

**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL ENERGY REGULATORY COMMISSION
THE U.S.D.I. BUREAU OF LAND MANAGEMENT, OREGON
THE U.S. FOREST SERVICE,
FREMONT-WINEMA NATIONAL FORESTS
THE BUREAU OF RECLAMATION
THE OREGON STATE HISTORIC PRESERVATION OFFICER
RUBY PIPELINE, L.L.C.
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE RUBY PIPELINE PROJECT
IN OREGON**

Ruby Pipeline, L.L.C. – Ruby Pipeline Project
Docket No. CP09-54-000

Federal Energy Regulatory Commission

WHEREAS, Ruby Pipeline, L.L.C. (Ruby) proposes to construct a project, comprised of approximately 672.6 miles of mainline natural gas pipeline in Lincoln and Uinta Counties, Wyoming; Rich, Cache, and Box Elder Counties, Utah; Elko, Humboldt, and Washoe Counties, Nevada; and Lake and Klamath Counties, Oregon; and 2.6 miles of supply lateral in Klamath County, Oregon; four compressor stations; four meter stations; access roads; and other appurtenant facilities (Project); and

WHEREAS, the Federal Energy Regulatory Commission (FERC), serves as the lead federal agency for compliance with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA), as amended [16 U.S.C. Section 470 (f)], and has issued an *Order Issuing Certificate* (Order) for the Ruby Pipeline Project (the Project or undertaking) on April 5, 2010, as authorized by Section 7, Natural Gas Act (18 CFR 157) (15 USC 717), which incorporates an Environmental Impact Statement (EIS) on Ruby Pipeline Project, Docket No. CP09-54-000, issued January 8, 2010; and

WHEREAS, the Bureau of Land Management (BLM), the lead federal land managing agency as authorized by the Federal Land Policy and Management Act of 1976 (Title V, 43 USC 1701), must consider issuance of federal right-of-way grants for the Project, as authorized by Section 24, Mineral Leasing Act (43 CFR Part 2880) (30 USC 185), participated in consultation and been invited to be a signatory to this Memorandum of Agreement (MOA or Agreement); and

WHEREAS, the U.S. Forest Service, Fremont-Winema National Forests (USFS) and Bureau of Reclamation - Mid Pacific Region (Reclamation) administer lands in the project area in Oregon, have participated in consultation and have responsibility for identifying, evaluating and protecting National Register of Historic Places (NRHP)-eligible historic properties under Section 110 of the NHPA and have been invited to be signatories to this Agreement; and

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WHEREAS, the USFS and Reclamation have a responsibility to ensure the pipeline does not conflict with agency missions, and the USFS and Reclamation are responsible for the issuance of Archaeological Resources Protection Act (ARPA) permits on lands under their jurisdiction; and

WHEREAS, the Project occurs on lands managed by the U.S. Fish and Wildlife Service-Sheldon National Wildlife Refuge (FWS) in Nevada; and

WHEREAS, the U.S. Army Corps of Engineers (COE) is considering issuing permits required by Section 404 of the Clean Water Act; and

WHEREAS, FERC, BLM, Reclamation, USFS, COE, and the FWS have designated FERC as the lead agency pursuant to 36 CFR 800.2(a)(2) to act on their behalf, fulfilling their collective responsibilities under section 106; and

WHEREAS, FERC has considered the entire undertaking and the totality of effects or potential for effects to historic properties from the entire undertaking and intends to execute four separate MOAs, each based on the designated Area of Potential Effects (APE) in each of the four states, as a more practical means to manage coordination of the Project and implementation of mitigation measures to be carried out in each state; and

WHEREAS, this MOA is specific to the State of Oregon to resolve adverse effects to historic properties from the undertaking in the State of Oregon and is one of four state-specific MOAs in effect for the Project, including Wyoming, Utah and Nevada, that when agreed to by the signatory parties provide for a phased process for identification, evaluation and assessment of effects, in order to resolve adverse effects relating to project facilities; and

