



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

INTERGOVERNMENTAL AFFAIRS

In reply refer to: AIR-Portland

April 1, 2024

Attn: Amanda Milburn - Lolo Plan Revision

Lolo National Forest Supervisor's Office
24 Fort Missoula Rd
Missoula, MT 59804

Comments submitted electronically:

<https://www.fs.usda.gov/goto/lolo/planrevision>; or via email to SM.FS.LNFRrevision@usda.gov.

Dear Ms. Milburn,

The Bonneville Power Administration (BPA), U.S. Department of Energy, respectfully submits comments to the Forest Service (FS) on the Notice of Intent (NOI) to Prepare an Environmental Impact Statement published in the Federal Register, Vol. 89, No. 21, p. 6088 on Wednesday, January 31, 2024.

The NOI states that this notice initiates the scoping process, which will guide the development of the EIS. It also states that comments will also be analyzed to:

- (a) Complete the identification of the Need to Change the existing land management plan (Draft Preliminary Need to Change or DPNTC),
- (b) Further develop the proposed action (Preliminary Draft Land Management Plan or Forest Plan); and
- (c) Identify potential significant issues and these significant issues will, in turn, form the basis for developing alternatives to the proposed action.

BPA offers comments on all of these: Scoping, DPNTC, Forest Plan and significant issues that should be developed for alternatives to the proposed action.

BPA is a federal agency and one of four public power marketing administrations with the U.S. Department of Energy. BPA delivers reliable, affordable, and carbon-free hydropower produced in the Columbia River Basin to communities across the Northwest. BPA is an engine of the Northwest's economic prosperity and environmental sustainability. Today, nearly 3 million people and more than 1.2 million jobs depend on BPA power.

BPA operates and maintains about 15,000 miles of high-voltage transmission in its service territory. BPA's territory includes Idaho, Oregon, Washington, western Montana and small parts of eastern Montana, California, Nevada, Utah, and Wyoming. BPA has over 1,500 circuit miles of transmission on federal public lands administered by the FS and the Bureau of Land Management (BLM). It also has an extensive access road network on NFS land.

Congress authorized BPA to construct, operate and maintain transmission lines in the Pacific Northwest pursuant to the Bonneville Project Act, 16 USC §832 et seq., the Federal Columbia River Transmission System Act, 16 USC § 838 et seq, the Department of Energy Reorganization Act, 42 USC §7152 and the Pacific Northwest Electric Power Planning and Conservation Act, 16 USC §839 et seq.

BPA's Footprint in Lolo National Forest

BPA has numerous special use authorizations that allow it to construct, operate and maintain transmission lines on the NFS along linear rights-of-way (ROW) in the Lolo National Forest (LNF). There are eight transmission lines covering approximately 209-line miles. *See Appendix A.*

The first line, then called Spokane-Hot Springs (now Taft-Hot Springs), was transferred to the LNF's jurisdiction in 1953. Subsequent transmission line authorizations were issued to BPA under various Memoranda of Understanding between our two federal agencies in the 1960s and 1980s and remain valid special use authorizations with no expiration dates. All authorizations allow BPA to manage vegetation and operate and maintain infrastructure in and adjacent to these ROWs.

Additionally, BPA has the Taft Substation, five communication sites and associated access roads which are permitted in the LNF. *See Appendix A.* BPA's substation and its communications sites support the operation of its federally owned, public power transmission system which delivers carbon-free hydropower across the Northwest. For brevity's sake, BPA will refer to its rights-of-ways, transmission lines, overhead ground wires, other supporting infrastructure, access roads, substation and communication uses, beam paths and communication sites collectively as "Transmission Facilities."

I. BPA's Comments on Forest Plan Documents

First, BPA finds the DPNTC and the Draft Forest Plan to contain some very thoughtful acknowledgements of the changing landscape when it comes to utility corridors and management of vegetation and infrastructure to maintain reliable transmission systems and reduce wildfire risks.

BPA's comments and recommendations are intended to improve on the good work that the LNF has developed to date. We hope that BPA and the LNF can continue to discuss how the two federal agencies can cooperate moving forward as the EIS is drafted and the DPNTC and Forest Plans are revised.

