



## El Paso cuts deal with Western Watersheds

ADELLA HARDING Free Press Staff Writer | Posted: Friday, July 16, 2010 11:11 pm

ELKO — El Paso Corp. has reached a precedent-setting, \$20 million arrangement for habitat protection with two environmental organizations that protested the company's planned Ruby Pipeline that will extend from Wyoming to Oregon.

The company will set up conservation funds with the Western Watersheds Project and the Oregon Natural Desert Association, and the organizations in turn are dropping objections to the natural gas pipeline.

"It's something we didn't have to do. We chose to do it," El Paso spokesman Richard Wheatley said Friday. "The bottom line is we think it's a preferable approach than being involved in litigation."

Establishment of the funds also is in line with the company's outreach efforts to be good stewards of the land, he said.

"There is the potential to do really good work," Wheatley said.

"We agreed not to try to delay or litigate Ruby Pipeline," confirmed Western Watersheds Project Executive Director Jon Marvel.

He said El Paso will set up a \$15 million conservation fund for Idaho-based Western Watersheds and a \$5 million fund with the Oregon organization.

Marvel said the concept is new. He said he expects the Western Watersheds fund to eventually be used to buy grazing permits from willing ranchers, but the organization first wants Congress to approve allowing federal agencies to permanently retire grazing permits in such cases.

"It's unprecedented to have the support of industry to work for the retirement of public grazing permits," Marvel said, emphasizing that the fund would only buy permits from willing sellers.

In the announcement, El Paso Western Pipeline Group President Jim Cleary said the "partnerships reflect El Paso Corp.'s industry-leading commitment to environmental stewardship and to this end represent a significant component of the unprecedented voluntary mitigation efforts being applied to Ruby's construction and operation."

El Paso currently awaits a final notice to proceed from the Federal Energy Regulatory Commission and completion of memorandums with state historical preservation offices before the company can begin the \$3 billion, 680-mile project.

Western Watersheds filed a request in April asking FERC for a rehearing on its initial approval of the pipeline project and was outspoken over concerns about the pipeline.

The Oregon Natural Desert Foundation was among the organizations filing for a rehearing.

"Protecting the area around the Hart Mountain and Sheldon Refuges is critical to ensuring the survival of high desert species like sage-grouse and pronghorn antelope," said Brent Fenty, ONDA's executive director. "Establishing the Greater Hart-Sheldon Conservation Fund will create restoration and conservation opportunities on critical habitat spanning over 5 million acres."

The Oregon fund will promote restoration activities, including spring restoration, fence removal, weed control, land acquisition and grazing permit retirement, according to an announcement issued Thursday.

Both agreements provide incentives for the parties to seek additional funding sources beyond Ruby's contribution.

"We hope to encourage other private and public funders to contribute to the Funds' efforts to permanently protect and restore large areas of high desert in the region the Ruby Pipeline will pass through," said Cleary.

Wheatley said the funds will be administered by three-member boards. Each includes a representative of El Paso, a representative of the conservation organization and a third party.

"It remains to be seen how this will all unfold," he said.

Exhibit D-2 - LANDS  
Document consists of 12 pages.  
Entire Exhibit provided.  
Meeting Date: 07-30-10

Western Watersheds and the Oregon organization won't receive any funds directly from El Paso, but the Texas-based company will donate \$20 million to the new conservation funds over a 10-year period.

Wheatley said the plan is to protect and restore large areas of the high desert where the Ruby Pipeline will pass through, and help El Paso carry out FERC's restoration requirements.

Marvel said the agreement designates the counties through which Ruby Pipeline will pass and any counties adjacent to them for the first five years of conservation efforts, including Elko County, but the fund can cover anywhere with sagebrush habitat after the five-year period.

"The money also can be used to purchase private property or conservation easements, but our priority is grazing permits," he said. "It's time to end public lands grazing."

Western Watersheds maintains that an end to grazing on public lands would be better for wildlife, water quality, recreation and the environment.

Wheatley said that while the new funds are something different, El Paso entered into three conservation agreements last year valued at a combined \$16 million show the company's commitment to the environment. Those agreements were for protection of sage grouse and pygmy rabbits, migrating birds and endangered species and to meet Oregon regulatory requirements.



