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**CC:**  
**Subject:** Energy Corridor Programmatic EIS Comment 80021  
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**Attachments:** [Energy\\_Corridor\\_ScopingComments\\_80021.doc](#)

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Thank you for your comment, Bruce Pendery.

The comment tracking number that has been assigned to your comment is 80021. Please refer to the tracking number in all correspondence relating to this comment.

Comment Date: November 22, 2005 01:57:26PM CDT

Energy Corridor Programmatic EIS Scoping Comment: 80021

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Attachment: C:\Documents and Settings\Bruce\My Documents\Text Files\WOC--Staff Attorney\Misc\Energy Corridor ScopingComments.doc

Comment Submitted:

See attachd comments

Questions about submitting comments over the Web? Contact us at:  
[corridoreiswebmaster@anl.gov](mailto:corridoreiswebmaster@anl.gov) or call the Energy Corridor Programmatic EIS  
Webmaster at (630)252-6182.

November 23, 2005

*Delivered via electronic mail and Federal Express*

Office of Electricity Delivery and Energy Reliability  
Room 8H-033  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, DC 20585

**Re: Scoping Comments for the West-wide Energy Corridor Programmatic  
Environmental Impact Statement**

To Whom It May Concern:

Please accept these comments on behalf of the Wyoming Outdoor Council regarding the West-Wide Energy Corridor Programmatic Environmental Impact Statement (PEIS).

**A. The PEIS Must Fully And Adequately Examine All Cumulative Impacts And  
Actions, As Well As All Similar And Connected Actions.**

The analysis of impacts included in the PEIS must address the cumulative impacts of both the proposed energy corridors and other foreseeable similar and connected activities within the same general areas. In this regard, the agencies must avail themselves of information regarding energy corridors being presently used, proposed, or studied by the States and the Federal Energy Regulatory Commission, as well as private entities.

In this case, the agencies' obligation to analyze impacts must encompass not only the proposed corridors, but also the cumulative impacts of the corridors, taken together with the impacts of existing, proposed, or reasonably foreseeable projects, on the environment. Thus, the agencies must analyze the cumulative impacts not just of the proposed corridors, but also of other projects that will impact resources in common with this proposed action.

In addition, once energy corridors are put in place, it is reasonably foreseeable that energy development projects will proceed and increase based on the location of those corridors – indeed, that is the entire purpose of this initiative: to increase the opportunities for energy development projects. The increased level of projects that is likely to occur around these

corridors will have a correspondingly increased level of impacts on the surrounding lands. For instance, branch power lines will need to be constructed to make best use of the power lines in the approved corridors. Similarly, pipelines will likely support additional oil and gas development projects and also require construction of feeder pipelines. We specifically request that consideration be given to whether the designation of energy corridors is likely to facilitate or hasten the construction of coal fired power plants.

The increased level of energy development projects that will follow these corridors are also connected, as the individual projects (such as an oil and gas development project) will be inextricably linked to the corridors. Similarly, the clustering of projects to access the transmission corridors is likely to have a cumulatively significant effect on the resources in the area. And, since the additional energy development projects will be tied, at least to some extent, to the location of the corridors, these projects are certainly similar in terms of geography.

In order to fulfill the mandate of NEPA that the agencies make an informed assessment of the environmental consequences of their actions, the agencies can and should take these connected, cumulative and similar actions into effect and perform a cumulative impact analysis of their potential effects on the overall Western landscapes. “It is not appropriate to defer consideration of cumulative impacts to a future date when meaningful consideration can be given now.”<sup>1</sup>

## **B. Special Places And Landscapes Must Not Be Designated Energy Corridors.**

There are a number of sensitive landscapes and special places that must not be designated as energy corridors. In some cases these areas cannot legally be designated as an energy corridor, in other cases the areas should be avoided so as to protect resources from unneeded harm. These areas include:

1. Wilderness Areas;
2. Wilderness Study Areas (WSAs);
3. National Parks;
4. National Wildlife Refuges;
5. National Monuments;
6. National Conservation Areas;
7. Other lands within BLM’s National Landscape Conservation System (NLCS), such as Outstanding Natural Areas;
8. National Historic and National Scenic Trails;
9. National Wild, Scenic, and Recreational Rivers, study rivers and segments, and eligible rivers and segments;
10. BLM Areas of Critical Environmental Concern (ACECs);
11. Forest Service Roadless Areas; and
12. Citizen Proposed Wilderness Areas.