WHEREAS, the FERC, in consultation with the BLM, USFS, Reclamation, and the Oregon State Historic Preservation Officer (SHPO), has defined the APE in Oregon as areas to be disturbed by construction, including but not limited to the variable 115- to 195-foot-wide construction right-of-way, extra work spaces, contractor/pipe yards, a compressor station, access roads, a work camp, and other areas subject to ground disturbance for direct effects, and as a two-mile corridor centered on the pipeline for visual effects, occurring in Lake and Klamath Counties, from milepost 588.2 to 672.6; and

WHEREAS, the FERC has consulted with the BLM, USFS, Reclamation, and Oregon SHPO, regarding NRHP eligibility recommendations and Project effects, in accordance with the Advisory Council on Historic Preservation's (ACHP) regulations for implementing Section 106 of the NHPA at 36 CFR Part 800, and it has been agreed that all identified sites in the APE will be treated as eligible or unevaluated for NRHP listing; and

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WHEREAS, Ruby has consulted, and intends to continue consulting, as appropriate, with the SHPO, federal agencies, and Indian tribes regarding scopes of work, surveys, studies, reports, and supplemental reports required to identify and evaluate historic properties, as summarized in the *Draft Historic Properties Treatment Plan: Direct Effects of the Ruby Pipeline Project, Lake and Klamath Counties, Oregon* (EPG, June 2010) (Treatment Plan); and

WHEREAS the undertaking does not cross tribal lands but does have the potential to affect historic properties of religious and cultural significance to Indian tribes; and

WHEREAS, the FERC and BLM are continuing government-to-government consultation with the Klamath Tribes, Fort Bidwell Indian Community, Burns Paiute Tribe, Confederated Tribes of the Siletz Reservation, Confederated Tribes of the Warm Springs Reservation, Cow Creek Band of Umpqua Indians, Cedarville Rancheria, Susanville Rancheria, and Modoc Tribe of Oklahoma, as documented in the Project's EIS, and have invited the Indian tribes to participate in consultation, and will continue to consult with the affected tribes regarding the potential effects of the Project on properties to which they ascribe traditional religious and cultural significance, in accordance with stipulation F of this Agreement; and

WHEREAS, FERC's coordination with tribes, as assisted by BLM, has been integrated in its procedures for its Pre-filing process and in its procedures for compliance with the NEPA; and

WHEREAS, the ACHP has chosen to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii) and is a signatory to this Agreement; and

WHEREAS, FERC encouraged Ruby to consult with consulting parties to avoid historic properties and thereby avoid adverse effects to identified historic properties when feasible; and

WHEREAS, FERC has required in the Order issued on April 5, 2010, that Ruby follow the construction procedures and mitigation measures described in its application, supplemental filings (including responses to staff data requests), and as identified in the EIS, in order to minimize and mitigate adverse impacts associated with the Project, and as attached to the Order in Environmental Condition No. 44 which requires that the appropriate studies, reports, and consultations related to resolving adverse effects to historic properties be completed before construction is authorized; and

WHEREAS, Ruby is responsible for constructing the Project and implementation of an approved Treatment Plan for resolving adverse effects, and has participated in consultation and has been invited to be a signatory to this Agreement, and agrees to comply with Environmental Condition 44 of the Order; and

WHEREAS, as the party responsible for construction and for implementation of the historic properties Treatment Plan, Ruby agrees to provide the funding necessary for implementation and completion of all related work, including but not limited to inventory, evaluation, treatment,

tribal consultation, public outreach, any post-construction data recovery, discoveries, analysis, reporting, curation, training, and all other actions necessary to resolve adverse effects, as directed by the FERC; and

WHEREAS, Ruby has conducted initial cultural resources surveys and provided reports, addendum survey reports, and various ancillary studies for the Project facilities; has implemented variations, reroutes, and adjustments to the Project in order to avoid over 900 individual rock stack features; is discussing possible mitigation measures with the Klamath Tribes; and will prepare a NRHP multiple property nomination of the Langell Valley Multiple Property Traditional Cultural Property, in accordance with this Agreement; and

WHEREAS, FERC has determined, with the concurrence of the Oregon SHPO, that the proposed undertaking will result in adverse effects to historic properties, and will continue consultation with interested tribes in accordance with stipulation F of this Agreement; and

