



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

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HTNF - S.O.

Ms. Marnie Bonesteel
Humboldt-Toiyabe National Forest
Bordertown to California 120 kV Transmission Line
1200 Franklin Way
Sparks, Nevada 89431

Subject: Proposed Bordertown to California 120 kV Transmission Line Project, Sierra County, CA and Washoe County, NV (CEQ#20140352)

Dear Ms. Bonesteel:

The U.S. Environmental Protection Agency has reviewed the Draft Environmental Impact Statement for the proposed Bordertown to California 120 kV Transmission Line Project pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508) and our NEPA review authority under § 309 of the Clean Air Act.

Following our review of the DEIS, we are concerned with the lack of sufficient information to determine the extent of direct, indirect and cumulative impacts to air and water resources. Due to these concerns, we have rated the DEIS as *Environmental Concerns – Insufficient Information* (EC-2). We recommend that the Final EIS include estimates of the proposed project's direct and indirect air emissions, and demonstrate how the project would comply with Clean Air Act General Conformity requirements and section 404 of the Clean Water Act. Please see the enclosed "Summary of EPA Rating Definitions" and Detailed Comments for further information regarding our concerns and recommendations.

We appreciate the opportunity to review this DEIS and are available to discuss our comments. Please send a hard copy of the FEIS to this office at the above address (mail code ENF-4-2) when it is officially filed with EPA's electronic EIS submittal tool: *e-NEPA*. If you have any questions, please contact me at (415) 972-3521, or contact Scott Sysum, the lead reviewer for this project, at (415) 972-3742 or sysum.scott@epa.gov.

Sincerely,

A handwritten signature in blue ink, which appears to read "Kathleen Martyn Goforth", is written over a horizontal line.

Kathleen Martyn Goforth, Manager
Environmental Review Section

Enclosures:

- (1) Summary of EPA Rating Definitions
- (2) EPA's Detailed Comments

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement.

ENVIRONMENTAL IMPACT OF THE ACTION

“LO” (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

“EC” (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

“EO” (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

“EU” (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. The EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality.

ADEQUACY OF THE IMPACT STATEMENT

Category “1” (Adequate)

The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category “2” (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category “3” (Inadequate)

The EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

US EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE PROPOSED BORDERTOWN TO CALIFORNIA 120 KV TRANSMISSION LINE PROJECT, SIERRA COUNTY, CA AND WASHOE COUNTY, NV, JANUARY 26, 2015

Air Quality

The Draft EIS does not provide any estimates of emissions of criteria pollutants or greenhouse gases for the construction or life of the project, nor does it demonstrate compliance with the General Conformity requirements of the Clean Air Act. The General Conformity Rule requires that Federal actions in air quality nonattainment and maintenance areas conform to the applicable state implementation plan for attainment of national ambient air quality standards. The Draft EIS states: “The potential direct and indirect impacts on air quality were analyzed and quantified using the impact indicator listed below.

- Emissions of criteria pollutants (CO, lead, NO₂, O₃, PM₁₀, PM_{2.5}, and SO₂) anticipated from construction, operation, and maintenance of the proposed project, and whether these emissions exceed the NAAQS.”

No mention is made of the need to comply with California Ambient Air Quality Standards established by the California Air Resources Board. California has set standards for certain pollutants, such as particulate matter and ozone that are more protective of public health than are the NAAQS. California has also set standards for some pollutants that are not addressed by federal standards.

As noted on page 3-22 of the Draft EIS, the proposed project may traverse sections of the community of Verdi area, which is developed with residential properties, and would be located an unspecified distance from an elementary school and library. Sensitive receptors, especially children are more sensitive to health impacts from PM₁₀, PM_{2.5} and toxic air emissions.

Recommendations:

- *Quantify Emissions* – In the Final EIS, provide estimates of criteria pollutant emissions from potential construction activities and operation of the proposed project and discuss the timeframe for release of these emissions over the lifespan of the project. Consider the direct, indirect, and cumulative impacts of the proposed project’s air emissions, and describe mitigation measures that would minimize these emissions and impacts.
- *General Conformity* – Using the emissions estimates, determine whether the emissions would be below or above de minimis levels established pursuant to the Clean Air Act. If emissions would be above de minimis levels, perform a general conformity determination.
- *Specify Emission Sources* – The Final EIS should specify the emission sources, by pollutant, from mobile sources, stationary sources, and ground disturbance. This source-specific information should be used to identify appropriate mitigation measures and areas in need of the greatest attention.
- *Equipment Emissions Mitigation Plan* – The EPA suggests the Final EIS include an EEMP. An EEMP would identify actions to reduce diesel particulates, carbon monoxide, hydrocarbons, and NO_x associated with construction activities. We recommend that the EEMP require that all construction-related engines:

