

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**RIGHT-OF-WAY NOTICE TO PROCEED**

Certified/Registered Mail-Return Receipt Requested

Right-of-Way or Temporary Use Permit (TUP) Serial Number

NVN-084650 (NTP No. 46 REISSUE 3)

Date

6/6/2011

Issuing Office

Nevada State Office

Right-of-Way or TUP name

Ruby Pipeline

INSTRUCTIONS — Use Certified or Registered Mail or hand deliver. Send or give original to Holder. Distribute other copies as indicated after receipt date.

Holder:

In accordance with the terms and conditions of the above referenced right-of-way grant or TUP you are hereby authorized to proceed with the activities noted below in the locations specified. Map(s) are attached.  Yes  No

Activity	Location
<p>Approval of Ruby's Implementation Plan 2 and authorization to commence construction in the areas specified under location heading. Ruby will file at a later date for authorization to commence construction in those areas presently excluded due to pending cultural mitigation.</p> <p>Approval for the following: Commence pipeline construction in the right-of-way areas identified and use and widening of access roads in the locations noted here and in referenced alignment and quadrangle sheets.</p> <p>All activity shall comply with the stipulations and mitigation measures detailed in the Record of Decision and Right-of-Way Grant (July 12, 2010) and Decisions to Amend Right-of-Way and Temporary Use Permit (December 10, 2010 and February 24, 2011).</p> <p><b>The Winnemucca District Office has the following stipulations:</b></p> <p><b>Stipulations for the H-46 road:</b></p> <ul style="list-style-type: none"> <li>• Use of the H-46 road through the Sheldon is only allowed from two hours after sunrise and until one hour before sunset.</li> <li>• Traffic on the road will be minimized by bussing in the grade crew, the trenching crew, the blasting crew, tribal and archaeological monitors. It is estimated that 4 busses will be used to transport personnel. In addition, up to 50 other vehicles will daily use the H-46 road during the hours listed above.</li> <li>• Unless there is an emergency, all vehicles will enter and exit the right-of-way (ROW) once a day and will stay until business is completed. After leaving, unless there is an environmental or medical</li> </ul>	<p>This NTP applies only to federal lands located within the following mileage range:</p> <p><b>1. Winnemucca District Office and Sheldon Wildlife Refuge, NV</b> In Spread: 5</p> <p>Mileposts (MPs) MPs 518.0 to 531.4 (includes Project Modification Nos. 123 and 169)</p> <p>And</p> <p>Access Roads MP 518.0 to 531.4: H-46A, H-47, H-49, H-50, H-50A, H-51</p> <p>Access Roads H-46, H-46B</p> <p>And</p> <p>Project Modification No. 123: H-9WS Access Road Project Modification No. 123: Kunderna Ranch Staging Area Project Modification No. 169: Summit Lake TCP Centerline Route</p> <p>Alignment Sheets Referenced: 300A-213 and 300A-218</p> <p>Quadrangle Sheets Referenced: 88 and 89</p>

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emergency, vehicles will not re-enter the ROW.

- For the part of the H-46 within the Sheldon, no blading, grading, or widening may take place to the road. Only gravelling within the current foot print may occur.
- These stipulations do not apply in the case of a medical or environmental emergency (EMT access, fire, chemical/petroleum spill clean-up, etc.). An emergency situation requires immediate notification of the compliance monitors and the BLM.
- These stipulations are in effect for the clearing, grading, blasting and pilot trenching on the ROW. New stipulations will be drawn up, if needed, for the stringing and trenching phases of construction on the ROW.