BPA has several recommendations for the FS to address that are discussed later in this document and in Appendix B and include recommendations regarding:

- a. Mapping the utility corridors which cross the LNF and assuring that all transmission line rights-of-ways are defined as utility corridors.
- b. Creating desired conditions, an additional management area or other objectives, goals, standards or guidelines that enable actions to manage rights of way and adjacent lands to improve reliability and reduce wildfire risk consistent with congressional direction.
 - i. Create a linear management/geographic area specific to a contiguous area in and along the powerline ROW. This would reflect values and local conditions needed to address the social and economic need of the communities when it comes to assuring reliable power and wildfire risk reduction and management. See related concept in LNF Proposed Guideline 02.
 - ii. Accommodate the utilities need to meet mandatory reliability and other industry standards for transmission facilities.
- c. Specifying the powerline ROWs or property adjacent to powerlines as unsuitable for wilderness, backcountry, prescribed burns or management of old growth.
- d. Assuring utilities can manage vegetation in and adjacent to powerlines to meet reliability standards and reduce all wildfire ignition risks, not just risks of high severity fires.
- e. Addressing risks of vegetation caused outages inadvertently caused by FS actions (e.g., timber harvest or sale practices, shaded fuel breaks, vegetation treatments).
- f. Defining terminology (e.g., "intended uses", "utility or energy corridors").
- g. Indicating whether the FS will be conducting new proposed actions or whether the FS intends to require the utility to be responsible for undertaking additional vegetation maintenance.

A. New Significant Policies since 1986

BPA would ask that the Forest Plan Documents be revised to expressly recognize and account for new policies and procedures as well as changes in economic and social conditions as follows:

- (1) FLPMA Section 512, 43 USC § 1772 (2018); (2) FSH Directives 2709.11, chapter 80 on Powerlines (2022); (3) Executive Order 14057, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability; and (4) EO 14072 Strengthening the Nation’s Forests, Communities, and Local Economies (which LNF did recognize in the DPTNC).

Some details on these new policies are listed below.

(1) Recognize that Congress enhanced federal law, in Section 512 of Federal Land Policy and Management Act (FLPMA), by directing the FS to assure owners of electric or powerline facilities, including transmission lines and accompanying infrastructure, can maintain, and manage these ROWs. Congress found that this transmission line management is not only critical to reducing wildfire risks but also to assuring the reliability of the nation’s electric grid according to regulatory standards adopted per 16 U.S.C. 824o.

(2) The FS issued Directives on Powerlines as mandated by FLPMA Section 512. See Forest Service Handbook 2709.11, Special Uses Handbook, Chapter 80 – Operating Plans and Agreements for Powerline Facilities.

The Directives start with the following:

The Directives implement the requirements in section 512 of FLPMA. FLPMA governs the development, review, and approval of proposed operating plans and agreements for vegetation management, inspection, and operation and maintenance of powerline facilities on NFS lands inside the linear right-of-way for powerline facilities and felling and pruning of hazard trees on NFS lands adjacent to either side of the linear right-of-way.

They address the need to:

- (a) “provide for long-term, cost-effective, efficient, and timely inspection, operation and maintenance, and vegetation management of powerline facilities on NFS lands. ...
- (b) “address inspection, operation and maintenance, and vegetation management within the linear rights-of-way for powerline facilities and felling and pruning of hazard trees on NFS lands adjacent to either side of the linear rights-of-way. ...”; and
- (c) “address electrical grid reliability, public safety, and avoidance of fire hazards.”

BPA would like to make sure that the plan components recognize these objectives. See below and Appendix B for recommendations.

(3) Acknowledge the FS has a role in implementing EO14057, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability. This recognizes that the Federal Government faces broad exposure to the mounting risks and costs already posed by the climate crisis.¹ In responding to this crisis, the EO states that we have a once-in-a-generation economic opportunity to transform how we build, buy, and manage electricity...” This includes using its power to achieve “Climate resilient infrastructure and operations.” Section 101 states that:

It is therefore the policy of my Administration for the Federal Government to lead by example in order to achieve a carbon pollution-free electricity sector by 2035 and net-zero emissions economy-wide by no later than 2050.

The BPA transmission system is and will continue to be important to move generation from where it is produced with new carbon pollution free resources to where it is needed.

B. Specific Comments on 2.2.7 “Other Integrated Multiple Uses” Section

BPA is grateful that the LNF has recognized the substantial footprint that transmission lines have within the forest.

Specifically, LNF has called out that:

There are over 1,000 miles of transmission lines in the LNF with associated rights-of-ways established for this special use, and over 900 miles of this are within priority firesheds as defined by the Wildfire Crisis Strategy—the highest mileage of any national forest in the Northern Region. The management of vegetation conditions in these areas is a key element of ensuring that they are resilient to wildfires and continue to provide important public services.

