



Oregon Natural Desert Association

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October 29, 2008

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

Re: FERC Docket No. PF08-9-000 Ruby Pipeline Project

Dear Ms. Bose:

Please accept these scoping comments from the Oregon Natural Desert Association (“ONDA”), Western Watersheds Project (“WWP”), and Oregon Wild on environmental issues for consideration in preparing the Environmental Impact Statement (“EIS”) to evaluate the proposed construction by Ruby Pipeline LLC (the “applicant”) of a 42-inch-diameter pipeline from Opal, Wyoming to Malin, Oregon, together with two compressor stations and related facilities (collectively the “Ruby Pipeline”). These comments are based on a review of the currently identified environmental issues listed in the scoping notice and the maps and draft resource reports distributed in September 2008, and are intended to supplement the comments we submitted to FERC on April 29, 2008. In preparing the EIS, please consider the issues raised in our April 29, 2008 comments (which are attached and incorporated by reference).

ONDA is a non-profit public interest organization dedicated to preserving and protecting the public lands of eastern Oregon. ONDA has a long history of interest and involvement in eastern Oregon’s public land management. ONDA’s mission is to protect, defend, and restore forever the health of Oregon’s native deserts. The members and staff of ONDA use and enjoy the public lands, waters, and natural resources of eastern Oregon for recreational, scientific, spiritual, educational, aesthetic, and other purposes. ONDA and its members also participate in information gathering and dissemination, education and public outreach, commenting upon proposed agency actions, and other activities relating to the federal government’s management and administration of the public lands of eastern Oregon.

WWP is a non-profit membership organization based in Hailey, Idaho, with offices also in Montana, Wyoming, Utah and California. WWP is dedicated to protecting and conserving the public lands and natural resources of watersheds in the American West. WWP, as an

organization and on behalf of its 1200-plus members, is concerned with and active in seeking to protect and improve the wildlife, riparian areas, water quality, fisheries, and other natural resources and ecological values of watersheds throughout the West.

Oregon Wild (formerly Oregon Natural Resources Council) is a non-profit corporation headquartered in Portland, Oregon, with offices in Eugene and Bend. Oregon Wild's mission is to protect and restore Oregon's wildlands, wildlife, and waters as an enduring legacy. To achieve our mission Oregon Wild seeks to permanently protect old-growth forests, roadless wild lands, and other ecologically important areas. Oregon Wild seeks restoration of fully-functional terrestrial and aquatic ecosystems with a full complement of native species. Oregon Wild works with a broad cross-section of citizens, charitable groups, businesses, and government agencies at all levels to incorporate environmental concerns into democratic and economic institutions. Oregon Wild has approximately 4,500 members, who enjoy activities such as hiking, bird watching, nature appreciation, camping, photography, wildlife viewing, and other pursuits.

ONDA, WWP and Oregon Wild appreciate the applicant's further adjustment to its proposed route in Oregon to avoid the Crane Prairie Inventoried Roadless Area in the Fremont-Winema National Forest and its consideration of other alternatives for routing the Ruby Pipeline. We urge FERC, BLM and other cooperating agencies to thoroughly evaluate all of the proposed alternative routes in the Ruby Pipeline EIS, including verification and, if necessary, supplementation of the findings by the applicant regarding the environmental impacts of the various alternative routes. In addition to the issues addressed in our attached April 2008 comments, we ask that FERC and the other agencies consider the following:

I. FERC and the Cooperating Agencies Must Independently Verify and, as Necessary, Supplement the Findings of the Applicant Regarding Alternative Routes.

The agencies have an obligation to verify the findings presented in the resource reports with respect to the various alternative routes evaluated. As suggested in the scoping notice, the Ruby Pipeline EIS should formally evaluate *all* of the alternatives which have thus far been identified, including using existing corridors and variations on the route to avoid specific features or resources. In particular, we urge the agencies to specifically include and evaluate the "Black Rock Alternative" (Draft Resource Report No. 10 at 10-13 to 10-14) among the alternatives formally considered in the EIS, and to verify the information developed by the applicant in its draft resource reports.

II. FERC and BLM Must Evaluate Impacts of the Ruby Pipeline on the Wilderness Resource.

The agencies, and, in particular, BLM, must identify areas with wilderness values along the proposed route (and alternative routes) and evaluate the impacts of the Ruby Pipeline on these wilderness values. According to the recent decision of the Ninth Circuit Court of Appeals in Oregon Natural Desert Association v. BLM, 531 F.3d 1114, 1119 (9th Cir. 2008), "wilderness characteristics are among the 'resource and other values' of the public lands to be inventoried under § 1711. BLM's land use plans, which provide for the management of these resources and values, are, again, to 'rely, to the extent it is available, on the inventory of the public lands, their

resources, and other values.’ 43 U.S.C. § 1712(c)(4).” Therefore, BLM is required to consider “whether, and to what extent, wilderness values are now present in the planning area outside of existing WSAs and, if so, how the Plan should treat land with such values.” *Id.* at 1143.