**Protection of Wildlife:**

- Bureau of Land Management (BLM) has previously identified concerns relating to impacts on sage grouse that will begin on March 1, 2011. For purposes of NTP 46, that date correlates with the initiation of sage-grouse lek activity. As stated in the Environmental Impact Statement (EIS), any Ruby Pipeline-associated human activity (activities) around active leks and within the two-mile lek buffers would be avoided through construction timelines specifically designed to avoid those sites. The Plan of Development (POD) also anticipated that construction schedules, expected to be done by March 1, 2011, would avoid sage grouse lek activity and lek buffers, but recognized that construction schedules could change for various reasons.
  - Active leks have been identified as part of the EIS and EIS follow-up between Ruby, BLM, and Nevada Department of Wildlife (NDOW) personnel to February 28, 2011. Further identification of any active leks with inactive or unknown status in 2010 will be completed in early March 2011 by the NDOW and the BLM. For active leks, either currently known or subsequently identified from March 1 to May 15, no construction or construction-related activities will be allowed within the two mile active lek buffers that intersect the pipeline right-of-way (ROW) or any authorized access road from March 1 to May 15.
  - In addition to the avoidance and minimization measures identified in the final EIS and POD, the Conservation Agreement for Ruby Pipeline Limited
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Operating Period Encroachments in Nevada (July 2010 and amended December 2010) will be in full effect through NTP46.

- Wildlife crossings will occur every 2500 ft. The wildlife crossing may be blocked or removed for 48 hours for pipe welding and lowering into the ground.
  - To facilitate avoidance of active leks, all Ruby related helicopter use in and around the ROW or authorized access roads must be pre-approved by the BLM so as to avoid active leks through May 15, 2011. This provision may consider helicopter routing to avoid active leks off the ROW and away from access roads as well as those currently identified as being impacted by the project. This provision also facilitates avoidance of sensitive big game areas (bighorn lambing, pronghorn or mule deer fawning areas and migration corridors) through June 30, 2011 within NTP 46.
  - Ruby will ensure that signs or barriers marking the active lek buffers will be in place by sunset February 28, 2011 along the ROW and all access roads within an active lek buffer. Those signs or barriers will be maintained by Ruby Environmental Inspectors or others as assigned by Ruby through May 15, 2011.
  - Pending further written notification by the BLM, all activities between mileposts (approximated) will cease between March 1, 2011 and May 15th, 2011 within all active sage-grouse buffers along the pipeline ROW and all authorized access roads within an active sage-grouse lek buffer. This order includes the following pipeline mileposts:
    - 526.39 – 530.43 (NTP 46)In addition to authorized access roads affected by sage-grouse lek buffers along the ROW, the following roads are within off-ROW sage-grouse lek buffers and subject to this order:
    - W-14
    - Pearl Camp Road (Intersection of H-41 to top of canyon)
  - All construction equipment, other equipment, vehicles, and ancillary facilities must be removed from the ROW or access roads within any active sage-grouse lek buffers by sunset on February 28, 2011. All open trenches, within active sage-grouse lek buffers, must be filled in by February 28, 2011. Interim reclamation measures to be approved by the BLM will be put into place. Unless notified in writing otherwise, no activities can resume until
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after May 15, 2011 within active lek buffers.

- The remainder of the ROW is hereby modified with the following stipulations:

A series of helicopter lek surveys of the pipeline route within NTP 46, extending two miles on both sides of the ROW and authorized access roads, will be conducted by BLM/NDOW after March 1, 2011. The surveys will be completed to validate and determine the status of any inactive or unknown leks historically reported within the four mile corridor.

In areas with no known active leks, until such time the surveys are completed, all activities will be allowed 2.0 hours after sunrise until one hour prior to sunset within the ROW. Sunrise/sunset tables are available at the following website address: <http://www.sunrisesunset.com/usa/> If a determination is made that all active leks have been identified, then the daily timing restrictions will be suspended in those areas outside of any active leks. If a new active lek is documented (2 or more strutting males), or there is active lekking use documented on any inactive or unknown lek historically reported within the four-mile corridor, a two mile buffer will be plotted around the lek and all activities including ingress or egress will cease within those buffers along the ROW or access roads. If activities are currently underway within a buffer area, details of how work cessation occurs will be coordinated at the BLM field office level (signage, equipment removal, open trenches, welded pipe, interim reclamation/stabilization, etc.).