Appendix A of this letter contains a static map of the location of BPA lines, communication sites and substation within LNF. BPA has over 200-line miles on the LNF, which represents a significant portion of the transmission line facility footprint in the Forest.

The static map in Appendix A does not reflect the new areas that the draft Forest Plan proposes or the firesheds identified in the Wildland Fire Crisis Strategy or the LEAP. Thus, it is very difficult to ascertain the impacts of the proposed areas or implications of the firesheds. BPA wishes to reserve the right to make further comments on the scoping plan and other Forest documents once it can visually see how the proposal impacts its facilities.

¹ 86 Fed. Reg. 70,935 (Dec. 13, 2021), <https://www.federalregister.gov/documents/2021/12/13/2021-27114/catalyzing-clean-energy-industries-and-jobs-through-federal-sustainability>.

1. Recommendation to Map Transmission Lines

BPA believes it would be a major step forward if the LNF would develop an online interactive map to allow BPA and the public to view the plan components relative to BPA's transmission lines and other points of interest for the public. This could be done in an ArcGIS Online or AGOL environment as part of the next revision of the Forest Plan. BPA provides geospatial information for its transmission line for public use at: [Bonneville Power Administration ArcGIS Online](#). An interactive map that includes this information would enable all the utilities and the public to see how these lines support the region and communities and align with the Forest Plan. BPA's transmission system and facilities have been present in the LNF area for 75 years. It is important to memorialize their location as they will continue to be needed now and for the foreseeable future in their current locations. If a public mapping application is not available BPA requests that geospatial layers showing the plan be shared in the BPA/ USFS Data Sharing Application on ArcGIS Online. This will ensure that BPA can determine how BPA transmission facilities are impacted by the proposed Forest plan changes.

The lines clearly have a major impact on the socioeconomic well-being of the area. Mapping these areas would be beneficial for numerous reasons. First, the need to recognize how these lines support the entire surrounding community and region would be highlighted. Unlike other special uses, transmission facilities are critical infrastructure to support public health and safety and the prosperity of communities and businesses. Additionally, they are critical to reach the nation's energy and renewable goals as emphasized per the Executive Orders mentioned previously. Second, it would be critical to see how the Wildland Fire Crisis Strategy and the utilities' vegetation management efforts overlap or conflict.

2. Suggestions on Draft Preliminary Need to Change Document (DPNTC) – Page 17 et al.

BPA notes that the Draft Preliminary Need to Change (DPNTC) states it “will be revised throughout the plan development process, and ultimately published with the proposed action.” BPA offers some observations, some requests for clarification and some revisions/additions for LNF's consideration.

BPA would ask the LNF recognize the unique needs that utility/powerline special use holders have when it comes to managing utility corridors for vegetation conditions.²

The DPNTC states it needs to ensure consistency with the utility corridor information.³ BPA is not clear what the latter reference is meant to convey, so it would appreciate some clarification or discussion with the LNF on that reference.

² 4.2.2. Terrestrial Ecosystems: There is a need...

“• For plan content that defines and supports vegetation conditions necessary to achieve a range of outcomes, including the delivery of ecosystem services, recognizing the unique needs of specific areas such as the wildland-urban interface, developed recreation areas, and utility corridors; and”

The DPNTC also states it seeks “updated programmatic guidance on issuing and renewing special use permits for utility corridors” and direction for expanding or authorizing new utility right-of-way and communication sites.⁴

As noted above, Congress provided the following guidance:

To enhance the reliability of the electric grid and reduce the threat of wildfire damage to, and wildfire caused by vegetation-related conditions within, electric transmission and distribution rights-of-way and abutting Federal land, including hazard trees, the Secretary concerned shall issue and periodically update guidance to ensure that provisions are appropriately developed and implemented for utility vegetation management, facility inspection, and operation and maintenance of rights-of-way, regardless of the means by which the rights-of-way are established (including by grant, special use authorization, and easement). 43 USC § 1772(b)(1).

The Secretary did issue that guidance in response to Congressional direction highlighting the need to support a reliable transmission grid. In turn, the objective was for the FS to be responsive to the needs to the industry as it seeks to upgrade and expand their facilities to maintain and enhance system reliability.

