U.S. Department of the Interior, Fish and Wildlife Service

Record of Decision

for the

Sheldon National Wildlife Refuge Land Exchange with Ruby Pipeline, LLC. and Issuance of Permit to Allow Use of Access Routes to the Ruby Pipeline Project Corridor through Sheldon National Wildlife Refuge

July 2010

Summary

The U.S. Fish and Wildlife Service (FWS) has prepared this Record of Decision (ROD) in partial satisfaction of requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321-4347). This ROD documents the decision of the Regional Director to:

1. Grant an access easement to Ruby Pipeline, LLC (Ruby) for approximately 3.64 acres of Sheldon National Wildlife Refuge (Sheldon Refuge) lands in exchange for 20 acres of private property (an inholding elsewhere on Sheldon Refuge) and
2. Issue a Special Use Permit (SUP) to Ruby for access through the Sheldon Refuge via specific routes to the Ruby Pipeline Project (Project) corridor.

The proposed FWS/Ruby land exchange and issuance of an SUP are Federal actions subject to review under NEPA. These are connected actions to the Project. Thus FWS prepared appropriate documents in compliance with NEPA. Brief summaries of the process, alternatives considered, public involvement, and the reasons for selecting the actions for implementation are included in this ROD. The SUP will provide terms and conditions guiding Ruby's use of Sheldon Refuge for access to the Project corridor.

Background

On January 27, 2009, Ruby filed an application with the Federal Energy Regulatory Commission (FERC) seeking a Certificate of Public Convenience and Necessity for its Project. The certificate will include the construction and operation of pipeline, compression, and ancillary facilities in Wyoming, Utah, Nevada, and Oregon. Ruby is also seeking an SUP for access through Sheldon Refuge to the Project corridor for construction, mitigation, operation, maintenance, repair, and/or termination of the pipeline. Approximately 25 miles of the proposed pipeline route in Humboldt and Washoe counties, Nevada, are located roughly 1 mile south of the main southern Refuge boundary.

The FERC is the Federal agency responsible for authorizing interstate natural gas transmission facilities under the Natural Gas Act of 1938, as amended (15 U.S.C. 717-717z), and is the lead Federal agency responsible for compliance with the requirements of NEPA including preparation of the environmental impact statement (EIS) for this Project. With its legal jurisdiction over Sheldon Refuge and its special expertise with respect to environmental resource issues associated with the Project, FWS is one of the cooperating agencies for the development of the EIS.

The U.S. Bureau of Land Management (BLM) is the Federal agency responsible for issuing right-of-way grants for natural gas pipelines across Federal lands for this Project. Right-of-way grants are issued under Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181-263) and relevant regulations at 43 C.F.R. 2800 and 2880 to any qualified individual, business, or government entity. The BLM will decide whether or not to issue Ruby a right-of-way grant to cross all Federal land, as well as any temporary use permits necessary for construction, based on the findings of the EIS; however, Section 28

of the Mineral Leasing Act and 43 C.F.R. 2884.26 also states that a right-of-way through a Federal reservation (such as Sheldon Refuge) shall not be granted if the Secretary of the U.S. Department of the Interior (Interior Secretary) or agency head determines that it will be inconsistent with the purposes of the reservation. The BLM, therefore, will not issue a right-of-way grant or any temporary use permits until the heads of the BLM, U.S. Bureau of Reclamation (Reclamation), FWS, and U.S. Forest Service (USFS) have determined that the potential use was consistent with respect to use of lands under their respective jurisdictions.

All actions on Federal lands that are proposed in Ruby's application and in subsequent filings must comply with the respective resource management plans of the affected Federal land managing agencies, or those management plans must be amended to include the Project. If the Ruby Pipeline Project is approved as proposed, the BLM and USFS will be required to amend certain resource management plans to ensure consistency. FWS will not need to amend its plans.

The EIS developed by the FERC and in cooperation with FWS, as well as the other cooperating agencies, examines the proposed action and alternatives that will require management plan amendments or other administrative actions by the Federal managing agencies. While FWS will not need to amend its Sheldon Refuge management plan, it will need to undertake administrative actions and make decisions relative to a finding of appropriateness, a determination of compatibility, and issuance of an SUP for access through Sheldon Refuge.

FWS bases this ROD on the EIS developed by the FERC and its associated NEPA analyses as well as the supplemental information and analyses developed for the connected actions of the land exchange and SUP issuance.

