

2010-009614

Klamath County, Oregon



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08/13/2010 08:16:28 AM

Fee: \$67.00

RECORDING REQUESTED BY AND  
RETURN RECORDED DOCUMENT TO:

Ruby Pipeline L.L.C.  
Attn: Manager Land Department  
P.O. Box 1087  
Colorado Springs, CO 80944

Route ID: OR-KL-148  
APN: 4112-1100-300

### RIGHT OF WAY AGREEMENT

Gas Transmission Northwest Corporation, a California Corporation ("Grantor") whose address is Suite 505, 201 West North River Drive, Spokane, Washington 99201, in consideration of value paid by Ruby Pipeline, L.L.C. ("Grantee"), a Delaware Limited Liability Company, whose address is 2 North Nevada, Colorado Springs, CO, 80903, the adequacy and receipt where of are hereby acknowledged, hereby grants to Grantee the right to excavate for, install, replace, repair, maintain, use and remove such pipeline with its fittings, tie-overs, cathodic protection equipment, and all appliances for conveying natural gas (the "PIPELINE") together with adequate protection therefore, together with a right-of-way fifty feet (50') in width within the herein described parcel(s) of land which is/are situated in the County of Klamath, State of Oregon, described as follows, to wit:

**NE1/4 of the NE1/4 of Section 11, Township 41 South, Range 12 East, W.M.  
(The "SITE")**

**more particularly shown on plat No(s) 301AU-001.2 marked EXHIBIT "A" and by this reference made part hereof. Said Right-of-way and Easement granted shall be One-Hundred Fifteen (115) or as required in width during construction and thereafter Fifty (50) Feet in width throughout, extending on, over and across the above described land. (The "EASEMENT AREA")**

GRANTEE shall ensure that the PIPELINE and its use does not interfere with GRANTOR'S present operations; and GRANTEE shall ensure that the PIPELINE and GRANTEE's activities comply with all applicable Federal, State, and local laws, regulations and ordinances and with GRANTOR'S reasonable operational rules and policies in effect at that time (copies available to GRANTEE upon request). GRANTEE agrees that its use of GRANTOR'S property will not materially impact the rights or

interests of GRANTOR, or any other entity which may in the past, present or future coexist on the portion of the SITE occupied or used by GRANTEE hereunder other than as stated in this Agreement. If GRANTOR, its successors or assigns desire to use the SITE in such a manner as would, in GRANTOR'S reasonable judgment, be interfered with by the EASEMENT AREA, GRANTOR shall notify GRANTEE of such interference. Upon receipt of such notice, GRANTEE shall take such steps as necessary in GRANTEE'S reasonable judgment to mitigate such interference. If, in GRANTEE'S reasonable judgment, such interference cannot be mitigated other than by relocation of the PIPELINE, GRANTEE shall relocate the PIPELINE to a location mutually agreeable to GRANTOR and GRANTEE within the SITE. Notwithstanding anything in this Agreement to the contrary, GRANTOR reserves unto itself, its successors and assigns, the right to construct, operate, and maintain additional pipelines, utilities, conduits, and cables across the SITE.

GRANTEE will identify all proposed crossings of GRANTOR'S owned and/or operated pipelines by the GRANTEE'S pipeline on the SITE. GRANTEE will submit plan and cross section drawings to GRANTOR of all proposed crossings, which depict the location of the crossings and the relationship between the crossings and GRANTOR'S owned and/or operated pipelines. GRANTEE agrees that the crossings will adhere to GRANTOR'S reasonable guidelines in effect at the time, unless a deviation is authorized by GRANTOR'S written approval.

GRANTEE shall, unless otherwise requested by GRANTOR, strip the topsoil from the ditch line in the EASEMENT AREA prior to construction, installation and maintenance of the pipeline placed in the SITE, and when backfilling shall replace the topsoil to its original location and condition.

The PIPELINE shall be installed at a depth conforming with industry standards and the requirements of applicable laws.

**DAMAGES.** Except for damages to trees and brush caused by GRANTEE'S clearing efforts, as described below, GRANTEE shall compensate GRANTOR for damages or injury to real or personal property, persons and business operations caused by any construction or activities related to GRANTEE'S PIPELINE in any manner, except to the extent such damages are caused by the gross negligence, recklessness or willful misconduct of GRANTOR or anyone acting on GRANTOR'S behalf.