Additionally, BPA would offer that EO 14057 indicates this requires an all of government effort to “transform how we build, buy, and manage electricity...” This includes directing the FS and its staff to help achieve “climate resilient infrastructure and operations” and “to achieve a carbon pollution-free electricity sector by 2035 and net-zero emissions economy-wide by no later than 2050.”

As noted above, BPA delivers reliable, affordable, and carbon-free hydropower produced in the Columbia River Basin to communities across the Northwest using its transmission system, including the transmission lines and communication sites that support the system. This is specific guidance related to the federal entities that provide carbon free electricity, like BPA.

While this guidance may not be as specific as the LNF would like regarding siting new facilities, it indicates that BPA’s government operated and maintained transmission facilities are critical to building a reliable electrical grid and are also key to reaching governmental goals relating to renewable energy integration.

³ 4.3.4 Lands

“• For the revised plan to incorporate and ensure consistency with the latest utility corridor information.”

⁴ 4.3.4 Lands (continued)

“• For updated programmatic direction on issuing and renewing special use permits for ditches, diversions, electronic sites, utility corridors, and residences.

• For plan direction for utility rights-of-way and communication sites to help guide decisions about expanding permitted sites and authorizing new sites or corridors.”

3. Comments and Recommendations on High Priority Desired Conditions, Goals, Objectives, Standards and Guidelines

a. *High Priority Plan Components*

The LNF has included several very helpful plan components that recognize the new policies BPA referred to above. It is refreshing to see the LNF acknowledge the electrical utility industry and its contributions to the socioeconomic fabric of the communities and the region. For the ones BPA finds are its highest priority, BPA seeks some clarification to determine if the language is being interpreted in the manner that the LNF intended.

BPA has coded its comments as follows:

Clarifying (underlined/yellow highlights),

Revising (*Italics/Purple*) or

Adding (**Bold/red**).

BPA-# for newly proposed language

Desired Conditions

10 Utility corridors and communication sites provide for their intended uses. Obsolete or unused facilities are not present in the landscape.

BPA is not sure what “provide for intended uses” means. Does the LNF intend for this to mean that the special use holder is able to construct, operate, and maintain transmission facilities.

BPA requests that the LNF clarify the meaning of “utility corridors”. BPA would recommend that any transmission line ROW be considered a corridor, regardless of whether additional lines can be sited in that same corridor. There are many engineering and reliability standards that influence whether additional lines can be sited in the same corridor.

12 Special use authorizations support the public’s energy, communication, and infrastructure needs.

This is helpful because it is possible that the public may need additional transmission facilities in the future to serve its energy needs.

NEW Desired Condition

Specify Transmission Facilities Are Unsuitable for Certain Management Actions/Areas

BPA #1 – Unsuitable Designation

BPA #1 - Areas in and adjacent to transmission line rights-of-way should be deemed unsuitable for wilderness areas, backcountry, roadless areas, prescribed burn areas or other designations that would interfere with the utilities ability to cost effectively and reliably maintain and operate the transmission facilities.

Comments/Revisions on Goal 05 (FW-LAND-GO)

First, BPA supports 05 and finds it to be a very beneficial goal. It recognizes FLPMA Section 512.

05 The LNF works with utility providers to reduce the risk of powerline-caused ignitions which may lead to a wildfire, the loss of power, or the damage or loss of powerline infrastructure.

Explanatory Comment and Small Revision to 05.

BPA would request that the LNF consider revising 05 to add “in a cost-effective manner” at the end. There are times when the FS seeks to impose steps to reduce the risks that cannot be implemented due to the cost that these would add to transmission line maintenance which is passed onto consumers. BPA believes there are generally alternative cost-effective methods that are also effective. FLPMA Section 512 mentions that one of its goals is to allow the utilities to engage in cost effective operations.

Clarification/Comments on Objective 02 (FW-LAND-OBJ)

BPA finds that 02 is a great conceptual Objective. However, it seeks to clarify how it would be implemented.

02 Over the life of the plan, create shaded fuels breaks or implement other fuels reduction treatments within and adjacent to 50 miles of powerline corridor rights of way to reduce the risk of ignitions from trees falling on lines and damage to the infrastructure from wildfire.

BPA has the following clarifying questions and concerns on 02-OBJ.

1. Is this objective one that the LNF intends to carry out as its own action?
2. BPA assumes the intention would be to leave no trees large enough to fall into a transmission line. BPA would be concerned if only smaller trees are removed leaving

behind large trees that may no longer be able to tolerate winds without the protection created by the smaller trees.

