



# CENTER FOR BIOLOGICAL DIVERSITY

*VIA FACSIMILE AND U.S. MAIL*

November 28, 2005

Julia Souder  
U.S. Energy Department  
Office of Electricity Delivery and Energy Reliability  
1000 Independence Avenue, SW  
Washington, D.C. 20585  
Fax (202) 586 1472

**Re: Notice of Intent to Prepare a Programmatic Environmental Impact Statement for Designation of Energy Corridors on Federal Land in the 11 Western States.**

Dear Ms. Souder,

The Center for Biological Diversity ("Center") submits these comments on the scope of the Programmatic Environmental Impact Statement for Designation of Energy Corridors on Federal Land in the 11 Western States ("PEIS") in response to the Notice of Intent to Prepare the PEIS published in the Federal Register on September 28, 2005 ("NOI"). 70 Fed. Reg. 56647-49. The Center is a non-profit environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 15,000 members throughout the western United States.

These comments are based on the NOI and information found on the project website at <http://corridoreis.anl.gov>.

## Baseline and No Action Alternative

The PEIS must provide an environmental baseline that can be used to fairly assess the environmental impacts of the proposed project. The environmental baseline should only include existing utility corridors in the affected area as the baseline. A comprehensive map should be prepared for the PEIS that shows the location of the existing utility corridors. The existing utility corridors should be used as the baseline and as the No Action Alternative in the PEIS.

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Lisa Belenky, Staff Attorney  
1095 Market Street, Suite 511 • San Francisco, CA 94103  
Tel.: (415) 436-9682 ext. 307 • Fax: (415) 436-9683  
Email: [lbelenky@biologicaldiversity.org](mailto:lbelenky@biologicaldiversity.org) • [www.biologicaldiversity.org](http://www.biologicaldiversity.org)

Unfortunately, rather than define the No Action Alternative in a straightforward manner, the definition of the No Action Alternative in the NOI will undermine meaningful environmental review. If the No Action alternative provided in the NOI is used in the PEIS it will not provide a meaningful baseline against which to evaluate the impacts of the proposed project. Indeed, the language in the NOI provides no meaningful limit to the speculative projects may be included in the No Action Alternative in the PEIS.

As proposed in the NOI, the No Action Alternative does not provide a basis for the PEIS to compare existing utility corridors with the proposed corridors. See 70 Fed. Reg. at 56648. Rather, the approach in the NOI would lead the PEIS to only compare designating corridors under the “coordinated approach,” mandated by the Act, with designating corridors on an agency by agency basis. As stated in the NOI:

Under the No Action alternative, no new energy corridors would be designated through this coordinated approach. The No Action alternative will identify the environmental impacts associated with each of the Agencies continuing to designate energy corridors through the use of their present practices.

70 Fed. Reg. at 56648. This approach fundamentally misunderstands the purpose of the PEIS. The PEIS it is not required to evaluate the environmental impact of the Act by which Congress mandated that the Agencies coordinate to designate energy corridors in eleven western states. See Energy Policy Act, Sec. 368(a). Rather, the purpose of the PEIS is to evaluate the impact of the actual designation of energy corridors by the Agencies on the environment. Even the NOI elsewhere acknowledges this purpose: “The Proposed Action in this PEIS is to designate corridors on Federal land in the eleven western states ....” 70 Fed. Reg. at 26648.

Because the NOI mis-identifies the No Action Alternative, relying on this No Action Alternative will undermine the stated purpose of the PEIS. If the PEIS uses this faulty No Action Alternative, which fails to provide a meaningful environmental baseline, the PEIS will not be able to provide meaningful environmental review of the impacts of the corridor designation and will, by definition, violate NEPA.

Therefore, the No Action Alternative should be re-defined. The PEIS should include a No Action Alternative that provides a meaningful baseline for environmental review that includes only existing energy corridors in the eleven western states.

#### Range of Alternatives

The PEIS should include an alternative that would decrease the number of existing utility corridors and consolidate corridors in order to reduce habitat fragmentation. Preservation of large areas of habitat without roads or utility corridors will increase the chances of survival and recovery for many rare, threatened, endangered and special status species.

The PEIS should include an alternative that examines the impacts of utility corridors of different widths. Very wide corridors and areas of disturbance will decrease the ability of many species to cross these corridors and increase the adverse impacts to those species. The PEIS

should also consider a range of potential mitigation measures that include corridor crossings suitable for many different species.