WHEREAS, unless defined differently in this Agreement all terms are used in accordance with 36 CFR Part 800.16;

NOW, THEREFORE, the FERC, BLM, USFS, Reclamation, SHPO, ACHP, and Ruby (signatories) agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

- Stipulations

The FERC, in coordination with Ruby, will ensure that the following measures will be carried out:

- A. The FERC shall coordinate overall actions required under this Agreement as specified herein. Ruby and its consultants will be called upon to assist in the preparation and distribution of information, documentation and/or reports to reviewers, and other activities, as necessary.
- B. The ACHP, SHPO, and interested tribes, as appropriate, shall monitor activities, as appropriate, carried out pursuant to this Agreement, and the ACHP will review such activities if so requested. The FERC will cooperate with the ACHP and the SHPO in carrying out its monitoring and review responsibilities.
- C. The FERC will ensure that all work undertaken to satisfy the terms of this Agreement meets the Secretary of Interior's *Standards and Guidelines for Archeological and Historic Preservation* (48 FR 44716-44742, September 23, 1983) (the Secretary's Standards) and takes into consideration the ACHP's *Recommended Approach for*

Consultation on Recovery of Significant Information from Archaeological Sites, May 1999, Guidelines for Evaluating and Documenting Traditional Cultural Properties, National Register Bulletin 38, 1989, and the Oregon State Field and Reporting Guidelines, as incorporated by reference herein. The FERC will also ensure that the work is carried out by or under the direct supervision of a person or persons meeting, at a minimum, the applicable professional qualifications standards set forth in the Secretary's Standards.

The terms of this Agreement will also be carried out in accordance with the conditions attached to the Commission's Order, the FERC's Guidelines for Reporting on Cultural Resources Investigation for Pipeline Projects (December 2002), existing BLM (including the BLM 8100-series manuals) guidelines for cultural resources (prehistoric and historic), and any conditions of the BLM right-of-way grant.

- D. Ruby has submitted A Cultural Resource Survey for the Ruby Pipeline Project: Oregon Segment – Lake and Klamath Counties, Oregon (Environmental Planning Group [EPG], December 2009); Addendum I (EPG, January 2010); Addendum II (EPG, January 2010); and Addendum III (EPG, January 2010) submitted to the FERC, BLM, USFS, Reclamation, SHPO, interested Indian tribes, and other consulting parties. The BLM, USFS, and Reclamation have provided their preliminary comments on site eligibility for these reports, and the FERC provided the SHPO and interested Indian tribes with combined federal agency recommendations of eligibility and finding of adverse effect for the Project in Oregon on April 16, 2010. The SHPO and interested Indian tribes have indicated that further information is necessary to complete the analysis and identification of potentially impacted sites. All sites are currently considered eligible for the NRHP or unevaluated, pending further data and/or results of testing. Further eligibility evaluations and consultation with interested tribes will be required. Ruby will address any further information requests by the SHPO, other agencies, and interested Indian tribes, and revise the report(s), if appropriate (i.e., if not addressed by another means), in light of these comments. The SHPO, agencies, and interested Indian tribes will review any additional information/revised report(s) to ensure their concerns are adequately addressed.
- E. **Treatment Plan.**
1. Ruby will submit a revised Treatment Plan to the FERC, BLM, USFS, Reclamation, SHPO, interested Indian tribes, and other consulting parties. FERC will consider the comments and recommendations of interested Indian tribes and other consulting parties before finalizing the Treatment Plan. The signatories will review the revised plan to ensure their concerns are adequately addressed. While some sites may not require additional data for eligibility determinations (e.g., historic refuse scatters), further eligibility evaluations will be necessary for sites that require additional data and/or results of testing. If due to additional testing

for eligibility, modifications are deemed necessary, the Treatment Plan may be revised. Once the signatories have accepted a Treatment Plan, Ruby will implement the plan pending authorization from the appropriate agency via issuance of ARPA permit (s), and following execution of this MOA and written authorization by the FERC and a federal right-of-way grant with specific notices-to-proceed from the BLM. The final Treatment Plan will be appended to this MOA. In the event the signatories cannot agree with regard to treatment, the procedures for dispute resolution in stipulation Q will be implemented.