## El Paso pact angers ranchers

ADELLA HARDING Staff Writer | Posted: Monday, July 26, 2010 11:45 pm

ELKO - Sen. Dean Rhoads, R-Tuscarora, said Monday ranchers are angry about El Paso Corp.'s \$20 million agreement with two environmental organizations that will push for retirement of grazing rights.

"The livestock industry is about as upset about this issue as it has been for a long time. We're going to fight it tooth and nail," said Rhoads, who chairs the Nevada Legislative Committee on Public Lands, is past chairman of the Public Lands Council and is an Elko County rancher.

He asked El Paso Corp. to make a presentation at the legislative panel's meeting Friday in Ely on the agreement that sets up conservation funds for Western Watersheds Project and the Oregon Natural Desert Association in exchange for the two organizations dropping protests against the planned Ruby Pipeline.

Rhoads also said El Paso representatives agreed to meet with the National Cattlemen's Association-affiliated Public Lands Council Friday in Denver to talk about the agreement.

The Ely meeting begins at 8:30 a.m. Friday at the Bristlecone Convention Center and is the final meeting of the 2009-2010 interim legislative committee.

"We've been requested to appear, and we will. We will make our case and explain our position," Houston-based El Paso spokesman Richard Wheatley said Monday. "We're talking to numerous parties and explaining our position."

Rhoads said there would be major impact to small communities if ranchers sold grazing permits, and the government could retire those permits.

"Hopefully, my committee will take some action, perhaps a letter to the congressional delegation asking them not to support such a concept," he said.

Rhoads also said he wouldn't have agreed the pipeline could go through the Rhoads Ranch if he had known El Paso would enter into an agreement with the two environmental groups that threatens grazing.

The public lands panel also will hear from the Nevada Cattlemen's Association, the Western Legacy Alliance and others on the threat to grazing permits.

"The committee wants an explanation from El Paso as to why the corporation made an agreement with the Western Watersheds Project, an organization whose stated goal is to eliminate grazing on public lands, and why local residents and the livestock industry were not consulted," Rhoads said in a statement on the meeting.

The spark point for ranchers was a statement from the two environmental organizations that the trust funds would be used to buy grazing permits from willing sellers and retire the permits, if Congress passes a bill that would allow it.

Under present law, if a ranch doesn't use a grazing permit for two years, the ranch loses the permit, but grazing permits can't be retired, so another ranch could pick up the permit.

Rhoads said a House subcommittee just last week killed wording in the Interior appropriations bill that would have allowed federal agencies to let grazing permits sit vacant.

A news release from Rep. Mike Simpson, R-Idaho, states that he successfully defended grazing on public lands in an amendment to strike the language that would allow voluntary buyouts. The vote was 13 to 1 in the subcommittee.

"Creating a federal buyout program is a dangerous step toward ending grazing on public lands, which would have a devastating impact on local economics throughout the West and would have unintended consequences on the environment," Simpson said.

Tamara Young-Allen, a spokeswoman for the Federal Energy Regulatory Commission, said Monday FERC has received letters from both Western Watersheds and the Oregon group withdrawing their requests for a rehearing of FERC's project approval and retracting comments.

The two organizations and the Sierra Club filed a request for rehearing in the spring, and FERC issued a tolling order on June 5 giving commissioners additional time to review the request, but two other organizations didn't withdraw their request.

"It's still pending," Young-Allen said.

David von Seggren, chairman of the Ruby Pipeline Task Force for the Toiyabe Chapter of the Sierra Club, said Monday the Sierra Club's request is still active, as is the Defenders of Wildlife request.

"It's still open, yes, but I assume when they give Ruby the go-ahead, they will at the same time deny our petition," von Seggren said.

He also said the Sierra Club hasn't pursued any deal with El Paso, although the club met with Ruby representatives on July 12.

"They didn't make a similar offer to us," von Seggren said.

Western Watersheds Project Executive Director Jon Marvel said last week that El Paso's agreement is unique.

"It's unprecedented to have the support of industry to work for the retirement of public grazing permits," he said.

The two conservation funds El Paso is forming with \$20 million over 10 years will be administered by three-member boards. Each includes a representative of El Paso, a representative of the conservation organization and a third party.