Project Description

Ruby Pipeline Project

The Project, proposed by Ruby, is composed of approximately 675.4 miles of 42-inch-diameter natural gas pipeline, along with associated compression and measurement facilities, located between Opal, Wyoming and Malin, Oregon. The pipeline will cross four states: Wyoming, Utah, Nevada, and Oregon. Ruby has proposed initiating construction of the pipeline in 2010, with the intention of delivering natural gas to customers beginning in March 2011.

The proposed pipeline route will cross northern Nevada in an east-to-west direction. Part of the route will run approximately 1 to 1.5 miles south of the Sheldon Refuge, which is managed by the FWS. The pipeline will not cross Sheldon Refuge lands; however, several roads in the southern portion of Sheldon Refuge are in close proximity to the pipeline. Ruby has requested the use of several roads on Sheldon Refuge to serve as access routes for pipeline construction vehicles traveling to and from the pipeline route.

Exchange of 20-acre Private Inholding and 1-mile Access Easement

The FWS will proceed with the exchange of 20 acres of private inholding land owned by Ruby for the access easement along approximately 1 mile of Wall Canyon Road. Authority for the proposed exchange derives from the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd(a)(3)). Access granted along other routes is described in association with the SUP discussion below.

Appraisals of the properties to be exchanged have been completed and the terms of the transaction have been agreed to by FWS and Ruby. The proposed transaction will be carried out as follows:

- Ruby will convey to the FWS title to the 20-acres located in the south half (S ½) of the southwest quarter (SW ¼) of the southeast quarter (SE ¼) of Section 12, Township 44 North, Range 23 East of the Mount Diablo Base and meridian.
- Ruby will receive from FWS an easement to lands located in the southeast quarter (SE ¼) of the southeast quarter (SE ¼) of Section 33 and the southwest quarter (SW ¼) of the southwest quarter (SW ¼) of Section 34, Township 43 North, Range 23 East, and the west half (W ½) of the northwest quarter (NW ¼) and east half (E ½) of the southwest quarter (SW ¼) of Section 3, Township 42 North, Range 23 East of the Mount Diablo Meridian. The easement will grant Ruby use in perpetuity to a 3.64-acre tract of land in the southeast corner of Sheldon Refuge. That land is 30 feet wide extending along approximately 1 mile of the centerline of Wall Canyon Road in Washoe County.

Issuance of Special Use Permit

In response to the request from Ruby to use Sheldon Refuge roads, Sheldon Refuge will permit Ruby access, with stipulations, to most of the improved roads that Ruby has requested to use. Ruby had also sought permission to access the pipeline on some unimproved routes (two-tracks) as well as Route 34A (an improved road). Those requests have been denied with the exception that Ruby may use 34A in case of medical emergency needs.

Statutory Framework

The Mineral Leasing Act states, in part, that, "A right-of-way may be supplemented by such temporary permits for the use of Federal lands in the vicinity of the pipeline as the Secretary or agency head finds are necessary in connection with construction, operation, maintenance, or termination of the pipeline, or to protect the natural environment or public safety." This is also consistent with relevant Service policy which states, in part, that, "...short term and temporary use of an existing road...can best be accommodated through special use permits" (340 FW 3)." FWS regulations state that economic use of the natural resources of a refuge may only be authorized when a determination is made that the use "contributes to the achievement of the national wildlife refuge purposes or the National Wildlife Refuge System mission" (50 C.F.R. 29.1). The regulation states that if such a use were determined compatible, it could be authorized through appropriate permit. Ruby's proposed access to the Project corridor through Sheldon Refuge will be a

use "provided at refuge expense and not usually available to the general public" and an activity involving "the use of a refuge or its resources for a profit" (5 RM 17). As such, this use triggers the requirement for an SUP under this FWS policy.

FWS must find the use to be appropriate and compatible. Once found to be appropriate and compatible, the authorization for use of the access roads will be conveyed to Ruby through issuance of an SUP.

Public Involvement and Comments

Public involvement has been incorporated in a variety of ways throughout the Project planning process and the FERC NEPA process. In addition, supplemental information specific to the FWS actions was made available for public review and comment. The complete description of public involvement for the Project is contained in the FERC documentation and is only briefly summarized here.