In addition to the aerial surveys, Ruby will have a biological monitor working ahead of ground construction activities on a daily basis to survey for and report to BLM any active leks within the ROW. That biologist will work the area in front of any new construction activities from sunrise to 2.0 hours after sunrise for evidence of lek activity. If active leks are discovered by a biological monitor on the ground, the same construction cessation process described above will be employed.

**Cultural Stipulations:**

- Ruby must have a least two Environmental Inspectors working between MP 518.0 and 531.4 at all times when construction is occurring (through completion of backfilling of the trench). If this condition is not met, work shall not occur.

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- Two additional Compliance Monitors must work between MP 518.0 and 531.4.
  - Once a week, **all** contractors and construction crews will have a Weekly Environmental Refresher meeting to review environmental and cultural stipulations in place for the project area. A log sheet of attendees will be maintained.

One topic to be stressed to the construction crews and Tribal Monitors in this meeting is that **no artifacts**—even flakes— are to be collected from anywhere along the route. Only the Far Western Anthropological Research Group (FWARG) archaeologists may collect artifacts from along the route; others may only flag. Collection of archaeological materials from Federal Land without a permit is a federal offense.

The BLM will be happy to draft language for aspects of this weekly environmental training. The BLM, if invited, can be in attendance to follow up if there are questions from the workers.

- Archaeological and Tribal Monitors must be present for all ground disturbing operations. Their presence is not required during stringing. They may “float” (i.e., move within a predefined area and have a distance between each other) for up to a half mile after physically checking in with a utility inspector. **Both** monitors must be present for work to occur. Monitoring from vehicles must not occur.
- Monitor Required signs must be obvious and placed on both sides of the right-of-way (ROW).
- Between Station Marker (SM) 27436 + 40 and 27512 + 00, six to eight inches of certified weed-free straw or hay must be placed on the left side/southern side of the ROW. No grading is to be done on the south side of the trench. The straw will serve to segregate the trench spoils from existing, undisturbed soil surface. During trench filling and restoration activities, caution must be taken to avoid disturbing the soil surface below the straw layer.

The trench between SM 27436 + 40 and 27512 + 00 must be dug using a trac-hoe (s).

The straw/hay must be removed. It may be incorporated into the fill and topsoil during reclamation.

- Between MP 523.41 to 524.50, six to eight inches of certified weed-free straw or hay must be placed on the left side/southern side of the ROW. No grading is to be done on the south side of the trench. The straw will serve to segregate the trench

spoils from existing, undisturbed soil surface. During trench filling and restoration activities, caution must be taken to avoid disturbing the soil surface below the straw layer.

- The trench between MP 523.41 to 524.50 must be dug using a trac-hoe (s).

The straw/hay must be removed. It may be incorporated into the fill and topsoil during reclamation.

- Bright yellow hard hats will be mandatory for all Native American, paleontological and archaeological monitors
- If blasting is required, 24 hours advanced notice must be provided to the BLM. If within 300 feet of a rock stack, sandbagging may be required.
- Ruby must require 24-hour on-site security should human remains or potential human remains be discovered.

**The Fish and Wildlife Service, Sheldon Wildlife Refuge has the following stipulations:**

- All activity will comply with stipulations detailed in the Fish and Wildlife Service's Special Use Permit (#14621-10-008) as amended on November 19, 2010, and which expires February 28, 2011.

Authorized officer is:

Amy Leuders  
Name

Acting Director, BLM, Nevada State Office  
Title

Onsite inspection and compliance of the Right-of-Way or TUP stipulations will be conducted by the authorized officer's representative

Mark Mackiewicz, National Project Manager, WO-350  
Name of Authorized Officer's Representative

Price Field Office, 125 South 600 West, Price, Utah 84501  
Office, Street, Address, City, State, Zip

(435) 636-3616  
Office Phone Number

\_\_\_\_\_  
Home Phone Number (Optional)

/s/ Mark Mackiewicz  
Authorized Officer's or Representative's Signature  
Holder's acknowledgement when notice is delivered in person.

June 6, 2011  
Date

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Signature of Recipient

Ruby Pipeline, LLC  
Firm Name

Daniel G. Gredvig  
Name of Recipient

June 6, 2011  
Date