

U.S. Department of the Interior, U.S. Fish and Wildlife Service
Division of Wildlife and Sport Fish Restoration, Region 6
Record of Decision
Ruby Gas Pipeline Easements
East Fork of the Little Bear River and Salt Creek Wildlife Management
Areas

Utah Division of Wildlife Resources - Wildlife and Sport Fish Restoration Projects
F-57-L & W-88-L

The U.S. Fish and Wildlife Service, Division of Wildlife and Sport Fish Restoration (FWS-WSFR), Region 6, has prepared this Record of Decision (ROD) in accordance with the Federal Aid in Wildlife Restoration Act 16 U.S.C. Sec. 669 *et. Seq.*, the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777-777k, 64 Stat. 430), as amended, and the procedures for compliance with the National Environmental Policy Act (NEPA).

The Utah Division of Wildlife Resources (UDWR) proposes to amend Wildlife and Sport Fish Restoration Grant UT F-57-L to grant an easement on 15.5 acres of the East Fork of the Little Bear River Wildlife Management Area (East Fork WMA), and Wildlife and Sport Fish Restoration Grant UT W-88-L to grant an easement on 4.4 acres of the Salt Creek Wildlife Management Area (Salt Creek WMA), to Ruby Pipeline, LLC (Ruby). The easements will provide the right-of-way (ROW) required by Ruby to construct a proposed natural gas pipeline under the East Fork WMA located in Cache County and the Salt Creek WMA located in Box Elder County, and will allow Ruby to maintain and operate the pipeline for a term of 30 years.

The Project proposed by Ruby is comprised 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 East Fork WMA was purchased by the UDWR with Sport Fish Restoration Act funds administered by FWS-WSFR to provide access to fishing opportunities as well as to provide habitat for fish and wildlife. The Salt Creek WMA was purchased by the UDWR with Wildlife Restoration Act funds administered also by FWS-WSFR to provide hunter access and waterfowl habitat.

The Wildlife and Sport Fish Restoration Act regulations require land acquisition grants be amended prior to the sale of real property rights, including easements. FWS-WSFR approval of these amendments constitutes a federal action which requires NEPA compliance.

Background

The Federal Energy Regulatory Commission (FERC) is responsible for authorizing construction and operation of interstate natural gas pipelines. FERC issues Certificates of Public Convenience and Necessity (Certificate) for natural gas pipelines under Section 7 of the Natural Gas Act of 1938 (NGA), as amended, and authorizes construction and siting of facilities for the import or export of natural gas under Section 3 of the NGA. FERC also authorizes construction and operation of natural gas pipelines per the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348).

FERC used the Final Environmental Impact Statement (Final EIS) it prepared according to NEPA to issue its Certificate for the Ruby Pipeline Project on April 5, 2010. The Certificate authorizes Ruby to construct approximately 678.38 miles of 42-inch-diameter mainline natural gas pipeline, approximately 2.6 miles of 42-inch-diameter lateral pipeline, and related above-ground facilities.

FWS-WSFR is adopting the Final EIS to fulfill NEPA compliance requirements associated with review and approval of the proposed grant amendments to facilitate construction and operation of the project segments that will cross the East Fork WMA and Salt Creek WMA.

The Final EIS for the Ruby Pipeline Project, which can be found at: <http://www.ferc.gov/industries/gas/enviro/eis/2010/01-08-10.asp>, was prepared pursuant to NEPA with FERC as the Lead Agency. The Cooperating Agencies assisted with the preparation of the Final EIS by providing comments, information, and analysis. Bureau of Land Management (BLM) and U. S. Fish and Wildlife Service (Service), Region 1, also issued RODs for the project on July 12, 2010. Because the ROD issued by the Service, Region 1, did not address the Utah lands acquired with FWS-WSFR funds, this ROD is being issued to fulfill the requirement.

Alternatives Considered

FERC and the Cooperating Agencies considered the No Action Alternative in the Final EIS. Implementation of this alternative would result in the identified environmental impacts not occurring. The stated project purpose and need would not be met and it is likely that other energy projects would be proposed that could have similar or additional environmental impacts. For these reasons, this alternative was considered but not analyzed in detail.

In addition to the certificated route, the Final EIS identified and evaluated 15 major route alternatives for the Ruby Pipeline Project to determine if any would help to avoid or reduce impacts to sensitive environmental and cultural resources that will be crossed by the proposed pipeline. Three of these route alternatives (Terrace Basin, Willow Creek, and Southern Langell Valley) were determined to achieve the project objectives, to be technically and economically feasible, and to offer an environmental advantage over the proposed route.