The FERC published a notice of availability (NOA) of the draft EIS in the Federal Register on June 26, 2009 (74 FR 122). This public notice initiated a comment period that closed on August 10, 2009. The NOA of the final EIS was published in the Federal Register on January 15, 2010 (75 FR 10), initiating a comment period that closed on February 16, 2010. Public hearings and meetings were held throughout the Project area.

Independently of the FERC EIS NOA publications, FWS provided to the FERC and the FERC published on their Project website an NOA of the supplemental land exchange information and the draft compatibility determination on June 18, 2010. A news release was also sent to national, regional, and local media outlets. The public review and comment period closed on July 1, 2010.

FWS received written comment letters from two interested parties: one individual commenter and a cooperative of conservation groups consisting of the Toiyabe Chapter of the Sierra Club, Defenders of Wildlife, and Great Basin Resource Watch. The three advocacy groups submitted a joint letter under the Toiyabe Chapter of the Sierra Club letterhead. A comment summary and responses by topic are attached as Appendix B. Responding to these comments did not require changes to the Ruby Pipeline Transportation Plan, Land Exchange, or Compatibility Determination.

Supplemental Actions Considered

The two actions under consideration by FWS and about which decisions are being made include the land exchange for the road easement and the SUP (and associated appropriateness finding and compatibility determination) for access road use within the Sheldon Refuge. Decisions regarding the pipeline route alternatives and issuance of a right-of-way grant for lands across the Project area are analyzed and discussed within the FERC NEPA documentation and BLM ROD. The BLM ROD is being published at or near the same time as this decision.

Ruby Pipeline Project Land Exchange on Sheldon National Wildlife Refuge

The property that Ruby has acquired and proposes to use in the land exchange is located in the south half (S ½) of the southwest quarter (SW ¼) of the southeast quarter (SE ¼) of Section 12, Township 44 North, Range 23 East of the Mount Diablo Base and meridian. This private inholding totals 20 acres, lies in Washoe County near the summit of Fish Creek Mountain, and is wholly located within the Sheldon Refuge. There are no improvements or structures located on it. The elevation of the site ranges from approximately 6,200 to 6,800 feet above mean sea level. Vegetation mapping of Sheldon Refuge indicates the property is predominantly covered in mountain big sagebrush with areas of low sagebrush and Wyoming big sagebrush coverage (Tagestad 2009). The percentage of canopy coverage ranges from 10 percent to 30 percent throughout the property (Tagestad 2009). One spring or seep is present on the property.

Because this land has not been under the jurisdiction or ownership of Sheldon Refuge, no wildlife surveys have been conducted on the property. However, according to mapped wildlife use areas of the Sheldon Refuge, several species use the habitat and area in and around the property. Greater sage grouse use the area for non-lekking activities. Pygmy rabbit habitat, which is closely linked to big sagebrush species, is known to occur in and around the property. Important mule deer winter habitat is adjacent to the site. Habitat is also found at this site for a variety of migratory birds and other sagebrush-obligate species such as Brewer's sparrow, sage thrasher, sage sparrow, sagebrush vole, and Great Basin pocket mouse. The property is also located on the border of crucial pronghorn summer range (FWS 2009 [combined GIS files]), and provides winter habitat for mule deer.

FWS may be required to provide and maintain access to private inholdings within Sheldon Refuge. In addition, Sheldon Refuge has no authority to exercise any control over the development of private inholdings located within its boundaries. For example, an inholding owner could develop destination lodging or other commercial enterprise on the property without regard to its location within a national wildlife refuge. The property at issue is located in the center of Sheldon Refuge in a popularly traveled and used area. Development of the property was considered imminent and would be inconsistent with the purpose of the surrounding Sheldon Refuge lands.

Refuge lands for which Ruby will receive an easement are located in the southeast quarter (SE ¼) of the southeast quarter (SE ¼) of Section 33 and the southwest quarter (SW ¼) of the southwest quarter (SW ¼) of Section 34, Township 43 North, Range 23 East, and the west half (W ½) of the northwest quarter (NW ¼) and east half (E ½) of the southwest quarter (SW ¼) of Section 3, Township 42 North, Range 23 East of the Mount Diablo Meridian. This 30-foot wide track of land extends along the centerline of Wall Canyon Road (W-1) in Washoe County, covering 3.64 acres at the southeast boundary of Sheldon Refuge.

