.32 ft wide, 739.70 ft long, (west boundary), 755.88 ft long (east boundary), 0.81222 ac
 - MLV 34: approximately 100.13 ft wide, 740.28 ft long, (southwest boundary), 680.69 ft long (northeast boundary), 1.61016 ac
 - MLV 41: approximately 50 ft wide, 740 ft long (southeast boundary), 760 ft long (northwest boundary), .086088 ac
- For the 15 new build permanent access roads from existing roads to MLVs 14, 21, 24, 25, 26, 29, 31, 32, 33, 34, 35, 36, 37, 40, and 41:
 - Up to 30 ft wide for a total length of approximately 3,243 feet or approximately 2.2 ac.

The amended grant (Attachment 6) will be issued for a term of thirty (30) years with the right of renewal. The commencement date for the amended grant term will be concurrent with the date of original grant. This amendment is issued under authority of the MLA, as amended and supplemented (30 USC 185 et seq.) and the FLPMA (43 USC 1701 et seq.).

This decision only addresses the Cathode Facilities and Roads Variance. Unless specifically modified by this Decision, all other elements of the July 12, 2010 ROD remain in full force and effect, including all stipulations, monitoring, and mitigation measures.

Rationale

The range of alternatives analyzed in the FEIS is sufficient for the purposes of analyzing this Variance. The Ruby Pipeline FEIS indicates that access roads and MLVs with cathodic protection, and ongoing monitoring of those facilities are included in the proposed action and all of the analyzed alternatives. Page 2-4, Table 2.1.2-1 lists MLV locations along the entire route of the pipeline and Page 2-27 states that “All underground piping would be coated and equipped with cathodic protection to prevent corrosion.” This is repeated on Page 4-41, “Ruby would use externally coated pipe and install cathodic protection where necessary to guard against corrosion.” Additionally, Page 2-31 states that the “pipeline cathodic protection system also would be monitored and inspected by pipeline personnel periodically to ensure proper and adequate corrosion protection.” Page 2-32, says that “Ruby would also inspect MLVs annually and document the inspection results.”

Page 2-3 of the FEIS acknowledges Ruby, at FEIS issuance, could not know exactly how or where road improvements would be required along any given road identified as potentially needing improvements. That information would not be available until after Ruby’s construction contractor identified which roads it prefers to use, how it prefers to use the roads, and the weather at the time of use. There is reference to permanent access as part of normal maintenance and operations as well. Page 4-142 states that, “Access roads would be used extensively during pipeline construction and restoration activities and occasionally during operation to conduct monitoring and maintenance of pipeline facilities.”

The Ruby Pipeline Project FEIS assumes that Ruby would restore all roads to their preconstruction condition, except where the landowner has requested that the improvements be

left in place (Page 4-163), but the FEIS also recognizes a variance process for making minor changes in alignment and workspace needs. Page 2-3 of the FEIS notes that Ruby could request route realignments or additional construction workspace needs identified during construction under the post-approval variance process (see section 2.5.3). Minor route realignments and other workspace refinements often continue past the project planning phase and into the construction phase. As a result, the project location and areas of disturbance described in this EIS may require refinement after project approval (assuming the project is approved). These changes frequently involve minor route realignments, shifting or adding new temporary extra workspaces or staging areas, or adding additional access roads that are outside of the original ROW. Small segments of roads totaling only 3,243 feet and approximately 2.2 acres of disturbance distributed in 15 isolated and separate locations is deemed to be a minor refinement to the proposed action that is eligible for a variance. Additionally, Ruby will be required to reclaim the roads when they are no longer needed for project use.

Given that the MLVs, cathodic protection system, and access roads are features of all alternatives analyzed in the Ruby Pipeline FEIS with the exception of the No Action Alternative, there is no need to analyze any additional alternatives to this Variance. Additionally, further analysis of alternatives to the proposed Variance is unnecessary because the proposed Variance would not create any unresolved conflicts (see Attachments 2, 3, and 4) over any affected resources and would not result in any direct, indirect, or cumulative effects that are not similar to those analyzed in the FEIS.

BLM has conducted an interdisciplinary review to determine the adequacy of the analysis in the Ruby Pipeline FEIS for the current proposed action. The results of the review are documented in Attachments 2 and 3 with supporting maps in attachment 4. There have been no substantial changes in resources and conditions since publication of the FEIS. Based on this and the small footprint of the proposed action, which would be approximately 9.0 acres of new disturbance in four states, any increment in direct, indirect, or cumulative impacts to lands, and resources would be negligible

Resource conditions addressed in the Ruby Pipeline Project FEIS have not changed substantially since publication of the FEIS in 2010 (see Attachments 2, 3 and 4). The only change in baseline conditions for the current proposed action is that the pipeline project has been completed.

There has been a USFWS review regarding the status of the greater sage grouse and a BLM policy change regarding management of sage grouse.