Ruby subsequently modified its proposed route to incorporate all three route alternatives in supplemental filings with FERC. A summary of each major route alternative is listed in Table 1 of the Final EIS, along with the milepost location and primary reason for consideration. More detailed information may be found in Sections 2.0 and 3.4 of the Final EIS.

Section 1.5 of the Final EIS discusses the permits, approvals, and regulatory requirements pertaining to the Ruby Pipeline Project. Within this discussion, Table 1.5-1 lists the major permits, approvals, and consultations required, and the Final EIS will be used by numerous federal, state, and local agencies for this purpose. The geographic scope and complexity of the project necessitated extensive data gathering, consultation, and analysis with agencies at all levels of government.

Environmental Analysis

FERC initiated formal and informal consultation with the Service pursuant to Section 7 of the ESA, as amended [7 U.S.C. § 136, 16 U.S.C. § 1531 et seq.]. Information from the draft Biological Assessment (BA) was used to prepare the Final EIS. The BA and Service's Biological Opinion (BO) dated June 2010 (Final EIS - Attachment F), was considered by the Service issuing this ROD. No federally-listed endangered, threatened, or candidate species are known to occur on either of the subject properties and, therefore, these properties were not mentioned in the Service BO.

FERC also participated in formal consultation with the Wyoming, Utah, Nevada, and Oregon State Historical Preservation Offices as well as the Advisory Council on Historic Preservation pursuant to Section 106 of the National Historical Preservation Act.

An archaeological survey was conducted by Alpine Archaeological Consultants, Inc. Of the two DWR wildlife management areas owned by DWR and affected by the Ruby Pipeline Project (East Fork WMA and Salt Creek WMA) only one cultural resource site was found, and it was located on the Salt Creek WMA. SHPO consultation was conducted by FERC. UDWR's archaeologist concurred with the Archaeological Report's description of the sole aforementioned site, Site 42BO1646 ("42B'oh'1646"), as being ineligible for registration under the National Register of Historic Places.

Public Involvement and Comments

The public involvement process for the Ruby Pipeline Project extended from winter 2008 through winter 2010. Ruby initially contacted federal and state agencies in 2008 to inform them about the proposed pipeline project and initiation of FERC's Pre-filing Process. Subsequent to this, Ruby hosted 10 public open house meetings between February 19 and March 18, 2008, to inform landowners, government officials and the general public about the project and to solicit questions, comments and concerns. Ruby mailed about 3,100

invitations to these open house meetings and placed 16 advertisements in local newspapers in the project vicinity. Staff from FERC and Bureau of Land Management (BLM) participated in the meetings to provide information regarding the federal environmental review process. Meetings were held in Utah in Tremonton on February 21, 2008, Brigham City on March 5, 2008, and Logan on March 18, 2008.

The formal scoping process for the Ruby Pipeline Project included two scoping periods, each of which was accompanied by a set of 10 public meetings hosted by federal agencies. Public scoping meetings were attended by 444 participants, with 76 individuals providing oral comments. During the scoping periods, FERC also received comment letters from 10 federal agencies, 18 state agencies, 7 local agencies, 8 Native American Tribes, 26 non-governmental organizations, and 74 individuals. A scoping meeting was held in Brigham City, Utah, on April 17, 2008.

FERC published a Notice of Pre-Filing Environmental Review for the Ruby Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings in the Federal Register, Volume 73, Number 6, on March 28, 2008. This notice initiated a formal early stage scoping period (to April 30, 2008) to gather public and agency comment for the Draft Environmental Impact Statement (Draft EIS). It also provided a summary of the proposed project, explained FERC's pre-filing process, and described preliminary land requirements for construction. For this scoping period, FERC, in cooperation with BLM, held six public scoping meetings in April 2008 at locations along the general project route to provide the public with an opportunity to learn more about the project, and to solicit public comment on potential environmental issues. Ruby used this scoping information to further develop its project and to modify the route alternatives.

On September 26, 2008, FERC formally announced its intent to prepare a Draft EIS with publication of the Notice of Intent (NOI) to Prepare an Environmental Impact Statement and Land and Resource Management Plan Amendment for the Proposed Ruby Pipeline Project, Request for Comments on Environmental Issues and Notice of Public Scoping Meetings in the Federal Register, Volume 73, Number 192. This NOI opened a second formal scoping period, described the revised project route, and invited public comment and participation in four additional public scoping meetings. Meetings in Utah were held in Hyrum on October 15, 2008, and in Brigham City on October 16, 2008.