The information describing the characteristics of the proposed easement is summarized from *Appendix O Attachment C: Transportation Plan for Use of Access Roads and*

Routes within Sheldon National Wildlife Refuge (Sheldon Transportation Plan) of the *Ruby Pipeline Project Final Environmental Impact Statement* (Project FEIS). Additional details may be found in that document. Sensitive resources have been identified within the approximately one-mile length of W-1 extending from Wall Canyon Spring to the Sheldon Refuge fence line. Vegetation surrounding the Sheldon Refuge proposed easement road is dominated by sagebrush steppe, with minimal riparian and pinion-juniper plant communities. Data collected by Ruby identifies a wetland area at the northwestern portion of the proposed easement.

According to mapped wildlife use areas developed from Sheldon Refuge records, the proposed easement area is important non-winter range for pronghorn antelope and is within the range of mule deer (USFWS 2009 [combined GIS files]). Data collected by Ruby also indicates greater sage grouse and an inactive lek have been observed near the northern portion of the proposed easement length and three raptor nests have been identified within one mile line-of-sight of the proposed easement setting. There is no suitable pygmy rabbit habitat identified within or adjacent to the proposed easement property.

Compatibility Determination: Ruby Pipeline – Temporary Road Use, Road Improvements, and Road Rerouting

Ruby has requested permission from FWS to use several roads on Sheldon Refuge to access their proposed Project. It is expected that Ruby will use these roads for approximately a 6-month period, from July through December 2010, with the highest intensity of use occurring from early August through mid-November. Road use will be for purposes of transporting people, supplies, and equipment for construction, mitigation, operation, inspection, cleaning, maintenance, emergency response, repair, and/or termination. Ruby proposes to cross Sheldon Refuge roads with a diversity of vehicles, from conventional pickup trucks (a fleet of almost 90) to large and heavy stringing trucks (30), contractor buses (13), water trucks (6), fuel trucks (3), trucks using flatbed and lowboy trailers (3-20), hydro-testing equipment/dryers and compressors (2-4), and motor graders (2). Prior to the start of construction (during July), these vehicles will travel Sheldon Refuge roads one or two times per day for one to 12 days each, for a total trip count of approximately 350. During construction (August-November), these vehicles will travel Refuge roads one or two times per day for five to 20 days, for a total trip count of almost 1,900. Following construction (after November), these vehicles will travel Refuge roads one or two times per day for one to 12 days, for a total trip count of almost 400. Ruby has proposed use of approximately 54 miles of the following Sheldon Refuge roads for these purposes:

- 26.6 miles of Washoe/Humboldt County Road 8A/Cedarville Road,
- 4.6 miles of an un-named road in the south-west corner of Sheldon Refuge (Ruby road W-1),
- 18.5 miles of Washoe/Humboldt County Badger Mountain Road/Summit Lake Road (Ruby road H-46B),
- Less than 1 mile of an un-named road along Sheldon Refuge's south-central boundary (Ruby road H-50),

- Less than 1 mile of an un-named road along Sheldon Refuge's south-central boundary (Ruby road H-46A), and
- 3.4 miles of Humboldt County Knott Creek Road/Summit Lake Road (Ruby road H-46).

Ruby has also requested incidental use of Road 34A, and will be allowed for only emergency purposes. The 34.2 miles of Nevada State Highway 140 crosses Sheldon Refuge, is requested for use by Ruby Pipeline, but commercial traffic on SH140 is regulated by Nevada Department of Transportation, so is not part of this SUP.

Decisions

NEPA requires Federal agency disclosure of the environmental effects of major Federal actions significantly affecting the quality of the human environment. The FWS has decided to grant the easement to Ruby in exchange for the 20-acre parcel inholding. In addition, FWS has found the use of access roads, with stipulations, to be appropriate and compatible, and will issue Ruby an SUP. These decisions will both support the purposes and goals of the Sheldon Refuge, as well as the National Wildlife Refuge System (Refuge System).

Appeal of this Decision

Section 313(b) of the Energy Policy Act (EPAct) of 2005, which amended the Natural Gas Act (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.* (EPAct of 2005 § 313(b), 15 U.S.C. § 717r(d)(1).)

This Decision is an order or action of a Federal agency issuing a special use permit, as that term is used in 15 U.S.C. § 717r(d)(1), because it is an agency decision to issue and condition a special use permit 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 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 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 60 days of date of this Decision.