The highest status described for greater sage-grouse in the Ruby Pipeline FEIS is “BLM Sensitive.”¹ The EIS discusses the status of greater sage grouse (pg. 4-141) as having been

¹BLM Manual 6840 establishes Special Status Species (SSS) policy for plant and animal species and the habitat on which they depend. This SSS policy refers not only to species protected under the ESA, but also to those designated by the State Director as Sensitive. Section 06D of the manual provides that State Directors, usually in cooperation with the State wildlife agency, may designate sensitive species. By definition the sensitive species designation includes species that could easily become endangered or extinct in the state. Therefore, if sensitive species are designated by the State Director, the protection provided by the policy for candidate species shall be used as the minimum level of protection”.

previously petitioned for listing by the USFWS under the Endangered Species Act (ESA). As stated in the FEIS, an initial finding on those petitions of “not warranted” for listing under the ESA was subsequently challenged in court and prompted an additional review with a finding expected in February 2010. That finding has now been completed with a determination that greater sage grouse is warranted for listing under the ESA but that further action on that listing is precluded by other priorities within the USFWS (“warranted but precluded”). Thus the greater sage-grouse is not currently listed as endangered or threatened under the ESA and BLM continues to recognize the greater sage-grouse as a BLM Sensitive species pending further action by USFWS, consistent with the discussion in the FEIS.

Since completion of the FEIS BLM Nevada has developed guidance for the protection of sage grouse habitats encompassing 75 percent of the breeding population in each state. The guidance implements an internal tracking system for all projects initiated within the 75 percent identified breeding populations. The system will be used for spatially tracking the number and location of proposed projects that may have the potential to impact sage grouse habitat and will be used to keep the State Director updated of proposed activities that have the potential to impact sage grouse. The guidance does not add standards and guidelines for on-the-ground management of grouse habitat within these areas nor does it change the legal status of the species since the “warranted but precluded” finding by FWS. Based on current mapping, the proposed cathodic protection groundbeds and access roads are outside of the 75 percent areas.

The new cathodic protection beds and access roads would not add appreciably to the impacts on sage grouse analyzed in the Ruby Pipeline FEIS. The FEIS reports that the Ruby Pipeline Project would directly disturb approximately 16,427.5 acres of land for construction, including the pipeline ROW, temporary extra workspaces, contractor yards, access roads, and above ground facilities. The proposed cathodic protection sites and new access roads would increase the project related disturbance by only 9 acres. Timing limitations, buffers and other measures for protection of sage grouse would be applied.

Terms, Conditions, and Stipulations

This decision is contingent on Ruby 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 FEIS as modified by the six conditions of approval (FERC/EIS No. 0232F, FERC Docket No. CP09-54-000). These mitigation measures are included with original ROD.
2. Ruby shall comply with the standard stipulations of the ROW grant and TUPs (Attachment 5).
3. Prior to any construction or other surface disturbance associated with the ROW grant and TUPs, Ruby shall receive written Notices to Proceed (NTP) from the Authorized Officer (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 Plan of Development (POD) dated June 2010 (Attachment D) detailing how the pipeline and associated facilities will be constructed in compliance with the ROW and TUP 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 TUP.

5. Ruby shall construct, operate and maintain the facilities, improvements, and structures within the ROW and areas authorized by the TUP in strict conformity with the POD dated June 2010 (Attachment D of the original ROD), 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 the original 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 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 original ROD.

9. Ruby shall implement and comply with the following voluntary commitments: Letter of Commitment Regarding the ESA 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 of the original ROD).

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, in accordance with 43 C.F.R. § 2807.10, receives a written NTP from the BLM's AO authorizing Ruby to commence construction of project facilities.

Finding of No New Significant Impact (FONNSI)

The environmental impacts of the Cathodic Protection Facilities and Roads Variance were considered based on the analysis of potential environmental impacts contained in the Ruby Pipeline Project FEIS, January 2010, and the mitigation measures that were identified in the ROD, July 2010. As explained in the attached DNAs and ID Team Checklist (see Attachments 2 and 3), the proposed action will result in no new environmental effects that meet the definition of significance as defined in 40 CFR 1508.27. With the continued application of those mitigations, stipulations and terms and conditions of the original ROW and TUP grants, as well any new stipulations indicated in this decision, it has been determined that the action will not have any new significant effects on the human environment that have not already been addressed in the Ruby Pipeline FEIS.

Appeal of this Decision

Section 313(b) of the Energy Policy Act (EPA) of 2005, which amended the NGA, grants the U.S. 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 U.S. 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 EPA, 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 U.S. Court of Appeals in accordance with 15 U.S.C. § 717r and the Federal Rules of Appellate Procedure (FRAP).

The NGA requires that any party aggrieved by a FERC order on rehearing file a notice of appeal with the appropriate U.S. Court of Appeals within sixty (60) days, 15 U.S.C. § 717r (b). The 2005 EPA amendments to the NGA and the legislative history of that legislation indicate that Congress intended to streamline the NGA approval and review process for other Federal authorizations needed for NGA projects. Any notice of appeal of this Decision must be filed in an appropriate U.S. Court of Appeals within sixty (60) days of the date of this Decision.

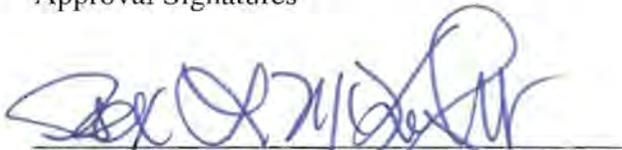
Notification of this Decision

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

1. Distributed a news release about the changes to the ROD to local and regional media;
2. Published the changes to the ROD on BLM and USFS web sites;

3. Provided a copy of the changes to the ROD to all who request it. Requests can be made to Mark Mackiewicz, BLM National Project Manager at mmackiew@blm.gov.

Approval Signatures



Amy Lueders
Authorized Officer and
Nevada State Director
Bureau of Land Management

12/07/11
Date

Contact Person:
Mark A. Mackiewicz, PMP
Project Manager
Bureau of Land Management
Washington Office
125 South 600 West
Price, Utah 84501
(435) 636-3616