- Are tuned to the engine manufacturer's specification in accordance with an appropriate time frame.
 - Do not idle for more than five minutes (unless it is necessary for the operating scope of the equipment and operation).
 - Are not tampered with in order to increase engine horsepower.
 - Include particulate traps, oxidation catalysts and other suitable control devices on all construction equipment used at the project site.
 - Use diesel fuel having a sulfur content of 15 parts per million or less, or other suitable alternative diesel fuel, unless such fuel cannot be reasonably procured in the market area.
 - Include control devices to reduce air emissions. The determination of which equipment is suitable for control devices should be made by an independent Licensed Mechanical Engineer. Equipment suitable for control devices may include drilling equipment, generators, compressors, graders, bulldozers, and dump trucks.
- *Fugitive Dust Control Plan* - The Final EIS should identify the need for a *Fugitive Dust Control Plan* to meet the requirements of the Northern Sierra Air Quality Management District Regulation II Rule 226 and State of Nevada requirements for a Surface Area Disturbance Dust Control Plan.
 - Consider a mitigation measure that would provide advanced notification to sensitive receptors of the potential effects of PM10 and PM2.5, as well as toxic air contaminants. We recommend that such notification be provided concurrently with advanced notification of construction for noise impacts.

Clean Water Act Section 404

The discharge of fill to a water of the U.S. requires a Clean Water Act section 404 permit from the U.S. Army Corps of Engineers. In order to be permitted under section 404, the proposed project must be the Least Environmentally Damaging Practicable Alternative and must comply with the 404 (b)(1) Guidelines, which require that projects first avoid, then minimize, and, finally, mitigate any impacts to waters of the U.S.. The Draft EIS indicates that waters of the U.S. may be present within the analysis area, but that no jurisdictional delineation has been completed (p.3-52). A jurisdictional delineation would enable the applicant to use the flexibility inherent in transmission line design (e.g., the ability to adjust tower placement and access roads) to determine which alignment constitutes the LEDPA. In the absence of an approved jurisdictional delineation, we are unable to determine whether or not the section 404 requirements would be met.

Recommendations:

Include the results of a jurisdictional delineation in the Final EIS, and describe the status of consultations with the Army Corps of Engineers regarding a CWA Section 404 permit, and the Proposed Project's compliance with the 404 (b)(1) Guidelines.

The Final EIS should quantify potential impacts to waters of the U.S. to the best extent possible and disclose any uncertainty in the quantification methodology.

To the extent any aquatic features that could be affected by the project are determined not to constitute waters of the United States, the EPA recommends that the Final EIS characterize the

functions of such features and discuss mitigation. Under Executive Order 11990 Protection of Wetlands, the Final EIS should specifically discuss mitigation opportunities for impacts to non-jurisdictional wetlands.

Climate Change

On December 18, 2014, the Council on Environmental Quality released revised draft guidance for public comment that describes how Federal departments and agencies should consider the effects of greenhouse gas emissions and climate change in their National Environmental Policy Act reviews. The revised draft guidance supersedes the draft greenhouse gas and climate change guidance released by CEQ in February 2010. This guidance explains that agencies should consider both the potential effects of a proposed action on climate change, as indicated by its estimated greenhouse gas emissions, and the implications of climate change for the environmental effects of a proposed action.

“CEQ recognizes that many agency NEPA analyses to date have concluded that GHG emissions from an individual agency action will have small, if any, potential climate change effects. Government action occurs incrementally, program-by-program and step-by-step, and climate impacts are not attributable to any single action, but are exacerbated by a series of smaller decisions, including decisions made by the government. Therefore, the statement that emissions from a government action or approval represents only a small fraction of global emissions is more a statement about the nature of climate change challenge, and is not an appropriate basis for deciding whether to consider climate impacts under NEPA. Moreover, these comparisons are not an appropriate method for characterizing the potential impacts associated with a proposed action and its alternatives and mitigations¹.”

The revised draft guidance suggests that, if an agency determines that evaluating the effects of GHG emissions would not be useful in the decision making process and to the public to distinguish between the proposed action, alternatives and mitigations, the agency should document the rationale for that determination.

The DEIS provides only summary conclusions regarding potential GHG emissions associated with the proposed project and how climate change may influence the potential impacts of the action alternatives.

Recommendation:

Provide additional information in the Final EIS regarding potential GHG emissions, consistent with the recent CEQ guidance

Soils

On p. 3-56, the Draft EIS states: “The potential for soil erosion would be minimized through design features (Appendix B) that require the effective implementation of BMPs and restoration of temporary project-related surface disturbances.” Although the design features for the project are listed, the BMPs are not identified.

¹ Council on Environmental Quality. *Guidance on Considering Climate Change in NEPA Reviews*. Dec 2014. Print.

Also on page 3-56, the Draft EIS states: "To minimize the potential for soil compaction during construction, design feature SO 1 would prohibit the use of heavy equipment when soils are wet." The design feature SO 1 is missing from the list of Project Design Features in Appendix B.

Recommendations:

In the Final EIS, identify the BMPs that would be required by the listed design features..

Update the list of Project Design Features in Appendix B of the Final EIS to include design feature SO 1.