Factors Considered in Making Decisions (Rationale)

In reaching these decisions, the FWS reviewed and considered the impacts identified in the supplemental impact analysis presented in the Ruby Pipeline Land Exchange on Sheldon National Wildlife Refuge; the Ruby Pipeline – Temporary Road Use, Road Improvements, and Road Rerouting Compatibility Determination; results of various studies and surveys conducted in conjunction with the draft EIS and final EIS; relevant issues, concerns, and opportunities presented by agencies, organizations, and individuals throughout the NEPA process; the purposes for which the Sheldon Refuge was established; and statutory and regulatory guidance.

Land Exchange Decision Rationale

Although there are both positive and negative impacts related to the land exchange, the benefits that will be realized from the land exchange far outweigh any negative impacts. For the following reasons, the easement and exchange will be granted.

- Acquisition of the Ruby inholding property will protect the habitat in a manner consistent with surrounding Sheldon Refuge lands. It will also aid the Service in achieving management objectives for species where habitat loss or degradation is a major cause of decline or where buffers are needed to protect sensitive areas.
- Acquisition of the inholding will improve Sheldon Refuge's ability to apply consistent management strategies with reduced fragmentation. Management of invasive species, fire suppression, habitat restoration, habitat connectivity, and protection of cultural and paleontological resources will be applied equally to the acquired property as it will to the existing (surrounding) Sheldon Refuge lands.
- Costs related to fencing around the private land, conducting land surveys, and maintaining access roads to the property will decrease because those measures will no longer be required nor implemented.
- The anticipated increase in traffic will be temporary and is not expected to result in a significant increase in the number of vehicle/animal collisions, accumulation of pollutants, or behavioral or physiological changes in animals sensitive to noise.
- The monetary appraised value of the Ruby exchange lands exceeds that of the FWS exchange lands; consequently, the land exchange is economically favorable to the public.
- The land exchange will allow Sheldon Refuge to absorb a 20-acre private inholding that is surrounded by Sheldon Refuge lands, restoring habitat connectivity and protection to this portion of the landscape. In contrast, parcels containing the 3.64-acre road easement, located at the southern boundary of Sheldon Refuge, are bordered on three sides by BLM lands that are not managed consistently with Sheldon Refuge

strategies nor are the BLM lands afforded National Wildlife Refuge System protection.

Access Road Use Compatibility Determination Rationale

For the following reasons, FWS determines the access road use for the Project is compatible:

- Refuge Purposes and Goal, and the Refuge System Mission. Ruby's proposed changes to and use of Sheldon Refuge roads and routes to access the pipeline will displace a few acres of habitat; temporarily increase disturbance to Refuge wildlife; and temporarily conflict with access to and use of Sheldon Refuge by visitors, FWS officials, and others. Following pipeline construction, the road improvements that FWS chose to retain will be permanent. These improvements will make the roads safer and easier to travel more times during the year and thereby facilitate access to and use of Sheldon Refuge by visitors, and management of Sheldon Refuge by FWS officials, FWS-authorized agents, and researchers. In light of the associated stipulations, this proposed use will both minimally affect, both positively and negatively, achievement of Sheldon Refuge's purposes and goal, and the Refuge System mission.
- Fish, Wildlife, Plants, and Their Habitats. The required stipulations included in the compatibility determination will greatly reduce the potential biological impacts of Ruby's proposed use of Sheldon Refuge. Assuming FWS decided to retain some or all of the pullouts, a few acres of habitat will have been displaced. Ruby will restore – consistent with FWS specifications – any of the pullouts the Service chose not to retain. The increased volume, size, and noise of traffic will result in increased disturbance to Sheldon Refuge wildlife. This disturbance will occur on a temporary (approximately 6-month) and localized basis. Authorization of this use will require Ruby to undertake a variety of projects benefitting Sheldon Refuge's fish, wildlife, plants, and habitats including control of roadside invasive plants; repair and maintenance of the southern boundary fence and gates to minimize crossing by cattle, or feral/wild horses and burros; posting of the southern boundary; rerouting a road segment that currently crosses a spring-fed, perennial stream and runs adjacent to a research exclosure; and restoration of roadside habitats, including replanting natives in areas currently invaded by exotic plants.
- Public Use. Following pipeline construction, the road improvements made by Ruby that FWS chose to retain will be permanent. These improvements will make the roads safer and easier to travel more times during the year and thereby facilitate access to and use of Sheldon Refuge by priority wildlife-dependent visitors and other publics. Most of the effects will occur in the more-remote, southern and south-western portions of Sheldon Refuge where access is now challenging - especially on a seasonal basis - due to poor road conditions.
- Cultural Resources and Paleontological Resources. The stipulations require on-the-ground surveys for cultural and paleontological resources prior to any off-road earth-moving activities. Discovered sites/resources will need to be avoided or appropriate mitigative action will need to be taken, in consultation with FWS and consistent with Project-wide plans. Ongoing monitoring requirements will help ensure protection of unanticipated discoveries.