2. In accordance with the Treatment Plan, Ruby will employ a phased approach for testing, evaluation, and mitigation of historic properties. This may include additional site delineation, artifact plotting and/or collection, and subsurface testing. Subsurface testing may include subsurface shovel tests, test probes, mechanical and hand excavated trenches and test units. As outlined in the Treatment Plan (Communication Plan to Disseminate Testing Results and Site NRHP Eligibility), upon completion of testing, Ruby will provide a summary report describing results of testing and rationale for NRHP evaluations, as well as site forms for concurrent review to the FERC, SHPO, BLM, USFS, and Reclamation, as appropriate per land jurisdiction, and to interested tribes. For eligible sites that require data recovery, a proposed data recovery plan will also be included. All reviewers will, to the extent possible, expedite their review and approval of the forms/plan. FERC will consider the comments of interested Indian tribes and other consulting parties before approving finalized forms/data recovery plans. Each agency shall indicate its respective approval (or concurrence) or disapproval to FERC within 30 calendar days, though a response within 15 calendar days is the goal. Once all appropriate reviewing parties have approved the forms/plan, the FERC and BLM (for BLM jurisdiction lands) would authorize Ruby to proceed. Ruby would obtain all appropriate permits from all appropriate federal agencies to conduct archaeological investigations. A full technical report will also be required.
3. In general, the identification, evaluation and treatment of historic properties directly affected by the undertaking shall be limited to the APE. However, identification, evaluation and treatment efforts may likely extend beyond the APE when the resources being considered extend beyond the boundary of construction activities. In these circumstances, identification, evaluation, and/or treatment should be reasonable, feasible, necessary, practical and associated expenses consistent with comparable activities within the APE.

F. **Tribal Consultation.**

1. FERC will continue to conduct the required tribal consultation through the end of the construction phase of the Project. Ruby will provide newly produced cultural resources inventory reports to interested tribes, and consider any comments provided by the tribes as it relates to identification and evaluation, assessment of effects, and proposed mitigations called for under the terms of this MOA. Should the tribes raise objections or new concerns with regard to any aspect of the Project, FERC will take appropriate and timely actions to address the issue, including consultation with the ACHP.
2. No later than August 31, 2010, FERC and Ruby will convene a post MOA meeting in each state to discuss the implementation of this MOA and ongoing consultation with interested tribes. The purpose of the meeting is to allow FERC and Ruby to discuss with tribes work that remains to be done; the type of information that will be provided for review; the schedule and methods for transmitting information; and the procedures tribes will follow when commenting on information and expressing concerns as the project proceeds. The ACHP may recommend to FERC and Ruby tribal invitees to attend this meeting. A summary of the meeting will be made part of the record.
3. The Unanticipated Discovery Plan contained in the Oregon Treatment Plan will be implemented throughout construction and tribes will be consulted in the event of discovery of Native American human remains during construction. Ruby will hire tribal monitors (acceptable to the affected tribe(s)) during construction as set forth in the NEPA documentation. At the end of all Project activities, FERC will provide copies of status reports and the final report(s) for the Project to interested tribes.

- G. **Notices to Proceed.** The FERC and BLM (for BLM jurisdiction lands), will allow construction in those portions of the right-of-way or other project areas that 1) do not contain historic properties or 2) that do contain historic properties once the agreed upon field work/treatment as specified in the Treatment Plan is completed and approved by the FERC, BLM, USFS, Reclamation (as appropriate), and the SHPO, in accordance with the procedures outlined in the Treatment Plan, and taking into account any comments or concerns expressed by affected tribes. Any notices to proceed are contingent on Ruby posting a surety as set forth in the BLM Record of Decision (ROD), sufficient to fund all post-fieldwork costs relating to the Treatment Plan. Physical barriers (using flagging tape, paint, barriers, and other forms) and monitors (a professional archaeologist) will be deployed to assure site avoidance of any historic properties adjacent to construction areas. A professional archaeologist will be required to directly oversee this work. Tribal monitors (acceptable to the affected tribe(s)) will also be involved.