3. BPA would want to be assured that fuel reduction treatments do not include prescribed burns in the rights of way and that prescribed burns adjacent to the ROW are only done in coordination with BPA when it is possible to manage the risks. Fire and smoke pose a risk to electrical transmission facilities and smoke near the lines can create an unsafe condition for people on the ground.

Clarification/Comments on Standard 01 (FW-LAND-STD)

01 Vegetation treatment within utility corridors and along linear transmission facilities shall meet facility safety requirements.

BPA finds that Standard 01 is very helpful. However, BPA seeks to clarify how it would apply and be implemented.

1. Is this referring to the FS's vegetation treatment activities? If so then it would be helpful if the facility safety requirements were defined so that it would be clear that it would include complying with safety requirements BPA provides regarding logging and similar activities near BPA transmission lines.
2. Is it meant to refer to the work that utilities undertake? If so, then it would be helpful to make it clear that these include industry standards such as NERC/WECC, OSHA, NESC.
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3. If it is meant to be both, consider revising to make that clearer and address our items 1 and 2 in this section.

⁵ Grid reliability is the provision of an adequate, secure, and stable flow of electricity as consumers may need it. In other words, when you flip the light switch, the lights turn on. The NERC reliability standards require owners of transmission lines to have a vegetation management program to assure that trees do not interfere with or fall into transmission lines, historically a major cause of cascading blackouts. BPA is not only subject to utility reliability standards issued by FERC, NERC, and, as applicable, the regional entity designated by NERC (e.g., the Western Electricity Coordination Council (WECC)) but also other standards, including the National Electrical Safety Code (NESC) and standards issued by the Occupational Safety and Health Administration (OSHA) and the American National Standards Institute (ANSI). It notes this to make sure the FS recognizes the complex regulatory scheme BPA needs to follow to operate and maintain powerlines on all ROWs on all types of land its lines cross.

Comments/Clarifications/Recommendations on Guideline 02 (FW-LAND-GDL)

BPA finds that 02 is a very helpful Guideline but seeks clarification.

02 When shaded fuel breaks are being constructed to reduce the risk of wildfire along powerline rights-of-ways, the width of treatment should be wider than a single tree length where trees species may be prone to windthrow, and regenerative growth should be removed periodically.

BPA seeks the following clarifications and offers recommendations.

1. Is the LNF to be responsible for undertaking this type of action?
2. Would the LNF be responsible for removing the regenerative growth?

BPA asks that this be revised to remove the word “species” to include any trees no matter the species that are at increased risk of windthrow due to thinning or harvest activities. Aggressive understory thinning and harvest can leave large trees that are temporarily prone to windthrow creating a hazard for the transmission line and increasing the risk of an off right of way tree falling into the line and causing a fire.

b. Other Comments, Requested Clarifications and Recommendations on Other Desired Conditions, Goals, Objectives, Standards and Guidelines

BPA has set forth some other comments, requested clarifications and recommendations in Appendix B and it would ask the LNF to consider these as it moves forward with its EIS and revising the Forest Plan.

II. Assure that the Statement of Need and Purpose for the EIS is Scoped Broadly

While developing the EIS, BPA would respectfully request that the LNF make sure that the following points are addressed:

- (1) Develop the Purpose and Need statements so that the FS can consider management strategies that reduce wildfire ignition risk from powerlines.
- (2) Assure the effects analysis includes how each action alternative would impact transmission lines; specifically, the ability to maintain transmission line ROWs and respond to wildfire events.
- (3) Analyzes criteria in the Planning Rule (36 CFR §§ 219.8 to 219.11) that relate specifically to transmission line special use permits, their associated communication and substation sites and their socioeconomic impacts and renewable energy contribution; and
- (4) Address how amending the proposed desired conditions, goals, objectives, standards and guidelines to create a linear utility corridor management strategy and how that would enable transmission line management to reduce wildfire ignition risks. Treat transmission lines that

have been there for 50 plus years as “utility corridors” even if there is no room for additional lines in that current location.

III. Application of Forest Plan Amendments: Valid Existing Rights

In Section 1.6 of the Proposed Action, the FS states:

As required by the National Forest Management Act and the 2012 Planning Rule, subject to *valid existing or statutory rights*, all projects and activities authorized by the Forest Service after approval of this plan must be consistent with the applicable plan components (16 U.S.C. 1604(i)) as described at 36 CFR 219.15....