- Wilderness. The sights and sounds of the Project's construction vehicles will penetrate into Sheldon Refuge's wilderness study areas (WSAs) for an 8-month period, but no permanent physical or other effects will occur. The WSAs will remain potentially eligible for wilderness designation.
- Wildfire. Operation of numerous motor vehicles and construction associated with Ruby's use of Sheldon Refuge roads will increase the potential for wildfires; however, Ruby will implement a program specifically designed to prevent and suppress such fires (*Fire Suppression and Prevention Plan, April 2010; Fire Prevention and Suppression and Medical Services Plan for Washoe County, NV, May 2010*).
- Off-Refuge Alternatives. Ruby could access the pipeline along a limited number of other existing roads, broaden the construction footprint, or construct additional roads. These alternatives may increase environmental impact, increase safety risks, or increase costs over the conditioned use of existing improved roads on Sheldon Refuge.
- Administrative Costs, Inspector/Monitor, and Law Enforcement Officer. Ruby will pay FWS for their costs (including overhead costs) associated with consideration of the proposed Project and use of Sheldon Refuge roads, and administration of this use. Additionally, Ruby will be required to pay for an inspector/monitor and a law enforcement officer. The inspector/monitor will help ensure that Ruby's activities were conducted consistent with general and special permit conditions and the stipulations listed herein. The majority of inspection and monitoring will occur with third-party contractors as outlined in the *Appendix U Environmental Compliance Monitoring Plan, Ruby Pipeline Project, April 2010.* The law enforcement officer will help ensure that Ruby's traffic and other activities do not pose safety hazards to the public or FWS personnel, and that the large number of Project workers observe applicable laws, regulations, and rules while on Sheldon Refuge.

Together, the use proposal and stipulations will result in a set of actions that generated minor adverse effects and modest beneficial effects. On net, the proposed use will contribute to achievement of the Sheldon Refuge's purposes and the Refuge System mission.

Construction of road changes and increased use of Sheldon Refuge roads will adversely affect biological resources over a 6-month period; however, in association with authorization of this use, Ruby will be required to undertake a variety of projects benefitting Sheldon Refuge's natural resources. In aggregate, these actions will generate positive benefits for habitats and biota near roads in the southwest and southern areas of Sheldon Refuge.

Ruby has proposed a number of changes to Sheldon Refuge's roads and routes, including laying down and compacting road base, blading, graveling, matting of a dry wash and spring, matting and bridging of culverts, and rerouting a section of road. These changes will enhance driver safety and improve access on these roads during times of the year when road conditions currently challenge travel. These changes will facilitate access to and management of Sheldon Refuge by FWS officials, FWS-authorized agents, and

researchers and thereby directly and indirectly contribute to achievement of Sheldon Refuge's purposes, goal, objectives, and the Refuge System mission. Additionally, these road improvements will facilitate access to and use of Sheldon Refuge by visitors, including the highest priority general public users (i.e., hunters, anglers, wildlife observers, and photographers).

Ruby's proposed use of Sheldon Refuge roads, routes, and related actions is an economic use and; therefore, is the lowest priority for use of Sheldon Refuge. In light of the stipulations to which they will be held, this use will have a mix of minor and modest effects. The adverse effects will not handicap Sheldon Refuge's ability to achieve its purposes and the beneficial effects will modestly facilitate achievement of those purposes. On net, in light of the foregoing, including several stipulations, Ruby's proposed use of Sheldon Refuge roads to access the Project will not materially interfere with or detract from achievement of the purposes for which Sheldon Refuge was established or the Refuge System mission.