FERC filed the Draft EIS with the U.S. Environmental Protection Agency (EPA) and published its Notice of Availability (NOA) of the Draft EIS and Notice of Public Comment Meetings for the Ruby Pipeline Project in the Federal Register, Volume 74, Number 122, on June 19, 2009. The NOA invited written and electronic public comment on the Draft EIS and announced a series of seven public meetings to provide an opportunity for the public to present oral comments on FERC's analysis of the environmental and cultural impacts of the proposed project as described in the draft document. A total of 21 people commented at the

meetings. Meetings were held in Utah in Brigham City on July 27, 2009, and in Hyrum on July 30, 2009. FERC also received written comments on the Draft EIS from 3 federal agencies, 7 state agencies, 11 local agencies, 11 Native American tribal members, and 89 other interested parties. The formal comment period for the Draft EIS extended through August 10, 2009. The comments received on the Draft EIS and FERC's responses are contained in Appendix AA of the Final EIS for the Ruby Pipeline Project. One comment was received questioning the potential implications of the use of the East Fork WMA and Salt Creek WMA lands for a pipeline corridor. The Final EIS noted that the grant amendments and conditioned right-of-way to Ruby for the pipeline by UDWR and the Service will identify potential special conditions with the intent of fully protecting the wildlife functions and values for which the properties were acquired.

The Final EIS assesses the potential environmental impacts of the construction and operation of the Ruby Pipeline Project pursuant to the requirements of NEPA. FERC concluded that approval of the proposed project, with the mitigation measures recommended in the Final EIS and the additional measures and agreements being developed by Ruby with other agencies, will have some adverse environmental impacts (with those impacts being reduced to the extent practical through the implementation of Ruby's proposed mitigation measures).

The EPA published its NOA of the Final EIS for the Ruby Pipeline Project in the Federal Register, Volume 75, Number 12 on January 15, 2010. With the publication of that NOA, BLM initiated a 30-day public review and comment period. The BLM considered all comments received (approximately 100) on the Final EIS in the development of its ROD. The Final EIS has been placed in the public files of the FERC and is available for public viewing on the FERC's Web site at <http://www.ferc.gov>. A limited number of copies are available for distribution and public inspection at: Federal Regulatory Energy Commission, Public Reference Room, 888 First St., NE.; Room 2A, Washington, DC 20426, (202) 502-8371.

Copies of the Final EIS were mailed to federal, state, and local government agencies; elected officials; Native American Tribes; local libraries and newspapers; parties to FERC's proceeding; individuals who provided scoping comments or commented on the Draft EIS; and individuals who requested to remain on the environmental mailing list for this project. Hard copy versions of the Final EIS were mailed to those specifically requesting them. All others received a CD-ROM version. The BLM accepted comments on the Final EIS for 30 days. Attachment N of the BLM ROD summarizes the comments and responses. Comments on the Final EIS spanned a wide array of subject areas from administrative topics to potential resource issues. None of the comments directly addressed the impacts to either the East Fork of the Little Bear River Wildlife Management Area or the Salt Creek Wildlife Management Area.

Throughout the environmental review process, FERC maintained a project docket on the Internet which contains an electronic record of project-related documents, public comments,

meeting transcripts and other information that was used by federal agencies to fulfill their agency mandates and responsibilities. The project docket may be accessed at: <http://www.ferc.gov>.

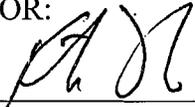
Mitigation

FWS-WSFR staff coordinated and conducted a field inspection of the East Fork of the Little Bear River WMA with UDWR staff on June 10, 2010, to discuss mitigation strategies proposed by Ruby. The Cooperative Mitigation Agreement between Ruby and UDWR, signed July 29, 2010, is in place to both reclaim the project areas as well as replace the habitat and recreational values affected during the term of the easement.

Decision

Based on our review of the grant amendment proposed by the UDWR and our adoption of the Final EIS for the sole purpose of fulfilling NEPA compliance requirements associated with review and approval of the proposed grant amendment described above, I find that, given Ruby's commitment to both reclaim and otherwise mitigate for the temporary loss of habitat and recreational values on the WMAs, the construction and operation of the natural gas pipeline will not interfere with or diminish the purpose for which the aforementioned WMAs were acquired. Therefore, I approve the proposal to amend the grants to allow the easements to facilitate construction and operation of the Ruby pipeline.

INITIATOR:

 8/3/10

Signature Date

CONCUR:

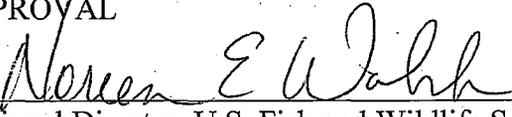
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Chief, Division of Wildlife and Sport Fish Restoration Date

 8.3.10

Assistant Regional Director, Migratory Birds and State Programs Date

APPROVAL

 8/6/10

Acting Regional Director, U.S. Fish and Wildlife Service, Region 6 Date