The Sierra Club doesn't oppose the \$3 billion Ruby Pipeline, but the club opposes the approved route.

"The route is the main thing to us. We prefer them to change the route. We're not seeking a buy-off," von Seggren said.

Great Basin Resource Watch and the Sierra Club issued a joint statement Monday opposing the chosen route and stating that the project should follow existing disturbed corridors used for roads, utilities and railroads.

"Their route is going through pristine country in Nevada," von Seggren said.

Great Basin Resource Watch Executive Director John Hadder said Monday the chosen route "is not the best thing for Nevada's environment, cultural heritage or jobs."

He said in the statement that "FERC has moved aggressively on this project, running roughshod over our premiere environmental law, the National Environmental Policy Act, which requires a complete and 'hard look' at the impacts of a project and possible alternative routes."

FERC approved the 680-mile project earlier this year, but El Paso still needs a final order to proceed from FERC. The project to bring natural gas from Wyoming to Oregon also required U.S. Bureau of Land Management approval for rights of way, and the BLM issued its approval on July 12.

The green light also requires memorandums of agreement from historic preservation offices in the four states where the pipeline will go - Wyoming, Utah, Nevada and Oregon. Wheatley said Monday the draft agreements are pending review and final approval from FERC.

The pipeline will go through Elko County, and stacks of pipe for the project are visible at the Northeastern Nevada Railport at Osino until El Paso can begin the project, which Wheatley said new figures show it will bring in more than \$7.5 million in ad valorem taxes to Elko County alone.

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FOR IMMEDIATE RELEASE  
July 19, 2010

## NEWS RELEASE

### Legislative Committee on Public Lands (NRS 218E.510)

Date: Friday, July 30, 2010  
Time: 8:30 a.m.  
Place: Bristlecone Convention Center  
Sage and Juniper Rooms  
150 Sixth Street  
Ely, Nevada

Contact: Susan E. Scholley  
Research Division  
Legislative Counsel Bureau  
Legislative Committee on Public Lands  
Carson City, Nevada 89701-4747  
(775) 684-6825  
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### PUBLIC LANDS COMMITTEE TO HEAR FROM EL PASO CORPORATION IN ELY

Senator Dean A. Rhoads (R-Tuscarora), Chair of the Legislative Committee on Public Lands, announced that the Committee will hold its fifth and final meeting of the 2009-2010 Legislative Interim at the Bristlecone Convention Center in Ely, Nevada, on Friday, July 30, at 8:30 a.m. The agenda is not yet available.

Senator Rhoads has asked a representative from the El Paso Corporation to appear at the Committee's upcoming Ely meeting. The Chair's request is in response to El Paso's recently announced donation of \$20 million to the Western Watersheds Project and the Oregon Natural Desert Association. According to news reports, in exchange for the donations (\$15 million to a fund for the benefit of the Western Watersheds Project and \$5 million to a fund for the benefit of the Oregon Natural Desert Assembly), the two environmental groups will drop their objections to El Paso's proposed 680-mile natural gas pipeline (Ruby Pipeline LLC), estimated to cost \$3 billion. Further, Western Watersheds Project's stated priority for the use of the funds is to purchase grazing permits from willing ranchers for the purpose of permanently retiring those grazing rights on public lands.

Rhoads stated, "Many ranchers and private landowners have cooperated with El Paso's demands for rights-of-way across private property so the pipeline could proceed. If these ranchers and landowners had known that a deal was being made to provide funding to retire grazing permits and to put ranchers out of business, I suspect that most of the private landowners would never have signed agreements with El Paso."

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Rhoads continued, "Hopefully, the representative from El Paso will explain why the corporation entered into an agreement with Western Watersheds Project, an extremist environmental organization, whose stated goal is to eliminate grazing on public lands and why local residents and the livestock industry were not consulted. Without BLM and U.S. Forest Service grazing permits, most Nevada ranchers cannot survive."