BLM has defined “wilderness characteristics” to include naturalness and providing opportunities for solitude or primitive recreation. *See* Instruction Memoranda 2003-274, 2003-275, Change 1. These values are to be *identified and protected* in the land use planning process. *See* BLM Land Use Planning Handbook (H-1601-1, 2005); Oregon Natural Desert Ass’n v. Bureau of Land Management, 531 F.3d at 1119. Further, BLM’s national guidance provides for management that emphasizes “the protection of *some or all* of the wilderness characteristics as a priority” over other multiple uses. (emphasis added). This guidance does not limit its application to lands suitable for designation of Wilderness Study Areas; for instance, the guidance does not include a requirement for the lands at issue to generally comprise 5,000-acre parcels or a requirement that the lands have *all* of the potential wilderness characteristics to merit protection.

In Oregon, the current proposed route does not intersect with any known areas containing wilderness values. However, the “Northern Route” and “Central Route” both appear to cross areas of citizen-identified wilderness. FERC and BLM must identify areas that contain wilderness values and roadless values in the EIS, and consider the impacts of the Northern Route and Central Route on such values in their analysis of those alternatives. Those routes must be rejected if they pass through any areas where wilderness values are identified as present. ONDA has filed its citizen wilderness inventories with the various BLM districts in eastern Oregon, and attaches the GIS files showing areas identified to have wilderness values to these comments (please see the separate ESRI shape file pwsa_or08jul_11.shp and other associated ESRI shape format and ArcView files, attached).

In Idaho, Nevada, Utah, and Wyoming, FERC, BLM and the applicant should contact the following organizations to obtain current information about areas containing wilderness values:

Idaho	Address: The Wilderness Society, Idaho 950 W. Bannock Street Suite 605 Boise, ID 83702 Website: www.wilderness.org	Phone: (208) 343-8153 Email: brad_brooks@tw.s.org
Nevada	Address: Nevada Wilderness Project 8550 White Fir Street Reno, NV 89523 Website: http://www.wildnevada.org	Phone: (202) 266-0465 Email:
Utah	Address: The Wild Utah Project 68 South Main Street, Suite 400 Salt Lake City, UT 84101 Website: http://www.wildutahproject.org	Phone: (801) 328-3550 Email: wup@xmission.com
Wyoming	Address: Biodiversity Conservation Alliance P.O. Box 1512 Laramie, WY 82073 Website: www.biodiversityassociates.org	Phone: (307) 742-7978 Email: erik@voiceforthewild.org

As described in our April 2008 comments, the EIS should also consider cumulative effects on IRAs and the wilderness resource on BLM lands, and document all wilderness-quality lands (whether designated or not) and where they are located with respect to the proposed Ruby Pipeline and other pending or proposed energy transmission projects.

III. Impacts of the Ruby Pipeline Project on Wildlife and Plant Habitat.

Please consider the comments submitted under this heading in our April 2008 comments, and ensure that the EIS identifies steps to mitigate any impacts on fish, wildlife, and plant habitat from the proposed route and the construction of the project. Please specifically consider how the Ruby Pipeline will cross Twentymile Creek (Collins Rim Quad, pipeline milepost 596), which is designated critical habitat for the listed Warner Sucker, and consider route alternatives and mitigation measures that will eliminate or mitigate impacts to this species.

IV. Cumulative Impacts of the Ruby Pipeline and Other Energy Transmission Projects.

Please evaluate the cumulative impact of this project with reasonably foreseeable development of other energy transmission projects within the soon-to-be-formally-designated West Wide Energy Corridors and other pending or proposed energy transmission projects. Further details are available in our April 2008 comments and incorporated here by reference. We appreciate that FERC has identified for consideration the cumulative impacts of foreseeable projects within the same corridor. However, to ensure a full disclosure of the impact of the Ruby Pipeline, the cumulative impacts of other nearby foreseeable energy projects must be evaluated as well. This is particularly true where the applicant and the agencies have considered and will be considering the Northern Route Alternative and Central Route Alternative, thus evaluating a potential project area that stretches over 100 miles from north to south (Figure 10.4-1).

Thank you for considering these issues in making adjustments to the proposed route of the Ruby Pipeline and preparing the draft EIS.

Sincerely,

s/ Dave Becker
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Oregon Natural Desert Association
917 SW Oak St. Ste. 409
Portland, OR 97205

cc: Brent Fenty, Executive Director
Oregon Natural Desert Association

Jon Marvel, Executive Director
Western Watersheds Project

Regna Merritt, Executive Director
Oregon Wild