



United States Department of the Interior

NATIONAL PARK SERVICE
Pacific West Region
1111 Jackson Street, Suite 700
Oakland, California 94607-4807



IN REPLY REFER TO:

D50 (PWR-FM)

DEC 29 2005

Ms. Julia Souder
U.S. Department of Energy
Office of Electricity, Delivery, and Energy Reliability
1000 Independence Avenue, SW
Washington, DC 20585

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

Dear Ms. Souder:

The Pacific West Region (PWR) of the National Park Service (NPS) submits the following comments on the Notice of Intent to Prepare a Programmatic Environmental Impact Statement (PEIS), Designation of Energy Corridors on Federal Land in the 11 Western States (Project) prepared by the Office of Electricity Delivery and Energy Reliability, Department of Energy (DOE) and the Bureau of Land Management (BLM), Department of the Interior (DOI).

The NPS is participating in the planning process because NPS units in the PWR may be impacted by the project. The 11 western states identified in the NOI include: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The PWR encompasses all NPS units in California, Idaho, Nevada, Oregon, and Washington and a few NPS units in Arizona and Montana. Energy corridors that may impact NPS units in Colorado, New Mexico, Utah, Wyoming, and the majority of Arizona and Montana should be coordinated with the Regional Director for the Intermountain Region located in Denver, Colorado.

General Comments

The NPS recognizes the challenges to energy supply and reliability in the western United States. However, the primary mission of the NPS is to preserve and protect the National Parks, Recreation Areas, and Historic Sites for the American people. In general, energy utility corridors are not compatible with NPS units. These areas are specifically set aside for preservation and recreation. The NPS clearly states that the PEIS should not include utility corridors through National Park units and the action alternatives should include a statement to the effect that NPS units will not be considered for new energy utility corridors.

The PWR is unable to identify specific units that would be impacted directly, indirectly, or cumulatively by the project because new energy utility corridors have not yet been identified. However, the NPS is concerned that early stage maps from the California Energy Commission appear to identify corridors through NPS units in California. The NPS requests that our comments and concerns be addressed when the project team is identifying improvements to existing corridors or proposing new corridors.

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Legal Authority

Section 368 of the Energy Policy Act of 2005, 109 P.L. 58, 119 Stat. 593 (August 8, 2005) provides that the respective Secretaries, including the Secretary of the Interior, will "designate, *under their respective authorities*, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the eleven contiguous Western States (as defined in section 103(o) of the Federal Land and Policy Management Act of 1976) . . ." (Emphasis added.) The Act requires this to be done within two years of the date of enactment of the Act, and the agencies are also required to "incorporate the designated corridors into the relevant agency land use and resource management plans or equivalent plans."

As provided in the Reference Manual 53, Appendix 5, the NPS authorizes utilities to use lands administered by NPS through NPS right-of-way permits. NPS has only limited legal authority to permit right-of-ways for energy corridors. There must be specific statutory authority to allow the use for which a right-of-way permit is requested. There are no statutory authorities to allow NPS to issue right-of-way permits for oil, gas, or other petroleum product pipelines. Consequently, NPS has no authority to designate corridors for these purposes.

With respect to electricity transmission and distribution facilities, RM-53, Appendix 5 provides that 16 U.S.C. 79 is the authority to be used. This statute provides that electric transmission and distribution rights-of-way shall not exceed 50 feet on each side of the centerline. The statute also provides that the permits are revocable at the discretion of the NPS. In addition, NPS 2001 Management Policies, Section 8.6.4.2, provides that right-of-way permits are "discretionary, and conditional upon a finding by the Service that the proposed use will not cause unacceptable impacts to park resources, values, or purposes, and is not incompatible with the public interest." Similarly, RM-53, Appendix 5 states that NPS is under "congressional mandate not to allow any use of NPS land that would impair or be a derogation of the values and purposes for which the park was authorized or be incompatible with the public interest, except when authorized by Congress."