Noting the secondary impacts that retirement of grazing permits would have on rural counties, cities and towns, Rhoads went on to explain, "Retiring grazing permits will have impacts far beyond the individual rancher who chooses to sell. When ranches go out of business, that means fewer jobs which translates into less business for the local feed and equipment stores, grocery stores, restaurants, and all the other businesses in town. Rural economies are already struggling in many parts of our State and this effort by outside environmental organizations to eliminate grazing on public lands should be of concern to all Nevadans."

The Legislative Committee on Public Lands was created in 1983 to review and comment on federal land management policies and practices and to provide a forum for the discussion of public lands matters. The Committee is one of the two legislative committees which regularly hold meetings outside of Carson City or Las Vegas.

The members of the Committee are: Senator Terry Care (D-Las Vegas); Senator John J. Lee (D-Las Vegas); Senator David R. Parks (D-Las Vegas); Senator Dean A. Rhoads (R-Tuscarora); Assemblyman Paul Aizley (D-Las Vegas); Assemblyman David P. Bobzien (D-Reno); Assemblyman John C. Carpenter (R-Elko); Assemblyman Jerry D. Claborn (D-Las Vegas); and Clark County Commissioner Tom Collins. Alternate members are: Senator Mike McGinness (R-Fallon); Senator Michael A. Schneider (D-Las Vegas); Assemblyman Pete Goicoechea (R-Eureka); and Assemblywoman Ellen B. Spiegel (D-Henderson).

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**FOR IMMEDIATE RELEASE**  
**July 23, 2010**

## NEWS RELEASE

### **Legislative Committee on Public Lands (NRS 218E.510)**

Date: Friday, July 30, 2010  
Time: 8:30 a.m.  
Place: Bristlecone Convention Center  
Sage and Juniper Rooms  
150 Sixth Street  
Ely, Nevada

Contact: Susan E. Scholley  
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Legislative Committee on Public Lands  
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### **PUBLIC LANDS COMMITTEE TO MEET IN ELY**

Senator Dean A. Rhoads (R-Tuscarora), Chair of the Legislative Committee on Public Lands, announced that the Committee will hold its fifth and final meeting of the 2009-2010 Legislative Interim at the Bristlecone Convention Center in Ely on Friday, July 30, at 8:30 a.m. The agenda will be available on Monday.

At the request of Senator Rhoads, the meeting will begin with a presentation by a representative of the El Paso Corporation on its recent agreement to donate \$20 million to two environmental organizations in exchange for the withdrawal of objections to El Paso's proposed 680-mile natural gas pipeline across Nevada. According to the Western Watersheds Project, its stated priority for the use of the funds is to purchase and permanently retire grazing permits. The Committee will also hear presentations from the Nevada Cattlemen's Association, the Western Legacy Alliance, and other experts on rangeland resources.

Rhoads stated, "The Committee wants an explanation from El Paso as to why the Corporation made an agreement with the Western Watersheds Project, an organization whose stated goal is to eliminate grazing on public lands, and why local residents and the livestock industry were not consulted." Rhoads went on to explain, "Retiring grazing permits will have impacts far beyond the individual ranchers who choose to sell. When ranches close

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down, that means fewer jobs, which translates into less money for all the local businesses. Rural economies are already struggling in many parts of our State and this effort by outside environmental organizations to eliminate grazing on public lands should be of concern to all Nevadans.”

The Bureau of Land Management, the U.S. Forest Service, and the Great Basin National Park will also have representatives at the meeting to update the Committee on their programs and activities.

As is the Committee’s custom, local government representatives have been invited to the meeting. Representatives from Elko, Eureka, and White Pine Counties will advise the Committee about their concerns and experiences relating to public lands and water issues, and a group of concerned citizens studying wilderness issues in Humboldt County will also address the Committee. **“One of the benefits of having the Committee hold meetings outside of Carson City and Las Vegas is the opportunity to hear from county commissioners and others about their experiences and insights into the complex federal land management issues they deal with daily.”**

The Chair of the Legislative Committee to Oversee the Western Regional Water Commission is also slated to update the Committee on the Oversight Committee’s activities.