II. Adjustments to the APE/Supplemental Reporting.

1. If Ruby proposes additional adjustments to the APE (e.g., rerouting a portion of the right-of-way, extra work spaces, access roads, storage yards, etc.) where no previous intensive inventory or tribal consultation has been conducted, Ruby shall survey the APE of the proposed area in a manner consistent with previously approved survey strategies. The survey shall be conducted by persons meeting the Secretary of Interior's Professional Standards for Archaeology and approved under appropriate state and/or federal permits as applicable.
2. Where no cultural resources or historic properties are identified, Ruby will provide the FERC, BLM, USFS and Reclamation (as appropriate per land jurisdiction), and SHPO a report (or letter report) containing appropriate maps and information considered sufficient by the reviewing agencies, according to scope of the adjustment) with a request for concurrent review. The reviewing parties shall provide Ruby with their findings within 30 calendar days of receipt of the report. Following the FERC, BLM, USFS and Reclamation (as appropriate per land jurisdiction) and SHPO review and acceptance of the report, the FERC and BLM (for BLM jurisdiction lands) may authorize Ruby to proceed with construction or use of the area.
3. Where historic properties have been identified, Ruby will provide the FERC, BLM, USFS, Reclamation (as appropriate per land jurisdiction), and interested Indian tribes a report with a request for concurrent review. The report will include descriptions of the identified historic properties, a statement providing a recommendation and justification for each property's eligibility for listing in the NRHP, a description of anticipated project effects, and recommendations for proposed treatment, avoidance and/or mitigation. The FERC, BLM, USFS, Reclamation (as appropriate per land jurisdiction), and interested Indian tribes shall provide Ruby with their findings within 30 calendar days of receipt of the report. Per stipulation F, FERC will take into account the comments of interested Indian tribes. If necessary, Ruby shall revise the report in accordance with the comments obtained from the reviewing parties. Ruby will then provide the report to the SHPO for review and concurrence. Following agency acceptance of the report/revised report, the FERC and BLM (for BLM jurisdiction lands) may authorize Ruby to proceed with treatment and/or construction or use of the area. Should the signatories fail to reach agreement concerning the resolution of adverse effects, the procedures in stipulation Q will be implemented.
4. Where Ruby is exploring an alternative route in the BLM Klamath Falls Resource Area in order to avoid 35KL3183, Ruby will provide the FERC, BLM,

Reclamation, and the Klamath Indian Tribes for review and comment a cultural inventory report with appropriate maps and site forms. The report will meet BLM, Reclamation, and SHPO reporting guidelines. Ruby will also provide the report to other potentially affected Indian tribes. The reviewing parties shall provide Ruby with their findings within 15 working days of receipt of the report. Following the FERC, BLM, and Reclamation review and acceptance of the report, Ruby will provide the report to the SHPO for review and concurrence. Ruby will also provide the report to interested Indian tribes. FERC will take into account the comments of interested Indian tribes. If this route is found to be an acceptable route, the FERC and BLM may authorize Ruby to proceed with construction or use of the area.