“Authorizations for occupancy and use made before this plan approval may proceed unchanged until time of reauthorization....”

(emphasis added)

BPA appreciates that the Forest Service recognizes the valid existing rights called out in the statute. It would request the FS clearly specify that this is the case moving forward for any desired conditions, objectives, goals, standards or guidelines or new forestwide, management or other areas that could be imposed on BPA’s existing transmission lines, communication sites or substation by virtue of the Revised Forest Plan.

This valid right would include the entire scope of the authorization (construct, operate and maintain). Thus, any operation or maintenance of these facilities would be exempt from new plan requirements, even if the existing special use authorization may refer to FS review or approval of these activities.⁶

For the record, Congress did not expressly grant the Forest Service the authority to apply plans retroactively in the National Forest Management Act (NFMA). NFMA governs forest plans and forest plan revisions and amendments for the United States Forest Service. *See* 16 U.S.C. § 1600 et seq. (2018).⁷

⁶ As noted above, the 1986 LNF Plan language states the following on transmission corridors: “As these corridors are identified, the acreage within them will be deleted from the management areas they cross.” III-14.

⁷ Section 1604(f)(4) states that forest plans shall “be amended in any manner whatsoever.” Section 1604(i) states:

(i) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights. [emphasis added]

The Ninth Circuit Court of Appeals, using the well-established legal principle that administrative rules will not have retroactive effect unless Congress clearly authorized that effect, has repeatedly held that revisions to a forest plan cannot be applied retroactively to valid existing rights.

The Ninth Circuit has recognized this principle in several cases over the decades.⁸ BPA would also point out that as a federal agency, Section 507 of FLPMA states that the Secretary “shall take no action to terminate, or otherwise limit, that use without consent of the head of such department or agency.”⁹

Thus, BPA believes that NFMA’s statutory language, its case law and FLPMA clearly provide that revisions to forest plans cannot be retroactively applied to BPA’s valid existing special use authorizations or permits or any revisions thereto.

Conclusion

BPA is looking forward to working with the LNF as it develops this plan, the EIS, and other documents over the upcoming years. BPA would welcome an opportunity to discuss our comments and answer any questions about them that you may have. BPA may be able to provide more meaningful feedback once the LNF has an opportunity to clarify the intent in some areas in response to our questions.

Sincerely,

Holly Harwood

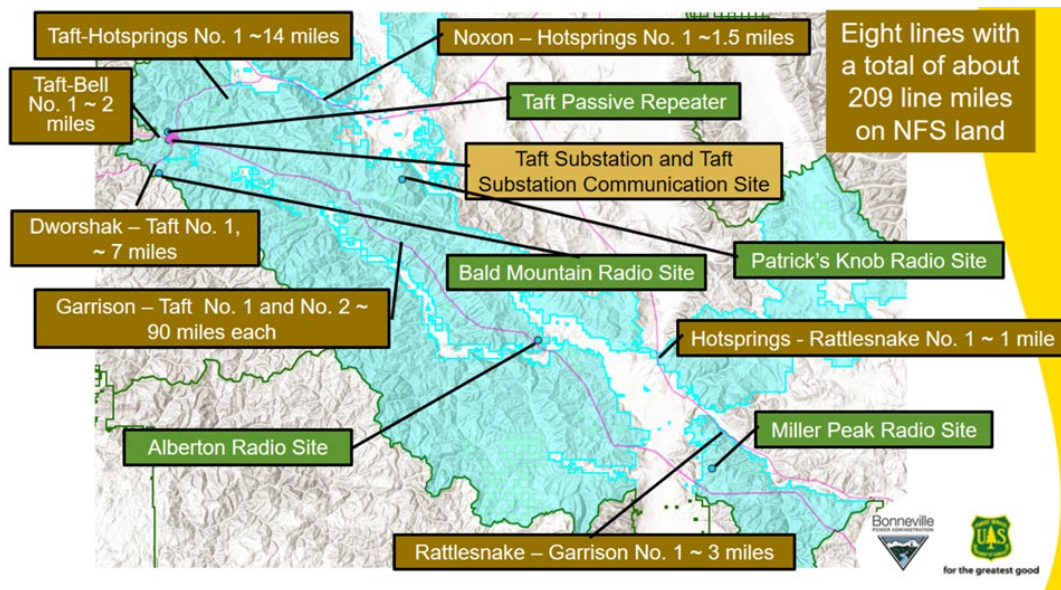
Constituent Account Executive, Federal Lands Liaison