The PEIS should also include an alternative that minimizes impacts to riparian areas and water resources.

### Impacts to Biological Resources

Impacts to biological resources including, but not limited to impacts to rare, threatened, endangered, and special status species and their habitats should be identified and analyzed in detail. This must include direct loss of habitat to proposed utility corridors, indirect loss of habitat due to the growth inducing impacts of utility corridors, and cumulative impacts from the utility corridors and other foreseeable or proposed projects in these areas. Impacts may include, but are not limited to, impacts due to repair and maintenance activities (even where increased utilization of existing corridors is contemplated), fragmentation of habitat, loss of access to riparian areas, increased mortality due to direct impacts of power lines, increased mortality due to use of existing roads and newly constructed access roads, impacts due to loss of connectivity, and edge effects where utility corridors cross existing habitat. Direct, indirect, and cumulative impacts to air and water quality must also be considered in the PEIS as well as the impacts to biological resources from loss of water resources, loss of riparian areas, and degraded water and air quality.

For example, the impacts of high power electric lines on raptors and other birds are well known. The PEIS must analyze the direct, indirect, and cumulative impacts of new power lines in newly proposed utility corridors as well as increased use of existing corridors. As another example, the impacts of pipelines constructed across or along riparian areas must be examined. The PEIS must address the direct, indirect, and cumulative impacts that the loss of riparian areas (or limiting access to riparian areas) will have on biological resources including, but not limited to, riparian dependent species and migratory species. The PEIS must analyze the impacts including, but not limited to, direct loss of riparian vegetation and habitat, direct changes to water courses due to dredging and filling, impacts from construction and maintenance of pipelines, risks to water quality and risk of direct loss of species due to pollution from broken pipelines, and loss of native stream beds and habitat where pipelines and or maintenance roads cross riparian areas.

### NEPA and Subsequent Site-Specific Review

NEPA requires site-specific environmental review of all federal actions that are likely to effect the environment. As the NOI acknowledges, a programmatic EIS will be unable to identify and analyze environmental effects of specific projects. 70 Fed. Reg. at 56648 (“Any new proposed project activities . . . would be analyzed in subsequent NEPA analyses which would involve notice and comment.”). Where a project may impact protected, threatened, endangered, or rare species a site-specific EIS is required. In addition, whenever a project may impact protected species, formal consultation with the Fish and Wildlife Service will be required as well as consultation with state wildlife agencies regarding state-protected species and plant communities.

Section 368(c)(2) of the Energy Policy Act of 2005, directs the Secretaries to establish procedures that

“expedite applications to construct or modify oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities within such corridors, taking into account prior analyses and environmental reviews undertaken during the designation of such corridors.”

However, nothing in the language of the Act changes the requirements of NEPA or the ESA, or limits the extent of site-specific environmental review. See Why the West-wide Energy Corridor Programmatic EIS is Needed at <http://corridoreis.anl.gov/eis/why/index.cfm> (“Nothing in the Energy Policy Act changes the requirements of environmental laws such as the Endangered Species Act, the National Historic Preservation Act, the Clean Water Act, and the Clean Air Act.”)

The Agencies stress that subsequent environmental review documents that rely on the PEIS need not repeat the analysis provided in the PEIS. See Energy Corridor Basics at <http://corridoreis.anl.gov> (“Reducing duplicative assessment of generic environmental impacts by focusing further impact assessment on site-specific (on-the-ground) environmental studies to determine route suitability and appropriate mitigation”). This is the case for any subsequent environmental review that relies on earlier programmatic review. However, subsequent environmental review must provide detailed, site-specific analysis of the direct, indirect and cumulative impacts of the site-specific proposed projects, must provide updated information that was not available at the time the PEIS was prepared, and must provide a forum for public review and comment.

Therefore, the PEIS should include explicit language acknowledging that where a project may impact biological resources including, but not limited to, protected, threatened, endangered, or rare species or their habitats, a subsequent EIS will be prepared that thoroughly identifies and analyzes the impacts of the proposed project activities. Likewise, the PEIS should contain explicit language acknowledging that any proposed project that may affect riparian areas, water resources, or water or air quality will be thoroughly analyzed in a site-specific EIS.

Thank you for your consideration of these comments. Please send all future notices and correspondence to my attention at Center for Biological Diversity, 1095 Market Street, Suite 511, San Francisco, CA 94103.

Sincerely,



Lisa Belenky  
Staff Attorney