While we believe it is of primary importance that no energy corridor pass directly through any of the types of areas listed above, it is equally important that energy corridors do not infringe

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<sup>1</sup> Kern v. United States Bureau of Land Management, 284 F.3d at 1075.

on the recreational enjoyment of certain types of areas or otherwise interfere with their natural function or other special values. As a result, we recommend that energy corridors not be sited immediately adjacent to these areas, particularly if doing so would degrade the viewshed or likewise invalidate an area's potential for designation as wilderness.

We would like to specifically request that the South Pass area in Fremont, Sublette, and Sweetwater Counties, Wyoming, not be designated as an energy corridor, especially for overhead transmission lines. This area is of overwhelming historic importance and intrusions into this area, especially of overhead power lines would destroy its historical value. The historical values of this area have been documented in the BLM's Environmental Assessment for the Dickie Spring Placer Gold Exploration Project (June 2005), which we incorporate into these comments by this reference.

We believe there are a number of substantive provisions of law that require these areas to not be designated as energy corridors. Of course, there are the obvious prohibitions, such as those in the Wilderness Act and the National Park Service Organic Act which prohibit the designation of energy corridors in National Parks and Wilderness Areas. But there are a number of other substantive provisions of law that make it necessary to avoid the above-referenced areas. These include section 110 of the National Historic Preservation Act (federal undertakings cannot be approved until to the maximum extent possible and agency undertakes planning and actions "to minimize harm" to National Historic Landmarks), Section 7(a)(2) of the Endangered Species Act (prohibiting federal action that jeopardizes listed species or that may destroy or adversely modify critical habitat), section 302(b) of the Federal Land Policy and Management Act (requiring BLM to take "any" action needed to prevent unnecessary or undue degradation of the public land), etc.

The significance of these substantive provisions of law is that they change the nature of the analysis that must be conducted pursuant to the National Environmental Policy Act. (NEPA) Quite simply, the agencies cannot undertake actions that violate these and other provisions of law, and thus the NEPA analysis must be conducted with these responsibilities in mind, and the decision document must reflect the duties that attach under these provisions, including ensuring the above-referenced areas are not intruded on so as to not violate these and other provisions of law.

### **C. Site- And Use-Specific Analysis Must Be Conducted Prior To Designation And Approval Of Energy Corridors.**

The scope of NEPA analysis must be appropriate to the scope of the proposed action.<sup>2</sup> In the context of this PEIS, the future approval of individual corridors must be based on specific analysis of the proposed locations and uses of the corridors. If the PEIS will not seek to approve individual corridors or take the place of site-specific analysis, then the scope of NEPA analysis can be focused more on the general types of impacts and the overall effect of this policy initiative, as is most common for a programmatic EIS. However, if the PEIS will commit the agencies to a specific course of action, such as authorizing actual corridors for use, then a site-specific and use-specific analysis of each corridor must be completed. For purposes

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<sup>2</sup> Kern v. United States Bureau of Land Management, 284 F.3d 1062, 1072 (9<sup>th</sup> Cir. 2002).

of the PEIS for energy corridors, if this document will be used to justify placement of corridors or take the place of later analysis based on the site and anticipated use of individual corridors, then this document must contain thorough site and use-specific analysis for each corridor.

We ask that the PEIS include commitments to conduct site-specific NEPA analyses when individual corridor locations and proposed uses are identified. In fact, BLM's resource management plans and project-level EISs often state that site-specific analysis is not possible until a particular activity, such as a pipeline, is proposed. This approach would also be consistent with the NEPA regulation governing tiering environmental analysis for a site-specific action to a broader programmatic EIS. The regulation envisions that agencies can tier to a "broad environmental impact statement" so that the subsequent environmental document "shall concentrate on the issues specific to the subsequent action." 40 C.F.R. § 1502.20. In the context of the PEIS, this broader programmatic document should analyze the general effects of an increased network of corridors. However, tiering to this type of analysis cannot support the approval of individual corridors, which would require a NEPA analysis of the environmental consequences, as "specific to the subsequent action," be included in the PEIS.