Finally, during the work session portion of the meeting, Committee members will consider a list of possible actions compiled during the four meetings held in the last seven months. The possible actions include legislation to be considered during the 2011 Legislative Session, letters to federal agencies and others urging certain actions, or statements of the Committee’s positions on various issues. **“At this meeting, we will look at the list of proposed actions and decide what to pursue. The list covers a wide range of topics, including federal legislation, off-highway vehicles, renewable energy, water, and wild horses, to name a few,”** Rhoads explained. **“Public input is as important now as it was at our first meeting.”**

Concluded Rhoads, **“As we finish our work for the 2009-2010 Interim, the Committee wants to thank the many people who took time from their busy schedules to testify before the Committee and share their knowledge and concerns, as well as the public officials, from all levels of government, who made presentations at the Committee’s request.”**

The Legislative Committee on Public Lands was created in 1983 to review and comment on federal land management policies and practices and to provide a forum for the discussion of public lands matters.

The members of the Committee are: Senator Terry Care (D-Las Vegas); Senator John J. Lee (D-Las Vegas); Senator David R. Parks (D-Las Vegas); Senator Dean A. Rhoads (R-Tuscarora); Assemblyman Paul Aizley (D-Las Vegas); Assemblyman David P. Bobzien (D-Reno); Assemblyman John C. Carpenter (R-Elko); Assemblyman Jerry D. Claborn (D-Las Vegas); and Clark County Commissioner Tom Collins. Alternate members are: Senator Mike McGinness (R-Fallon); Senator Michael A. Schneider (D-Las Vegas); Assemblyman Pete Goicoechea (R-Eureka); and Assemblywoman Ellen B. Spiegel (D-Henderson).

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Senator Rhoads,

Per our telephone conversation this morning (7/21/10), here is a brief discussion concerning your questions of: (1) whether a person or business that is issued a grazing permit or lease may refuse or otherwise fail to use the permit or lease to graze livestock for the term of the permit or lease; and (2) whether the provisions of the Taylor Grazing Act expressly state whether a grazing permit or lease that is cancelled for unauthorized nonuse must be reissued to another person or business.

### **FAILURE TO USE GRAZING PERMIT OR LEASE**

Pursuant to 43 C.F.R. § 4170.1-2, if a grazing permittee or lessee fails, for 2 consecutive grazing fee years, to make substantial use as authorized in the permit or lease or fails to maintain or use any water base property in the grazing operation of the permittee or lessee, the authorized officer for the Bureau of Land Management may cancel any amount of active use the permittee or lessee has failed to use. 43 C.F.R. § 4170.1-2. Pursuant to 43 C.F.R. § 4140.1, if a grazing permittee or lessee fails to make substantial grazing use as authorized by his or her permit or lease for 2 consecutive fee years, the grazing permittee or lessee is also subject to the imposition of civil penalties. 43 C.F.R. § 4140.1(a)(2). Those civil penalties may include: (1) withholding the issuance of a grazing permit or lease; (2) suspending any grazing use authorized under a grazing permit or lease; or (3) cancellation of a grazing permit or lease. 43 C.F.R. § 4170.1-1. Thus, if a person or business obtains a grazing permit or lease to graze livestock on lands that are included within a grazing district under the provisions of the Taylor Grazing Act, the person or business could not refuse or otherwise fail to use the permit or lease to graze livestock for more than 2 consecutive grazing years without subjecting the person or business to possible civil penalties or cancellation of the permit or lease pursuant to those provisions.

Despite the general penalty for failure to use a grazing permit or lease to graze livestock for more than 2 consecutive grazing years, the regulations adopted under the Taylor Grazing Act authorize brief periods of "temporary nonuse." Pursuant to 43 C.F.R. 4130.4, temporary nonuse of a grazing permit or lease is authorized only if the authorized officer approves the temporary nonuse in advance and the temporary nonuse is approved for not more than 1 year at a time. 43 C.F.R. § 4130.4(e)(1). The authorized officer may authorize temporary nonuse to provide for natural resource conservation, enhancement or protection or to accommodate the business or personal needs of the permittee or lessee. 43 C.F.R. § 4130.4(e)(2). Based on these provisions, the holder of a grazing permit or lease could apply for a temporary nonuse of his or her grazing permit or lease, including nonuse for natural resource conservation, but such temporary nonuse would have to be approved in advance and could not be approved for more than 1 year at a time. Furthermore, the United States Supreme Court has stated that, if a period of temporary nonuse is granted for financial reasons, the granting of the temporary nonuse does not necessarily take the lands for which the grazing permit or lease is issued out of use for

grazing. During that period, the Secretary of the Interior may, through the issuance of a nonrenewable grazing permit, allocate to other persons or businesses the forage temporarily made available by the granting of the temporary nonuse. Public Lands Council v. Babbitt, 529 U.S. 728 (2000). Pursuant to the provisions of 43 C.F.R. § 4130.6, a nonrenewable grazing permit or lease has no priority for renewal and cannot be transferred or assigned.