- I. **Supplemental Reporting/Traditional Cultural Properties (TCP)/Ethnographic Studies.** Ruby will continue to conduct additional studies associated with the Project other than those conducted pursuant to stipulations E and H. These may include, as appropriate, supplemental ethnographic studies, TCP studies (such as those associated with the Barrel Springs TCP and the Langell Valley Multiple Property TCP), or other ancillary studies. If any of these studies contain recommendations for NRHP eligibility of cultural resources, proposed treatment options will also be evaluated and included in the Treatment Plan. The reports or documentation resulting from this work will be provided by Ruby to the FERC, BLM, USFS, Reclamation (as appropriate per land jurisdiction), and interested Indian tribes, with a request for concurrent review. The FERC, BLM, USFS, Reclamation (as appropriate per land jurisdiction), Klamath Indian Tribes, and other interested Indian tribes will provide any comments on the report/documentation to Ruby within 30 calendar days of receipt. Ruby will then provide the report to the SHPO for review and concurrence. FERC will take into account the comments of interested Indian tribes. Ruby will address any comments and revise the report/documentation, when requested to by the FERC, appropriate land managing agency, or SHPO. Following acceptance of the report or any revised report, the FERC and BLM (for BLM jurisdiction lands) may authorize any work proposed.
- J. **Multiple Property Nomination.** Ruby will finance the preparation of a multiple property nomination of the Langell Valley Multiple Property TCP for listing in the NRHP. In consultation with FERC, BLM, Reclamation, SHPO, and the Klamath Indian Tribes, Ruby will contract with a qualified professional (pursuant to stipulation C) possessing demonstrated experience in successful NRHP nomination listings to prepare a Multiple Property Documentation Form and two associated individual nominations for submission to the BLM. Following BLM review, including consultation with affected Indian tribes, and approval, the BLM will submit the nomination to the Oregon SHPO and State Review Board within two years of execution of this MOA. Sufficient time frames and resources will be allotted to allow for any comments and revision required by the SHPO and State Review Board. Ruby will address the SHPO and State Review

Board comments. BLM will submit the approved nomination to the Keeper of the NRHP. Ruby will provide revised documentation, if necessary, to ensure completion of the listing process.

- K. **Discovery Situations.** In the event that cultural resources or human remains are discovered during construction, Ruby shall follow the *Plan and Procedures for Unanticipated Discoveries of Cultural Resources-Oregon State* (Plan and Procedures), contained in Appendix A of the Treatment Plan, as well as Native American Graves Protection and Repatriation Act (NAGPRA) Plans of Actions developed between agencies and individual tribes. The Plan and Procedures includes provisions for stopping work, protecting the discovery, notifying the proper authorities, and consulting with the appropriate Indian tribes and other parties.
- L. **Native American Graves Protection and Repatriation Act.**
1. As defined in the NAGPRA, human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony defined in NAGPRA will be handled in accordance with 43 CFR 10, including implementation of an approved Plan of Action or implementation per terms of a Discovery Plan/Unanticipated Discovery Plan. However, human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony defined in NAGPRA will be maintained in accordance with 36 CFR 79 until disposition is established by the appropriate federal agency.
 2. The BLM is responsible for addressing requirements of NAGPRA for discoveries made on BLM-managed lands in Oregon.
 3. The USFS and Reclamation are responsible for addressing requirements of NAGPRA for discoveries made on lands under their respective jurisdictions.
- M. **Public Outreach.** In accordance with the Treatment Plan and in coordination and consultation with federal land managing agencies and consulting tribes, Ruby would disseminate Project findings to the general public, taking into account confidentiality concerns. Dissemination may include exhibits, brochures, lectures, school-based activities, videos, and web sites. The program would be developed in coordination with the FERC, BLM, Reclamation, USFS, and SHPO.
- N. **Reporting.**
1. Pending the completion of the Project, Ruby shall provide to signatories and interested Indian tribes an annual report by May 31st of every year detailing the status of implementation of the Treatment Plan and other provisions of this MOA.

2. All final reports and related materials as outlined in the MOA will be submitted to the FERC, BLM, USFS, Reclamation, SHPO, and interested Indian tribes within three years after the end of field investigations associated with this MOA and the Treatment Plan, unless otherwise agreed to by the signatories to this MOA. This does not affect or pertain to other schedules for delivery addressed above. All submittals will be made in one bound hard copy and in electronic format using Microsoft compatible software unless other provisions are made and agreed to by the signatories to this Agreement.