Land and Water Conservation Fund

The Land and Water Fund (LWCF) is a conservation program established by Congress in 1964 to create parks and open spaces; to protect wilderness, wetlands and refuges; to preserve wildlife and to enhance recreational opportunities. Property acquired or developed with LWCF assistance is to be retained and used for public outdoor recreation. Property acquired or developed with LWCF assistance may not be wholly or partially converted to uses other than public outdoor recreation without the prior, written approval of the NPS Regional Director. The Regional Director's decision is based on the criteria contained in the LWCF Act and its implementing regulations. See 16 U.S.C. § 4601 -8 and 36 C.F.R. Part 59.

Conversion decisions trigger National Environmental Policy Act (NEPA) compliance obligations, which are carried out by the party seeking the conversion, subject to NPS review and approval. The NPS will only consider conversion requests submitted by a local Park and Recreation Departments. All applications must conform to the application procedures contained in 36 C.F.R. Part 59. The NPS Regional Director has the discretionary authority to approve or disapprove a conversion request. Designation of a utility corridor on land acquired or developed with LWCF assistance would constitute a "conversion" of park land to non-park uses because the project would limit and diminish the public outdoor recreation value of these parks and lands within new rights-of-way. As a result, the Project Proponent must initiate the process for conversion approval with local park managers, who would then

make the determination of whether to forward the conversion requests through the State for ultimate approval by the NPS Regional Director.

The PEIS should mention that approval of a parkland conversion is a necessary, legal precursor for projects proposed for construction on lands acquired or developed with LWCF grants. For such projects, the NPS would determine whether to approve the conversion and this decision would be based on a NEPA document prepared by the project proponent. For projects approved by the NPS, the NPS would enter in a binding, written agreement with the project proponent to ensure that the project is carried out in accordance with the terms and conditions of the NEPA decision document.

PEIS Alternatives

The PEIS should consider alternatives to improve the long-term health of public lands. Existing lines should be removed and co-located whenever possible. Removing towers and lines will prevent wildlife mortality caused by powerline maintenance and construction activities, bird electrocutions and collisions with powerlines, and impacts on special status and wildlife species. Undergrounding lines in existing disturbed utility corridors could restore habitats; vegetation resources impacted by decades of line maintenance and ground clearing, and restore visual resources. Undergrounding would allow the obliteration of powerline maintenance roads, preventing the recurrence of erosion and sedimentation. Additionally, co-locating and undergrounding utilities would be a positive gesture to surrounding communities. Recreational users of the watershed, wildlife enthusiasts and neighbors alike would applaud the vision of those who look to restore our scenic open spaces. The NPS urges DOE and BLM to consider and propose a truly environmentally preferred alternative including co-locating and undergrounding lines where appropriate.

Additionally, it is imperative that the proposed corridors be adequately defined to create meaningful impact analysis. An accurate, complete, and final project description is essential to preparing an adequate PEIS.

Resource Impacts

The Project's impact on natural resources, cultural resources, visual resources, and recreation could be significant and permanent. Impacts will vary depending upon the width of the utility corridor, the type of utility being constructed, and the landscape. However impacts will be permanent and the PEIS should consider the permanent nature of the impacts when evaluating impact intensity. For example, mowing or clearing along transmission lines permanently alters the landscape, becoming a barrier to animal movement and an opportunity for invasive plant species.

Natural resource impacts should be thoroughly evaluated in the PEIS. Construction and operation associated with the action alternatives are likely to impact natural resources including wildlife, geology and soils, paleontological resources, hydrologic systems, water quality, and air quality. The PEIS will need some site-specific detail, particularly for resource topics including vegetation and endangered species. The PEIS should do more than offer boilerplate listings of the varied biological communities surrounding the project. The PEIS should analyze some site-specific impacts to vegetation and wildlife from utility installation and associated activities.

Ground disturbance will have severe and permanent implications for multiple native vegetation communities, the wildlife dependent upon them, and wildlife corridors. Ultimately, no mitigation measures can remedy the permanent clearing of the corridors proposed for the project. Plowing permanently removes acres of vegetation per mile, impacting the mammals, birds, and insects that utilize

those native habitats. Furthermore, plowing the utility corridor can allow the invasion of non-native vegetation which further threatens the native species adjacent to the cleared areas. In essence, the NPS is concerned that the utility corridors and subsequent development will further fragment and isolate parklands into “islands” of habitat leading to reduced biological diversity and stress on sensitive species.