### TAYLOR GRAZING ACT

The provisions of the Taylor Grazing Act and regulations adopted pursuant thereto do not appear to state in express terms whether a grazing permit or lease that is cancelled must be reissued to another person or business. However, it appears to be generally understood that lands that are included within a grazing district under the provisions of the Taylor Grazing Act are to be used solely for grazing, subject to temporary periods of nonuse for appropriate range management in accordance with those provisions. For example, the Taylor Grazing Act itself states that the Secretary of the Interior may establish grazing districts or modify the boundaries thereof using lands that that are "chiefly valuable for grazing and raising forage crops[.]" 43 U.S.C. § 315. Accordingly, it has been held for many years that the purpose of the Taylor Grazing Act is to stabilize the livestock industry and to permit the use of public range according the needs of livestock operators who have base holdings. Chournos v. United States, 193 F.2d 321 (1951). It has also been held that the Secretary of the Interior lacks statutory authority to issue grazing permits that are intended solely for conservation use in lieu grazing and that, after issuing a grazing permit or lease, the Bureau of Land Management has a duty to ensure that the land for which the grazing permit or lease is issued is specifically used for grazing. Public Lands Council v. Babbitt, 167 F.3d 1287 (1999); Stewart v. Kempthorne, 554 F.3d 1245 (2009).

It should be noted that, pursuant to the provisions of the Federal Land Policy and Management Act, if a permit or lease for grazing domestic livestock is cancelled in whole or in part in order to "devote the lands covered by the permit or lease for another public purpose, including disposal," the Secretary of the Interior must give "two years' prior notification" of the proposed cancellation. 43 U.S.C. § 1752(g).

Based upon these authorities, it appears that, if a grazing permit or lease is cancelled, the grazing permit or lease could not be subsequently issued to a person or business solely for a purpose other than grazing or if the person or business refuses or otherwise fails to use the permit or lease to graze livestock. Furthermore, the lands within the grazing district for which the grazing permit or lease was cancelled could not be used for a purpose other than grazing without excluding those lands from the grazing district in which those lands were originally included and giving 2 years' prior notice of that action. Such use, if not temporarily authorized pursuant to the provisions of the Taylor Grazing Act and regulations adopted pursuant to the Taylor Grazing Act, would be contrary to the stated purposes of stabilizing the livestock industry and accommodating the needs of livestock operators who have base holdings.

/s/ J. Randall  
Stephenson,  
Legal Director, LCB



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## PIPELINE RECEIVES FINAL APPROVAL

The BLM has released its record of decision on the Ruby Pipeline Project. According to the news release

The U. S. Department of the Interior's (DOI) Bureau of Land Management (BLM) on Monday, July 12, signed a Record of Decision (ROD) and Right-of-Way Grant (ROW) for the Ruby Pipeline Project, a proposed 678 mile interstate natural gas pipeline that crosses 368 miles of Federal land beginning near Opal, Wyoming, through northern Utah and northern Nevada, and terminating near Malin, Oregon. The BLM Nevada State Director, as the designated Federal official, signed the ROD and authorized the ROW for the construction, operation, maintenance, and termination of the pipeline and associated facilities across lands under jurisdiction of the BLM, the U.S. Forest Service, the Bureau of Reclamation, and the U.S. Fish and Wildlife Service in the four states.

The ROD is for the selected alternative for the Ruby Pipeline Project, and the ROW is for the route certificated by the Federal Energy Regulatory Commission (FERC), with the inclusion of the Newmont and Southern Langell Valley reroutes.