O. **Curation.**

1. The FERC, and as appropriate, the federal land managing agencies, shall ensure that all collections and associated records resulting from identification and data recovery efforts are curated in accordance with 36 CFR 79 and the Department of the Interior's Handbook for Managing Museum Property, 411 DM, as appropriate, with the exception of those collections to be returned to their owners (at private land owner's request). However, the collections to be returned will be maintained in accordance with 36 CFR 79 until completion of analysis and subsequent return. All costs of curation in perpetuity will be borne by Ruby, and subject to the surety as set forth in the BLM ROD. Collections and associated records will be curated in accordance with any pertinent curation agreements or permits issued by federal agencies. If curation agreements are not in place, Ruby will draft curation agreements in consultation with the federal agencies for federal agency signatures, as appropriate.
2. All materials and associated records from federal lands slated for curation will be delivered to a facility that meets 36 CFR 79 and 411 DM within 90 days after delivery of the final report or after receipt of comments on a draft report, whichever occurs earlier. All collections and records must meet requirements of the federal agency who manages the collection. The facility must coordinate with the appropriate federal agency on agency inventory and accession procedures. Ruby is responsible to ensure that the federal land-managing agency receives a collection receipt or other notice from the curatorial facility attesting to the acceptance and receipt of the collection and any related catalogs or other records. This schedule does not pertain to human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony defined in the NAGPRA.

- P. **Training.** All personnel (including new, added, replaced, etc. personnel) involved in pipeline construction, construction zone rehabilitation, operation, and maintenance of this pipeline will be instructed (to a degree appropriate to their involvement in the project) by

Ruby's qualified cultural resources contractor on site avoidance and protection measures, including information on the statutes protecting cultural resources as part of its Environmental Training Program. Representatives of affected Indian tribes will be offered the opportunity to participate in the training according to agreements to be developed between Ruby and the tribes.

Q. Dispute Resolution.

1. Should any signatory to this MOA object, in writing, within 30 days to any actions pursuant to this MOA, the FERC shall consult with the objecting party (pursuant to 36CFR800) to resolve the objection. If the FERC determines that the objections cannot be resolved, the FERC shall forward all documentation relevant to the dispute to the ACHP. Within 30 days after receipt of all pertinent documentation, the ACHP will:
 - a. Provide the FERC with recommendations, which the FERC will take into account in reaching a final decision regarding the dispute; or
 - b. If the ACHP does not provide its advice regarding the dispute to the appropriate parties within 30 days, the FERC may make a final decision on the dispute and proceed accordingly.
2. Any recommendation or comment provided by the ACHP will be understood to pertain only to the subject of the dispute; the FERC's responsibility to carry out all actions under this MOA that are not the subject of the dispute will remain unchanged.

R. Amendments. Any signatory may request an amendment to the terms of this MOA. This MOA may be amended when such an amendment is agreed to in writing by the signatories. The amendment will be effective on the date a copy signed by the signatories is filed with the ACHP.

S. Termination. Any party to this Agreement may terminate its participation by providing 30 calendar days notice, in writing, to the other parties. The FERC will consult with the party or parties during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

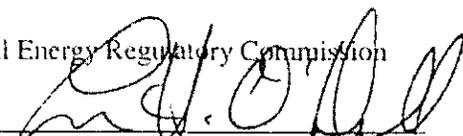
T. Duration. This MOA shall remain in effect for five (5) years from its date of execution or until completion of the work stipulated, whichever comes first, unless extended by agreement among the signatories.

- U. Emails to and/or from reviewing agencies may constitute written requests and/or comments on any deliverable discussed above. Comments may also be exchanged via phone or letter. Information, reports, forms, summaries, variance requests, etc., may also be provided by Ruby via email to reviewing agencies to facilitate expedited review. However, hard copies must be provided in addition when requested by an agency.
- V. This MOA may be signed by the signatories using photocopy, facsimile, or counterpart signature pages. The FERC will distribute copies of all signed pages to the signatories once the MOA is executed.

Execution and the satisfactory implementation of this MOA evidences that the FERC, BLM, USFS, and Reclamation have satisfied their Section 106 responsibilities for all individual activities involved in the Project.