#### **D. The Range Of Potential Uses Of The Corridors Must Be Considered.**

In order to adequately analyze the potential environmental impacts of these corridors, the agencies must consider the different types and degrees of effects that could result from different uses. The scoping notice confirms that these corridors may be used for "oil, gas and hydrogen pipelines and electricity transmission and distribution facilities." The effects of these uses may be quite different, due to the differences in equipment, construction efforts, maintenance needs, etc. Conceivably, some or all of these uses may occur in the same corridor. The agencies should identify the likely environmental consequences from the full range of these uses – both alone and in combination.

#### **E. The Range Of Alternatives Must Include Environmentally Protective Approaches.**

Whether an alternative is "reasonable" or not turns on whether it will accomplish the stated purpose for the project. For this PEIS, the stated purpose is to designate corridors on federal land in the eleven contiguous Western states for oil, gas and hydrogen pipelines and electricity transmission and distribution facilities. In order to fulfill this purpose, the PEIS must contain a range of alternatives that takes into account the many values of the public lands that are likely to be impacted by the designation of corridors, including the direct, indirect and cumulative impacts of the corridors, as discussed in detail above, and which contemplates "more ecologically sound courses of action" to protect these values. This approach is consistent with NEPA's requirement for agency's to seek to mitigate identified environmental impacts and discuss mitigation measures in an EIS. 40 C.F.R. §§ 1502.14, 1502.16. Moreover, the intent of NEPA is to foster excellent agency action, advance and adopt the policies of NEPA, avoid or minimize adverse impacts, serve as an action-forcing device to ensure the policies and goals of NEPA are infused into the programs and actions of agencies, and state how the "requirements" of sections 101 and 102(1) of NEPA will be achieved. *Id.* §§ 1500.1(c), 1500.2(a), 1502.1, 1502.2(d). Thus, environmental protective approaches must be considered, and in fact adoption of these alternatives should be given preference in order to advance the purposes of NEPA.

In addition to the alternatives identified in the scoping notice, we recommend that the agencies consider the following, environmentally preferable alternatives in detail:

1. **Limit corridors to areas adjacent to federal highways and other major state and municipal roadways/maximize use of existing infrastructure** – these areas are already established corridors and placing corridors in these areas is unlikely to significantly increase the environmental consequences of the existing uses and will be less damaging than creating new corridors. In Wyoming, the existing I-80 corridor should be used to the maximum extent possible. Where existing infrastructure can be used—such as existing towers for power lines—preference should be given to this economical use of resources.
2. **Avoidance of sensitive areas** – the agencies can take this opportunity to contribute to the protection of sensitive areas and resources, such as critical wildlife habitat and lands with wilderness characteristics.
3. **Limit the uses approved for corridors based on the other values that may be affected** – for instance, if a corridor is designated in important wildlife habitat, then uses of the corridor could be limited to activities that have a one-time construction effort and limited maintenance requirement.
4. **Designate corridors for overhead power lines or for underground pipelines, but not both, as needed to protect environmental values.** This approach would help ensure that incompatible uses are not permitted in areas where they should not be allowed. Not all corridors should be approved for all uses.

#### **F. Use The Wind Energy EIS As A Model.**

In June, 2005, the Department of the Interior released its Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States. Many aspects of the Wind Energy PEIS represent a well thought out structure for completing a programmatic environmental impact statement, which includes a broad analysis of environmental consequences and mandatory mitigation measures, as well as a directed approach for completing project-specific analysis. We recommend that the agencies utilize a similar approach for completing the West-wide Energy Corridor PEIS.

Specifically, the PEIS explicitly outlined Best Management Practices (BMPs) and made the incorporation of these BMPs mandatory for all projects. In addition, the Wind Energy PEIS required development of additional site-specific mitigation measures in connection with the analysis and approval of individual projects. We recommend that the agencies include mandatory BMPs in this PEIS at both the general and specific level. In addition, many of the BMPs identified in the Wind Energy PEIS are also applicable to the development of energy corridors as part of this PEIS. The Wind Energy PEIS identified BMPs for five stages of development: Site Monitoring and Testing, Plan of Development Preparation, Construction, Operation, and Decommissioning. For each stage in the development of wind energy, BMPs were identified to mitigate the effects of or on the following:

1. Wildlife and Other Ecological Resources;

2. Visual Resources;
3. Roads;
4. Transportation;
5. Noise;
6. Noxious Weeds and Pesticides;
7. Cultural/Historic Resources;
8. Paleontological Resources;
9. Hazardous Materials and Waste Management;
10. Storm Water;
11. Human Health and Safety;
12. Air Emissions; and
13. Excavations and Blasting Activities.