The FERC is responsible for authorizing interstate natural gas transmission facilities under the Natural Gas Act and was the lead Federal agency for the preparation of the Final Environmental Impact Statement (EIS) released in January 2010 in compliance with the requirements of National Environmental Policy Act. The BLM has the primary responsibility for issuing ROW grants and temporary use permits for natural gas pipelines across most Federal lands pursuant to the Mineral Leasing Act of 1920. On April 5th, FERC issued its Certificate of Public Convenience and Necessity for the Ruby Pipeline Project authorizing construction and operation of approximately 672.6 miles of 42-inch diameter mainline natural gas pipeline, approximately 2.6 miles of 42-inch diameter lateral pipeline, and related above ground facilities.

The BLM, Bureau of Reclamation, U.S. Fish and Wildlife Service, U.S. Forest Service, Natural Resource Conservation Service, U. S. Army Corps of Engineers, the State of Utah Public Lands Policy Coordination Office, and the Board of County Commissioners in Lincoln County, Wyoming, served as Cooperating Agencies in the preparation of the EIS. The BLM decision is based on extensive environmental analyses; consideration of agency, tribal, and public comment; application of pertinent Federal laws and policies; and information contained in the Final EIS for project-related actions affecting the BLM, Bureau of Reclamation, U.S. Forest Service, and U.S. Fish and Wildlife Service lands.

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In what came as a shock to almost everyone in Northeastern Nevada El Paso Corporation, the parent company of the Ruby Pipeline Project, recently made an agreement with two environmental groups, one of which has publicly voiced their opposition to all grazing on public lands. According to a press release from the Western Watersheds Project, based in Idaho, "...El Paso Corporation's Ruby Pipeline, LLC (Ruby) will donate over \$20 million during the next 10 years in cooperation with Western Watersheds Project (WWP) and the Oregon Natural Desert Association (ONDA) to set up two conservation funds to preserve lands and wildlife habitat near the pipeline's route.

Ruby and WWP have established a Sagebrush Habitat Conservation Fund, which will protect and restore sagebrush habitats by purchasing and retiring federal grazing permits offered by willing sellers to benefit native fish and wildlife, including sage grouse and pygmy rabbit. This Fund may also acquire private lands and conservation easements to protect these species."

The Progress asked Elko County Commissioner Demar Dahl what he thought about the news. "I don't think they [El Paso] had a clue what kind of group they were giving the money to." He added that since the news broke he has received at least a hundred phone calls of concern. Dahl said it was disappointing to see such a deal after Elko County worked so hard to support the pipeline. "It's extortion plain and simple," said Dahl. He was referring to the threat of litigation to stall or even stop the pipeline by WWP until this agreement was made.

What really concern's Dahl and ranchers throughout our area is a plan by WWP to use their \$15 million share to buy up and retire grazing rights. WWP sees cattle grazing on public lands as detrimental to native species. This may be a tough fight. The 1934 Taylor Grazing Act and it's supplement, the Federal Land Policy and Management Act of 1976, still require permittees to have a Base Property in order to receive hold a grazing permit. They must also have an operation that is commensurate with the grazing rights, meaning the base property and amount of cattle run must correspond in size or degree; in proportion. This was Dahl's answer to our question regarding a scenario where WWP buy's a forty acre parcel, calls it a ranch, runs five cows on it but uses \$15 million to buy out tens of thousands of acres of grazing rights.

An act of Congress would be needed for WWP to put the money into simply acquiring and retiring grazing rights without putting the land to beneficial use. "You can't own a permit if it's not being used for running livestock," said Dahl.

Elko County's next move remains unclear. Dahl mentioned that he had spoken with his fellow commissioners and the idea of asking El Paso to provide a possible fund for defense litigation against the taking of grazing lands was floated.

"I just don't think they had any idea the kind of group they were dealing with," said Dahl, referring to El Paso's agreement with WWP. He said he had wished their corporate guys had checked with their representatives in Nevada to find out what the WWP was all about.

This action is likely to have huge consequences throughout the West believes Dah. "It's a terrible precedent," he added. The fear now is that environmental groups will simply use a threat of litigation as a way to get 'hush' money from corporations, entities, or even individuals who want to begin a project.

There has been no official statement issued by El Paso Corporation regarding the agreement.