Signatories

Federal Energy Regulatory Commission

By: 

Date: 7/29/10

Title: Lauren O'Donnell, Director, Division of Gas - Environment and Engineering

Advisory Council on Historic Preservation

By: _____

Date: _____

Title: _____

Bureau of Land Management

By: _____

Date: _____

Title: _____

U.S. Forest Service, Fremont-Winema National Forests

By: _____

Date: _____

Title: _____

Bureau of Reclamation, Mid-Pacific Region

By: _____

Date: _____

Title: _____

Oregon State Historic Preservation Officer

By: _____

Date: _____

Title: _____

Signatories

Federal Energy Regulatory Commission

By: 

Date: 7/28/10

Title: Lauren O'Donnell, Director, Division of Gas - Environment and Engineering

Advisory Council on Historic Preservation

By: 

Date: 7/29/10

Title: Acting Exec. Director

Bureau of Land Management

By: _____

Date: _____

Title: _____

U.S. Forest Service, Fremont-Winema National Forests

By: _____

Date: _____

Title: _____

Bureau of Reclamation, Mid-Pacific Region

By: _____

Date: _____

Title: _____

Oregon State Historic Preservation Officer

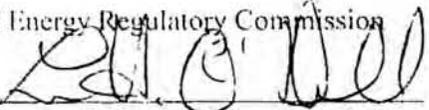
By: _____

Date: _____

Title: _____

Signatories

Federal Energy Regulatory Commission

By: 

Date: 7/28/10

Title: Lauren O'Donnell, Director, Division of Gas - Environment and Engineering

Advisory Council on Historic Preservation

By: 

Date: 7/29/10

Title: Acting Exec. Director

Bureau of Land Management

By: _____

Date: _____

Title: _____

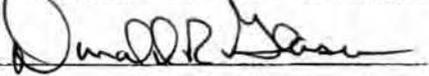
U.S. Forest Service, Fremont-Winema National Forests

By: _____

Date: _____

Title: _____

Bureau of Reclamation, Mid-Pacific Region

By: 

Date: 7/30/10

Title: Regional Director

Oregon State Historic Preservation Officer

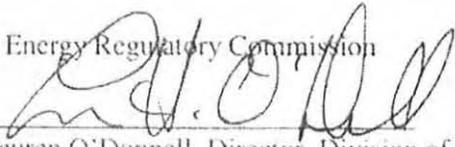
By: _____

Date: _____

Title: _____

Signatories

Federal Energy Regulatory Commission

By: 

Date: 7/29/10

Title: Lauren O'Donnell, Director, Division of Gas - Environment and Engineering

Advisory Council on Historic Preservation

By: _____

Date: _____

Title: _____

Bureau of Land Management

By: _____

Date: _____

Title: _____

U.S. Forest Service, Fremont-Winema National Forests

By: _____

Date: _____

Title: _____

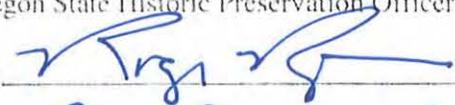
Bureau of Reclamation, Mid-Pacific Region

By: _____

Date: _____

Title: _____

Oregon State Historic Preservation Officer

By: 

Date: 7.29.10

Title: Roger Roper, Deputy SHPO

Signatories

Federal Energy Regulatory Commission

By: *Lauren O'Donnell*

Date: *7/28/10*

Title: Lauren O'Donnell, Director, Division of Gas - Environment and Engineering

Advisory Council on Historic Preservation

By: _____

Date: _____

Title: _____

Bureau of Land Management

By: *Carol Zankosky*

Date: *7/29/10*

Title: *District Manager*

U.S. Forest Service, Fremont-Winema National Forests

By: _____

Date: _____

Title: _____

Bureau of Reclamation, Mid-Pacific Region

By: _____

Date: _____

Title: _____

Oregon State Historic Preservation Officer

By: _____

Date: _____

Title: _____

Signatories

Federal Energy Regulatory Commission

By: _____

Date: _____

Title: Lauren O'Donnell, Director, Division of Gas - Environment and Engineering

Advisory Council on Historic Preservation

By: _____

Date: _____

Title: _____

Bureau of Land Management

By: _____

Date: _____

Title: _____

U.S. Forest Service, Fremont-Winema National Forests

By: _____

Date: _____

Title: **Forest Supervisor**

Bureau of Reclamation, Mid-Pacific Region

By: _____

Date: _____

Title: _____

Oregon State Historic Preservation Officer

By: _____

Date: _____

Title: _____

Ruby Pipeline, L.L.C.

By: William W. Kealy

Date: July 29, 2010

Title: Vice President