c: Kate Wilson, BPA Constituent Account Executive, Montana

⁸ See *Forest Guardians v. Dombeck*, 131 F.3d 1309, 1311-13 (9th Cir. 1997) (holding that the Forest Service’s revisions to the Sierra Nevada Region forest plan, which enacted new standards and guidelines, could not be applied retroactively against valid existing timber rights given pursuant to the old plan); *Friends of Southeast’s Future v. Morrison*, 153 F.3d 1059, 1070 (9th Cir.1998) (Congress did not expressly grant the Forest Service the authority to apply plans retroactively in NFMA); *Sierra Forest Legacy v. Sherman*, 646 F.3d 1161, 1191 (9th Cir. 2011) (interpreting Section 1604(i) and held that “...the omission of any reference to retroactivity, does not by any means demonstrate ‘a clear Congressional intent’ to authorize amendments that have a retroactive effect,” so Forest Service could not apply a forest plan amendment retroactively to a previously authorized timber sale).

⁹ 43 USC §1767(b) (“Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.”)

Appendix A – BPA Infrastructure



Transmission Lines

	Line Name	Length in Feet	Length in Miles
1	Dworshak-Taft No. 1	34668.2	6.57
2	Garrison-Taft No. 1	478,561.51	90.63
3	Garrison-Taft No. 2	480,314.96	90.97
4	Hot Springs -Rattlesnake No. 1	3925.86	0.74
5	Noxon- Hot Springs No.1	7925.68	1.50
6	Rattlesnake Garrison No. 1	15875.01	3.01
7	Taft Bell No. 1	12,267.91	2.31
8	Taft Hot Springs No. 1	72277.90	13.69

Communication Sites

STA-CODE	Site Name	TLM District	State	Forest Name
MILP	Miller Peak	KALISPELL	MT	Lolo National Forest
PATS	Patricks Knob	KALISPELL	MT	Lolo National Forest
BALD	Bald Mountain	BELL	MT	Lolo National Forest
TAFT	Taft Sub.	KALISPELL	MT	Lolo National Forest
TAPR	Taft P.R.	KALISPELL	MT	Lolo National Forest

Substation

STA-CODE	Site Name	TLM District	State	Forest Name
TAFT	Taft	KALISPELL	MT	Lolo National Forest

Appendix B

Desired Conditions

BPA #2 -NEW DC

Provide efficient land management protections for existing transmission corridors to enable cost effective maintenance critical climate resilient infrastructure and reduce wildfire ignition risks.

>BPA asks the LNF add this desired condition given the EO 14057 direction.

DC 08 Fuel conditions in proximity to energy corridors are at low risk of contributing to high severity wildfire.

> (Should there be a reference to all wildfires, not just high severity? Can we create a new desired condition or add a separate one - see below. Is the FS seeking to reduce fuel loads? BPA would also like clarity on the definition of energy corridors.)

BPA # 3 – DC

Fuel conditions adjacent to transmission line special uses are at low risk of contributing to wildfires.

>BPA's vegetation management goal is to accomplish this result. See width of treatment comment in Guideline 02 comments.

Standards (FW-LAND-STD)

BPA believes another standard adding Infrastructure maintenance would be in order. See below.

BPA 4 - STD

BPA New #4

Propose: Utilities are allowed to conduct maintenance of transmission facilities within and adjacent to transmission ROWs to meet utility safety and reliability requirements.

Guidelines (FW-LAND-GDL)

01 To provide access to NFS lands, **land adjustment proposals** should consider reciprocal right-of-way acquisitions.

>BPA is hoping the LNF can clarify what reciprocal-right-of ways means, please and if it would impact those with existing ROWs?

Guidelines (FW-LAND-GDL) (continued)

05 Vegetation treatment within corridors and along linear transmission facilities should provide for control of invasive plant species and **revegetation in accordance** with identified operating plans, to reduce **visual impacts**. (**emphasis added**)

Can the FS clarify what 05 language means?

1. Is this a new requirement for visual buffers for existing lines or comm sites?
2. Is this reference to vegetation treatment meant to address that performed by the utility or the FS?
3. BPA addresses how it performs vegetation treatments and invasive plant species in its Operating Plan. It does not, however, see a linkage between routine vegetation management and visual impacts.