

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. 37, REISSUE 5)

Date

03/16/2011

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>This NTP applies only to federal lands located within the following mileage ranges:</p> <p>1. Elko District Office, NV In Spread: 4</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>Mile Posts (MPs): 355.5 to 372.5</p> <p>And</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>Access Roads: MP 355.5 to 372.5: E-49C, E-49D, E-49E, E-49F, E-50A, E-50B, E-50C, E-50D, E-50E, E-51, E-51A, E-51B, E-51C, E-52A, E-52B, E-52C, E-52D</p>
<p>The Elko District Office has the following stipulations:</p>	<p>Access Road E-52 – Ruby is requesting the portion of the road north of the ROW; the portion of the road south of the ROW will not be used.</p>
<p>Wildlife:</p>	<p>And</p>
<ul style="list-style-type: none"> 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 37, 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 completed by March 1, 2011, would avoid sage grouse lek activity and lek buffers, but recognized that construction schedules could change for various reasons. 	<p>Variance No. 109: 26-Ranch Proposed Drill Well MP 360.6 Water Source Variance No. 110: China Springs Staging Area MP 364.4 Variance No. 111: Barrick Proposed Drill Well MP 368.3 Water Source Variance No. 111: Barrick Proposed Drill Well MP 368.3 Staging Area</p> <p>Alignment Sheets Referenced: 300A-146 to 300A-153</p> <p>Quadrangle Sheets Referenced: 62-64</p>

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- Active leks have been identified in the EIS and through follow-up work since the EIS. Any leks determined in 2010 to have an inactive or unknown status will be inventoried in early March 2011 by the Nevada Department of Wildlife (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 Operating Period Encroachments in Nevada (July 2010 and amended December 2010) will be in full effect through NTP 37
 - Outside lek buffers, all open trenches must be covered within 10 days outside lek buffers to facilitate big game movements across the pipeline.
 - 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 directly 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 37.
 - 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 lek buffers along the pipeline ROW and all authorized access roads within an active sage grouse lek buffer. This order includes the following pipeline mileposts:
 - 357.30-365.40 (NTP 37)
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- Pursuant to the aerial lek survey stipulation contained within this NTP (see below), the completion of those surveys, and the resulting new active lek information; the following additional closures will be included within NTP 37.

- 371.40 – 372.50

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:

- E-1
- E-10
- E-12

- Based on the aerial lek survey stipulation within this NTP (see below) and the resulting new active lek information, new access road restrictions are expanded to include:

- E-52D

- 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 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 37, 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.

- With the conclusion of the lek surveys as described above and all new active lek and access road information incorporated into this NTP, the daily timing restrictions of for all activities outside active lek buffers are hereby suspended.

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.).

Potential water discharge points under NTP 37 will need further evaluation before use.

Active big game migration is occurring from October 15 to December 14, 2010 in the NTP37 area from MP 365 to MP 368 and MP 371 to MP 374. Ruby shall ensure that if there are open trenches, that wildlife crossings are present at all times. Trench exit ramps with slopes that are gentle enough for wildlife to escape shall be present at all times.

Access roads approved under NTP 37 must be graveled.

Use and widening of Access Road E-52 is **NOT** approved.

Access Roads E-51, E-52B, and E-52C are **NOT** approved for use or widening, south of the right-of-way.

Ruby shall maintain fence integrity and restore all fences to original condition as soon as possible.

NTP AMMENDED 11/23/10- SEE ATTACHMENT MEMO FROM KEN MILLER, ELKO DISTRICT MANAGER DATED 11/22/10

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

(435) 636-3616

Office Phone Number

/s/Mark Mackiewicz

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

Signature of Recipient

Daniel G. Gredvig

Name of Recipient

Price Field Office, 125 South 600 West, Price, Utah 84501

Office, Street, Address, City, State, Zip

Home Phone Number (Optional)

March 16, 2011

Date

Ruby Pipeline, LLC

Firm Name

March 16, 2011

Date



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Elko District Office
3900 East Idaho Street
Elko, Nevada 89801
<http://www.nv.blm.gov>



In Reply Refer To:

To: Mark Mackiewicz,
National Project Manager

From: Kenneth E. Miller,
District Manager

Date: November 22, 2010

Subject: Final Clarification of Stipulations for NTP 37

The Elko District Office has the following stipulations:

Use and widening of Access Road E52 is **NOT** approved for the public portions south of the ROW.

Access roads approved under NTP37 are **NOT REQUIRED** to be graveled. They may be graveled **AS NECESSARY**.