The Wind Energy PEIS listed the Resource Management Plans (RMPs) that must be amended or revised in order to comply with the PEIS. The agencies should likewise identify RMPs, Forest Plans or other governing agency documents affected by this PEIS.

The Wind Energy PEIS also specifically acknowledged the importance of keeping development out of special lands and identified areas from which wind energy development would be excluded. The PEIS excluded all Wilderness, BLM NLCS lands and ACECs from consideration for development of wind energy (including transmission lines). While this is a good start, the agencies should go a step further and adhere to the list of places to avoid provided above.

#### **G. Avoid and Mitigate Habitat Fragmentation.**

Fragmentation of wildlife habitat affects the ecological composition, structure, and functions of a landscape. Although fragmentation can be difficult to measure, there are a variety of metrics that can be used to assess the degree of existing habitat fragmentation and the condition of the landscape, then applied to available data regarding distribution of wildlife and habitat, and ultimately used to make decisions regarding appropriate locations for energy corridors. We ask that the agencies complete such an analysis as part of the PEIS.

With respect to habitat fragmentation, we ask that the following reports be considered:

1. The Wilderness Society 2005. Wildlife at a Crossroads: Energy Development in Western Wyoming. Effects of Roads on Habitat in the Upper Green River Valley. Available at <http://www.wilderness.org/Library/reports.cfm>. This report evaluates the impact of energy development on four wildlife species in the Upper Green River Valley and makes management recommendations to the BLM.
2. The Wilderness Society. 2002. Fragmenting Our Land: The Ecological Footprint from Oil and Gas Development. A Spatial Analysis of a Wyoming Gas Field. Available at <http://www.wilderness.org/Library/reports.cfm>. Landscape analysis of Upper Green River basin in Wyoming shows that oil and gas drilling and extraction cause significant fragmentation of habitat. Conclusion: similar analysis needed for proposed oil and gas projects.

3. The Wilderness Society. 2003. Ecological Effects of a Transportation Network on Wildlife: A Spatial Analysis of the Upper Missouri River Breaks National Monument. Available at <http://www.wilderness.org/Library/reports.cfm>. A spatial analysis of the Upper Missouri River Breaks National Monument. This report presents compelling evidence that the current transportation network in the Upper Missouri River Breaks National Monument has had a significant impact on wildlife populations and other fragile resources across the landscape
4. Wyoming Game and Fish Department. 2004. Recommendations For Development Of Oil And Gas Resources Within Crucial And Important Wildlife Habitats. 183 pp. Available at: <http://gf.state.wy.us/downloads/pdf/og.pdf>. This report presents what the Wyoming Game and Fish Department views as appropriate mitigation measures in the face of different levels of energy development, and thus BLM must consider these recommendations in the final EIS, and in our view adopt these state policies, or at a minimum present a clear and justified basis for rejecting any of the measures.
5. Annual report the impacts of energy development on big game species in the Upper Green River Valley, Wyoming, including the effects of habitat fragmentation. [http://www.west-inc.com/big\\_game\\_reports.php](http://www.west-inc.com/big_game_reports.php)

#### **H. Impacts To Air Quality Must Be Considered.**

These energy corridors could serve as a tremendous inducement to industries creating substantial air pollution, such as power plants and oil and gas facilities. Therefore, the PEIS must consider the potential effect of designating energy corridors on air pollution. The effects of this designation on Class I areas should be considered, as should the ability of States to submit approvable State Implementation Plans under EPA's regional haze rule should also be considered.

#### **I. Preference Should Be Given To Providing Corridors For Renewable Energy.**

Facilitating the use of renewable energies has become a national priority. One of the strongest limits on the use of these kinds of energy is access to a grid for transport of the energy from where it is generated to where it is used. This is particularly true of wind energy. Thus, the PEIS should seek to give preference to creating corridors for the transport of renewable forms of energy, will full consideration being given to the issues identified above.

Thank you for considering these comments.

Sincerely,

Bruce Pendery