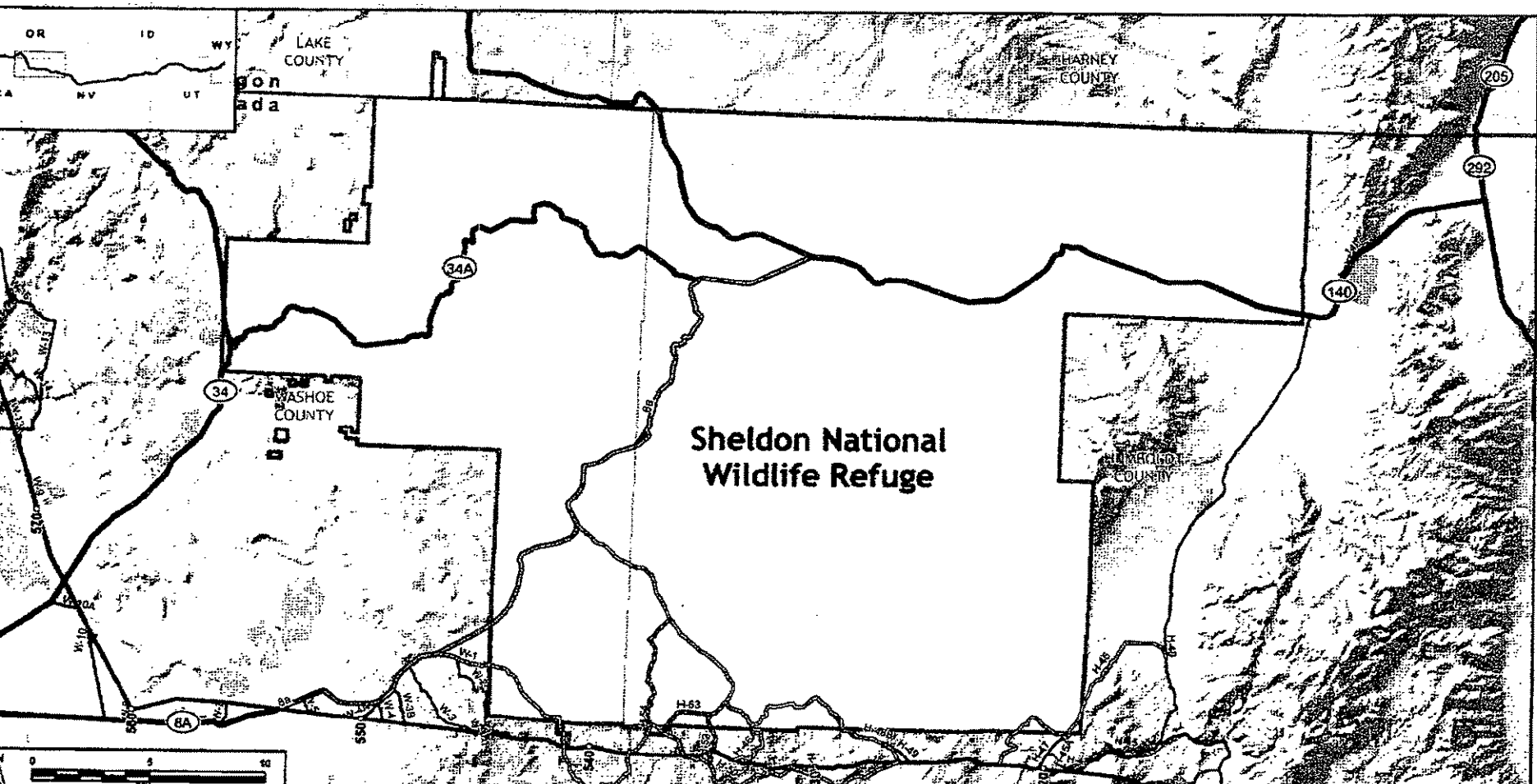
Conditions

The conditions of all Project-specific plans including and specifically the Ruby Pipeline Transportation Plan for Use of Access Roads and Routes within Sheldon National Wildlife Refuge as well as the stipulations defined in the Compatibility Determination will all be applied as conditions of this decision. The stipulations will also be incorporated explicitly into the SUP. As such all practicable means to avoid or minimize environmental harm have been adopted

Signature

Robyn Thorson
Regional Director, Pacific Region

July 12, 2010
Date



Milepost

Proposed Route

All Possible Access Roads

Major Road

Sheldon NWR Access Roads

Sheldon NWR Access Roads (Will not be used)

Highway 140 (will be used by Ruby, NOT included in Sheldon SUP)

E The actual fence line on the ground does not follow the Sheldon NWR boundary on this map. There is mixed ownership outside of actual fence line

Figure 1
Sheldon NWR
Access Roads Overview

Ruby Pipeline Project
September 2009