The NPS manages natural resources to protect the integrity of ecosystems and impacts should also be evaluated on a regional level to ensure features such as watersheds and wildlife corridors are considered. Regional evaluation would allow the NPS to appraise impacts to multiple park units. Following are potential impacts to natural resources that should be addressed in the PEIS:

- Loss of habitat along energy corridor alignments, construction staging areas, and associated permanent support facilities and infrastructure.
- Impact of construction and earthmoving activities as related to disruption of vegetative cover, introduction of invasive species, compacted soils, access roads, disturbed surfaces, erosion, sedimentation in waterways, and hazardous materials.
- Impacts to riparian and wetland areas.
- Impacts to unique and aesthetically pleasing geologic formations, as well as those of scientific interest and impacts from geohazards such as unstable soils or fault areas.
- Disruption of regional wildlife movement by linear corridors with the physical nature of the infrastructure including fencing, presenting a barrier to wildlife movement.
- Impacts from light pollution and night sky values, both short term construction impacts and long term operational impacts for permanent facilities.
- Impacts to paleontological resources from construction and operation.
- Impacts to the natural soundscape, including construction and long term operational noise.

In addition to natural resources, construction and operation activities could result in impacts to cultural resources. Infrastructure removal, consolidation, and new facility development along with increased operation and maintenance have the potential to disturb, degrade, or damage archeological sites, historic structures or features, cultural landscapes, and sites of ethnographic importance. The PEIS should adequately draw the Area of Potential Effect in accordance with Section 106 of the National Historic Preservation Act (NHPA) to encompass all areas potentially impacted by the undertaking. Projects should be designed to avoid impacts to cultural resources.

Proposed utility corridors adjacent to NPS units also have the potential to result in significant impacts to recreation and scenic quality. Long linear corridors of energy transmission infrastructure may parallel or transect historic or recreational trails such as the Juan Bautista de Anza National Historic Trail through Arizona and California. These trails often pass through multiple jurisdictions connecting open spaces with multiple opportunities for recreation. The PEIS should evaluate the indirect impacts to recreation from constructing and maintaining energy corridors adjacent to or visible from recreation corridors. In addition, the NPS is directly concerned with utility corridors that are visible from NPS units. The PEIS should include the average and peak height of proposed towers along each corridor. One of the important features of many NPS units is the separation from the built environment or the preservation of an historic environment. Utility corridors are generally not compatible with the recreation experience in a National Park.

Land Use Planning

The management of each unit of the NPS is guided by the enabling legislation for that unit along with the General Management Plan. These guiding documents set forth the primary purpose of each unit, identify the types of facilities and uses that are permitted, and provide direction on how the resources shall be managed. The PEIS should identify conflicts between the project and existing NPS General Management Plans. In addition, the PEIS should take into consideration Special Resource Studies being conducted by the NPS for units to be included in the NPS system. Consultation should occur to identify sites that are under study by the NPS and avoid altering the existing conditions.

In addition to direct impacts to NPS planning, the PEIS should evaluate the indirect and cumulative impacts to land use in the vicinity of NPS units. It is unclear whether the project would lead to growth inducing impacts including the development of new towns and cities in areas that were previously unoccupied or agricultural lands. The PEIS should include an evaluation of the corresponding impacts from potential development to infrastructure including roads, water, and sewer utilities in areas adjacent to NPS units. In addition, the PEIS should identify and evaluate the indirect impacts to existing utilities from the proposed new corridors. For example, new substations may be required to handle new higher voltage electrical lines.

In summary, the NPS requests that the project not locate utility corridors on or adjacent to NPS units in the PWR. In addition, NPS will request detailed site specific studies including site specific Environmental Impact Statements for projects that may impact NPS resources. The NPS units affected by the project will work with the project team to provide specific information about resources in the area. If conflicts are unavoidable, the NPS PWR will work with the project team to avoid, lessen, or mitigate impacts to the greatest extent feasible.

Thank you for consideration of these comments. Please direct questions to Jonathan Gervais, an Environmental Protection Specialist, on our staff at (510) 817-1536.

Sincerely,

Patricia L. Neubacher

Jonathan B. Jarvis, Regional Director, Pacific West Region

cc:

Mike Snyder, Regional Director, Intermountain Region
Field Solicitor, SF Field Office

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