**INDEMNITY.** To the maximum extent permissible by law, GRANTEE shall indemnify, defend and hold harmless GRANTOR, its affiliates and its employees, contractors and agents from any Claim relating to or arising from (i) any activity by or on behalf of GRANTEE or (ii) the existence or operation of the PIPELINE. "Claim" includes without limit any claim, liability, loss, damage, cost or expense and includes without limit such personal injury or death, property damage, environmental damage, remediation, and business loss, except to the extent such damages are caused by the gross negligence, recklessness or willful misconduct of GRANTOR or anyone acting on GRANTOR'S behalf. If GRANTEE fails to keep any promise or covenant in this Agreement or any amendment thereto, GRANTEE shall pay to GRANTOR all GRANTOR'S reasonable

costs and attorney fees in enforcing performance. Before performing any work by or on behalf of GRANTEE at or adjacent to the EASEMENT AREA, GRANTEE shall provide, maintain and deliver to GRANTOR insurance acceptable to GRANTOR which, except for workers' compensation and contractual liability, names GRANTOR as an additional insured.

ABANDONMENT. Should the GRANTEE decide to abandon the PIPELINE in the SITE, the GRANTEE may, at GRANTOR'S option and in accordance with applicable laws, rules and regulations, either leave the PIPELINE in place or remove it. In the event GRANTOR elects to have GRANTEE remove the PIPELINE, the GRANTEE shall do so at GRANTEE's sole cost and expense, including restoring the SITE as nearly as practicable to its condition prior to removal, and in accordance with applicable laws, rules and regulations, including GRANTOR'S reasonable operational rules and policies in effect at that time. In the event GRANTOR elects to allow GRANTEE to abandon the PIPELINE in place, the GRANTEE shall comply with all laws, rules and regulations relating to such abandonment applicable at that time. In either event, GRANTEE will send to GRANTOR (or the current owner of the SITE) written notice of GRANTEE'S intent and a date by which the PIPELINE in the SITE will be abandoned.

GRANTOR further grants to GRANTEE:

- (a) the right to use such portion of said lands adjacent to and along said EASEMENT AREA as may be reasonably necessary in connection with the installation, repair and replacement of such PIPELINE;
- (b) the right of ingress to and egress from said SITE over and across said lands by means of roads and lanes thereon, if such there be, otherwise by such practicable route or routes as shall occasion the least damage and inconvenience to GRANTOR;
- (c) the right from time to time to trim and to cut down and to clear away any and all trees and brush now or hereafter on said EASEMENT AREA and to trim and to cut down and to clear away any trees on either side of said EASEMENT AREA which in the reasonable judgment of GRANTEE may be a hazard to GRANTEE'S PIPELINE or may interfere with the exercise of GRANTEE'S rights hereunder;
- (d) the right to mark the location of said EASEMENT AREA by suitable markers set in the ground, provided that said markers shall be placed at fence lines or other locations which will not interfere with any reasonable use GRANTOR shall make of said SITE.

GRANTOR reserves the right to use said SITE for purposes which will not interfere with GRANTEE'S full enjoyment of the rights hereby granted. GRANTEE shall not erect or construct any building or other structure, or drill or operate any well, or construct any reservoir or other obstruction on said strip, or diminish or substantially add to the ground cover over said pipelines or any other facilities.

The rights and privileges granted herein are divisible and assignable by GRANTOR in whole or in part, and the terms and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, representors, successors and assigns of the parties hereto. Any assignment of this Agreement by GRANTEE requires the written consent of GRANTOR which shall not be unreasonably withheld.

IN WITNESS WHEREOF the parties have executed these presents this 05 day of June, 2010.

GAS TRANSMISSION NORTHWEST  
CORPORATION

RUBY PIPELINE, LLC  
BY CIG Pipeline Services Company, LLC  
Acting as Construction Manager and Agent

By: Steven J. McNulty  
Name: Steven J. McNulty  
Title: Land Supervisor

By: William H. Healy Jr.  
Name: William H. Healy Jr.  
Title: Vice President

STATE OF Colorado

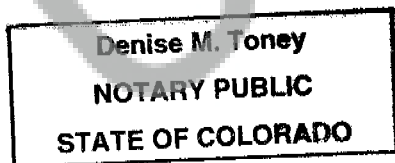
COUNTY OF El Paso

§  
§  
§

On this 05 day of May, 2010, before me appeared William H. Healy Jr., to me personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity and that by his/her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.

Denise M. Toney  
NOTARY PUBLIC  
My Commission Expires:



My commission expires 10/17/2011

STATE OF Spokane §  
COUNTY OF Spokane §  
§

On this 11<sup>th</sup> day of June, 2010, before me appeared Steven J. McWhorter to me personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.



Patricia A. Rigg  
NOTARY PUBLIC  
My Commission Expires: 8/30/2011

STATE OF \_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ §  
§

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me appeared \_\_\_\_\_, to me personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: