



EVIDENCE-BASED RECOMMENDATIONS FOR OVERCOMING BARRIERS TO FEDERAL TRANSMISSION PERMITTING



CLEAN AIR
TASK FORCE

NISKANEN
CENTER

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About this Report

This report is the culmination of a year-long investigation conducted by the Niskanen Center and Clean Air Task Force. Our goal was to establish a comprehensive evidentiary record of permitting challenges faced by electric transmission projects and offer fact-based insights into:

- What prevents the transmission buildout needed to achieve federal and state policy goals;
- The levels (federal, state, local) and/or nexuses (e.g., developer-community relations) at which transmission permitting faces critical hurdles; and
- Concrete opportunities to improve transmission permitting while preserving and bolstering protections of vulnerable communities and the environment.

We compiled a database and conducted in-depth case studies of permitting for identified transmission projects.

We convened an advisory group to help guide and shape our work. Advisory group members were chosen for their expertise and perspective on federal transmission permitting; their participation in no way implies that the individuals or the organizations they represent support or endorse this report's findings or recommendations.

In addition to in-depth case studies and data analysis, the Niskanen Center and Clean Air Task Force conducted numerous interviews with transmission line developers, industry consultants, and government officials to inform this report. These interviews were conducted anonymously; all findings and recommendations in this report should not be attributed directly to anyone interviewed on background during our research. This endeavor yielded critical insights, culminating in a set of recommendations that would address the identified challenges, discussed below.

This nonpartisan, independent research was conducted with support from Breakthrough Energy. The results presented in this report reflect the views of the authors and not necessarily those of the supporting organization.

We would like to express deep appreciation and thanks to everyone who contributed or reviewed this report and played a part in its inspiration and completion.

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EXECUTIVE SUMMARY

The United States (U.S.) stands at a critical juncture in modernizing its energy infrastructure. Multiple studies estimate that a three- to four-fold increase of transmission capacity will be required to meet burgeoning demand within the next thirty years.¹ So far, the U.S. has not kept pace with the challenge; in fact, there was an overall decrease in annual transmission investment for large powerlines (100 kilovolts [kV] and above) from 2010 to 2020,² and the nation's transmission investment requirements will reach more than \$40 billion annually by 2031.³ As discussed in this report, developing sufficient transmission to meet emerging needs will require significant changes in how transmission is planned, permitted, and financed.

The rationale for bolstering high-capacity, modernized transmission lines is multifold. First, it will provide an urgently needed boost to the grid's resilience against disruption from extreme weather, climate change, security threats, and other challenges. Second, it will accelerate the deployment of renewable

and clean energy generation, enabling decarbonization. Third, transmission plays a pivotal role in alleviating grid congestion and constraints, potentially benefiting consumers by allowing lower-priced energy to flow to areas with high wholesale electricity prices.⁴ Finally, it supports economic development by facilitating load growth that accompanies new manufacturing and industrial facilities and the proliferation of data centers.⁵ Investment in transmission is a cornerstone for achieving grid reliability, economic development, energy affordability, security, resiliency, and climate objectives. On the other hand, if the U.S. does not build more transmission, new power generation resources will remain stranded in interconnection queues, aging infrastructure will become increasingly vulnerable to failure, and growth in burgeoning economic sectors will be stifled.

There are many reasons why transmission deployment has faltered in the U.S.: planning is short-sighted and uncoordinated across regions, cost allocation is contentious, and financial realities favor incremental transmission expansion at the expense of building grid-beneficial large projects, just to name a few. Federal permitting of these long, complex engineering projects is just one of multiple challenges, and for many transmission projects may be a secondary or tertiary concern relative to other barriers. Yet, according to our research, for the

1. See Niskanen Center, *How are we going to build all that clean energy infrastructure?* (Aug. 2021), https://www.niskanencenter.org/wp-content/uploads/2021/08/CATF_Niskanen_CleanEnergyInfrastructure_Report.pdf.

2. Dep't of Energy, *National Transmission Needs Study* (Oct. 2023), https://www.energy.gov/sites/default/files/2023-12/National%20Transmission%20Needs%20Study%20-%20Final_2023.12.1.pdf.

3. Jürgen Weiss, et al., *The Coming Electrification of the North American Economy: Why We Need a Robust Transmission Grid*, BRATTLE GRP. (Mar. 2019), <https://wiresgroup.com/wp-content/uploads/2020/05/2019-03-06-Brattle-Group-The-Coming-Electrification-of-the-NA-Economy.pdf>.

4. See above note 2.

5. John D. Wilson & Zach Zimmerman, *The Era of Flat Power Demand is Over*, GRID STRATEGIES (Dec. 2023), <https://gridstrategiesllc.com/wp-content/uploads/2023/12/National-Load-Growth-Report-2023.pdf>.

3.5% of all transmission projects that underwent the most rigorous federal environmental review in the 2010s—constituting 26% of the total miles of new powerlines—federal permitting mattered.⁶ And for many of the hundreds of new projects that must be built across the country in the coming years, barriers to effective and expeditious federal permitting could pose significant impacts. Therefore, refinement of the federal environmental review and authorization process could play a critical role in facilitating deployment of major transmission projects—the focus of this report.

The National Environmental Policy Act (NEPA) process establishes a framework whereby environmental review forms a substantial part of the record for an agency’s decision and supports greater public awareness of and participation in influencing federal actions and their potential environmental consequences. In doing so, it creates foundational community and environmental protections. NEPA implementation has evolved since the law was established in 1970, driven by updated regulations, case-law, legislation, and government norms. The most recent changes include NEPA amendments in the Fiscal Responsibility Act of 2023 (FRA) and recent and pending updates to NEPA implementing regulations. As of the date of this report’s publication, the Department of Energy is finalizing its Coordinated Interagency Transmission Authorizations and Permits (CITAP) Program, providing a framework for interagency coordination for transmission project environmental reviews, at the developer’s request. The full report discusses how our recommendations align with these ongoing changes to the federal environmental review process.

As it currently stands, the permitting process is frequently protracted and complex even without

6. It is essential to acknowledge that not all transmission projects require federal permits. Many can proceed under state or local regulations without any federal intervention. However, federal permits are often imperative to larger scale and inter-regional projects, as they are more likely to cross federally managed land or state borders, or require other federal action. See Natalie Manitiuis, Johan Cavert, Casey Kelly, *Contextualizing Electric Transmission Permitting: Data from 2010 to 2020* (Mar. 2024), Clear Air Task Force and The Niskanen Center, <https://www.catf.us/resource/contextualizing-electric-transmission-permitting>.

accounting for preparatory work required before a formal application filing. There is growing consensus across the political spectrum that processes need to be improved and strengthened, as recent and ongoing reforms make evident. However, there is currently little evidence and consolidated information to ensure these reforms are as impactful as possible for transmission permitting.

In response to this gap, the Niskanen Center (Niskanen) and Clean Air Task Force (CATF) embarked on a comprehensive study, developing an extensive evidentiary record through the compilation of a database, interviews with developers and federal officials, and in-depth case studies of identified transmission projects. This endeavor yielded critical insights, culminating in a set of recommendations addressing the identified challenges.

The results of Niskanen and CATF’s analysis underscore the importance of a reasoned approach to improving transmission permitting, while protecting the core functions of NEPA—the cornerstone of the federal permitting and environmental review process—including its coordination and information-sharing provisions which support early identification and resolution of potential conflicts during environmental review.

It is imperative that any reforms to the federal environmental review and permitting processes for transmission be conscientiously designed to safeguard and empower impacted communities, particularly those communities historically marginalized or disproportionately affected by legacy energy infrastructure. Our recommendations are predicated on the principle that enhancing federal permitting processes need not degrade community protections or environmental integrity. On the contrary, neglecting community engagement or diminishing protections fuels uncertainty, prolongs timelines, and undermines the long-term feasibility of proposed transmission projects. The path forward is one of balance, ensuring a sustainable and inclusive energy transition.

Our **recommendations**, listed below, coalesce around three principal themes.

1. IMPROVING FEDERAL AGENCY COORDINATION, COOPERATION, AND CAPACITY

1.1: The President should continuously recognize transmission infrastructure permitting as a national priority. The Administration should establish clear transmission deployment goals and priorities to galvanize a shared vision across the Executive Branch. This approach should be reinforced by regular Cabinet-level alignment and coordination, use of Permitting Council authorities, and assignment of a transmission director to oversee transmission efforts.

1.2: Congress and agencies should enhance transparency in project review and project timelines. An iterative, agile process with consistent communication among agencies, developers, and stakeholders is needed to identify and address concerns early and often. The permitting process should include interagency coordination during the pre-application phase.

1.3: Congress should invest in interagency coordination, interagency cooperation, and agency capacity. Senior agency personnel who report directly to agency decision-makers should be assigned to each major project under environmental review. Agency staff should be trained on the nuances of transmission infrastructure and interagency staffing should be dedicated to joint-agency projects. Solutions to interagency coordination shortfalls that only expand agency function or authority without providing appropriate investment to support agency coordination, cooperation, and capacity will be insufficient. Finally, Congress and agencies should continue to modernize permitting review processes, including by investing in digital tools and data platforms.

1.4: The Department of Energy (DOE), the Federal Permitting Improvement Steering Council (“Permitting Council”), and other agencies

should require transparency and accountability through use of the Permitting Dashboard. DOE can recommend nationally and regionally significant projects, including all transmission projects requiring Environmental Impact Statement (EIS) review, be added to the Dashboard. Projects should be on the Dashboard before the Notice of Intent to prepare an EIS is filed.

2. STREAMLINING INTERACTIONS AMONG SOVEREIGN AUTHORITIES

2.1: Federal agencies, with Congressional support, should enhance state and Tribal capacity to conduct and participate in permitting processes. Federal agencies should take a leading role in boosting state and Tribal capacity, through dedicated grant programs, technical support, and best practices sharing. Federal agencies should conduct earlier and more comprehensive engagement with Tribes, on par with federal engagement with states and developers.

2.2: Congress should consolidate permitting and siting authority for multi-state projects that are in the national public interest. Congress should grant FERC comprehensive and plenary permitting and siting powers for key transmission projects. The Streamlining Interstate Transmission of Electricity (SITE) and Clean Electricity and Transmission Acceleration (CETA) Acts serve as possible legislative models.

2.3: States should harmonize their permitting processes to create regulatory efficiency and allow more concurrent processes. Though this report centers on federal initiatives, our research unearthed opportunities for optimizing project timelines through more harmonized state permitting processes with those mandated federally. Joint state and federal environmental reviews, incorporation by reference of state or federal environmental reviews by the other jurisdictions, and project-specific memoranda of understanding (MOU) are opportunities to improve regulatory alignment. States may also participate in federal FAST-41

reviews under an MOU. To avoid unnecessary inefficiencies inherent in sequential review processes, states should revise their need and environmental review processes to be concurrent with federal reviews.

2.4: The Permitting Council should work with Chief Environmental Review and Permitting Officers (CERPOs) to advance projects and coordinate with and support local authorities. The essential NEPA function of providing information to states, Tribes, and other decision-makers provides an opportunity for CERPOs to support local authorities in making timely permitting decisions.

3. IMPROVING THE ENVIRONMENTAL REVIEW AND PERMITTING PROCESS

3.1: Agencies and developers should conduct early, sustained, and meaningful stakeholder outreach. Timely, meaningful engagement with impacted communities must be conducted as a part of project planning, approval, and post-implementation monitoring. Government-to-government interactions with Tribes, distinct from other stakeholder consultations, are essential for respecting sovereign authorities and ensuring projects avoid unnecessary opposition and delays, highlighting the need for federal agencies to facilitate these interactions effectively from the project's inception.

3.2: Agencies should implement robust pre-filing processes. The pre-filing process provides an opportunity to constructively debate, raise environmental and community issues, and consider alternative routes, and can streamline reviews once applications are filed. Agencies should implement agency-specific pre-filing processes and encourage applicants to opt in to pre-filing.

3.3: Developers and agencies should engage in early and collaborative identification of alternatives to be analyzed in an EIS. Project alternatives should be identified as early as possible in a collaborative process that includes relevant federal agencies, the project developer, state and local officials,

Tribes, other stakeholders, and the public. Project developers and agencies can initiate and lead alternative route identification and evaluation efforts, and Council on Environmental Quality guidance can support these efforts.

3.4: Agencies should carefully expand categorical exclusions for transmission development. Appropriate use of categorical exclusions with adequate environmental and community safeguards for much-needed transmission projects with no significant impacts can accelerate deployment of transmission. Available categorical exclusions should be expanded for projects within existing project rights-of-way that are known to have no significant impacts.

3.5: Agencies should expand the use of programmatic EIS (PEIS) reviews for transmission infrastructure projects, and Congress should ensure that agencies have sufficient capacity to do so. PEISs can be used to identify environmental impacts common to transmission lines, and can be applied where these impacts are “well understood” given the location or nature of particular projects. PEISs could be prepared alongside Independent System Operator/Regional Transmission Organization transmission development plans. Congress should provide sufficient funding to ensure data, staff, and other resources are available to prepare useful and sufficiently detailed PEISs.

3.6: DOE and FERC should minimize environmental review redundancy for the National Interest Electricity Transmission Corridor (NIETC) process. DOE, FERC, and relevant environmental agencies must collaborate closely to streamline environmental review processes in NIETCs, ensuring that environmental protections are upheld without unnecessary duplication of efforts.

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A. Introduction and Motivation

1. The U.S. must rapidly expand transmission infrastructure

The United States' electric grid is aging and needs to be updated and rapidly expanded in order to meet emerging challenges. Most of the country's transmission system was built in the 1950s and 1960s, with an expected lifespan of 50 years. Now, nearly 70 percent of transmission lines are more than 25 years old.⁷ The U.S. transmission system was also not designed to accommodate the integration of new, cleaner generation from a wider variety of sources. As the system ages, it also becomes increasingly vulnerable to the impacts of climate change, including more frequent severe weather. Outages may become more common, with disproportionate impacts on the most vulnerable populations.⁸

7. EBP & Am. Soc'y Civil Eng'rs, *Failure to Act: Electric Infrastructure Investment Gaps in a Rapidly Changing Environment* (2020), <https://infrastructurereportcard.org/wp-content/uploads/2021/03/Failure-to-Act-Energy-2020-Final.pdf>.

8. See, e.g., U.S. Gov't Accountability Off., GAO-21-346, *ELECTRICITY GRID RESILIENCE: CLIMATE CHANGE IS EXPECTED TO HAVE FAR-REACHING EFFECTS AND DOE AND FERC SHOULD TAKE ACTIONS* 20 (Mar. 2021).

Investing in modernized, resilient transmission infrastructure supports grid reliability, lowers energy costs, facilitates economic development, and reduces the proportion of household income spent on energy needs.⁹ Updating and expanding the grid also enhances grid resilience by allowing for integration of new, geographically- and resource-diverse renewable generation. As diverse and dispersed resources are brought online, they can protect the grid and compensate for losses in other regions, including those due to extreme weather, if there is sufficient inter-regional transmission capacity.¹⁰ This, in turn, reduces congestion and curtailment, reducing costs associated with both. Updating the grid also presents opportunities to modernize grid security, as cyber threats can increasingly wreak havoc on transmission grids, shutting down critical infrastructure.¹¹ Finally, grid upgrades support

9. See Notice of Intent and Request for Information: Designation of National Interest Electric Transmission Corridors, 88 Fed. Reg. 30956 (May 15, 2023).

10. See Liza Reed & Andrew Xu, *FERC is coalescing around the idea of minimum transfer capacity but needs data and definitions*, NISKANEN CTR. (Sept. 8, 2022), <https://www.niskanencenter.org/ferc-is-coalescing-around-the-idea-of-minimum-transfer-capacity-but-needs-data-and-definitions/>.

11. Dep't of Energy, *DOE Announces \$45 Million for Next-Generation Cyber Tools to Protect the Power Grid* (Aug. 17, 2022), <https://www.energy.gov/articles/doe-announces-45-million-next-generation-cyber-tools-protect-power-grid>.

economic development by facilitating load growth that accompanies new manufacturing and industrial facilities and the proliferation of data centers.¹²

Transmission investment also supports the achievement of U.S. decarbonization targets.¹³ These targets are coupled with aggressive electrification goals, including plans to electrify significant amounts of transportation, homes, businesses, and industry by 2050.¹⁴ Achieving these ambitious goals will require replacing aging fossil-fuel generation with modern clean energy generation and expanding energy storage.¹⁵ But transmission is a crucial limiting factor for adding new generation and storage to the grid, so these projects may be delayed or face additional costs when there is inadequate supporting transmission to bring new resources online.¹⁶ Therefore, transmission and generation capacity will need to be expanded in tandem.¹⁷

2. The U.S. has failed to build critical transmission infrastructure at the pace it needs, despite continued acknowledgement of the challenge

In the face of the immense scale of needed transmission upgrades and modernization, the United States has not kept up with required infrastructure investments. The DOE, in its 2023 National Transmission Needs Study, found that there was an overall decrease in annual investment for transmission projects larger than 100 kV from 2010 to 2020.¹⁸ Similarly, a study of planned interstate, bulk power transmission projects from 2010 to 2020 in the western United States found that few projects were built compared to expectations in a 2010 projection of planned projects.¹⁹ Although spending has increased slightly in recent years, the U.S. is still experiencing chronic public and private under-investment in transmission, and the nation's transmission investment requirements will reach more than \$40 billion annually by 2031.²⁰

Meanwhile, there has been a record amount of new generation and storage capacity added to interconnection queues and unable to connect to the grid.²¹ A 2023 study from Lawrence Berkeley National Laboratory found that there are more than 1,000 gigawatts of clean energy stuck in interconnection queues due to transmission constraints and poor interconnection processes, and that the average time projects spend in interconnection queues has grown substantially to five years, compared to three years in 2015 and less than two years in 2008.²² Long waits and lack of transmission capacity contributed to the fact that only about 20 percent of projects requesting

12. See above note 5.

13. See Exec. Order No. 14008, 86 Fed. Reg. 7619 (Feb. 1, 2021); White House Briefing Room, *Fact Sheet: President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies* (Apr. 22, 2021), <https://www.whitehouse.gov> (search in search bar for "Greenhouse Gas Pollution Reduction").

14. Press Release, White House, *Fact Sheet: New Innovation Agenda Will Electrify Homes, Businesses, and Transportation to Lower Energy Bills and Achieve Climate Goals* (Dec. 14, 2022), <https://www.whitehouse.gov/ostp/news-updates/2022/12/14/fact-sheet-new-innovation-agenda-will-electrify-homes-businesses-and-transportation-to-lower-energy-bills-and-achieve-climate-goals/>.

15. The Princeton ZERO Lab estimated that generation capacity will need to quadruple in order to meet forecasted future electricity demand and production needs, and transmission capacity will need to be expanded to integrate clean energy resources—such as offshore wind, onshore wind, and solar—located far from existing transmission infrastructure. *REPEAT (Rapid Energy Policy Evaluation and Analysis Toolkit)*, PRINCETON UNIV., <https://repeatproject.org/>, (last visited Mar. 11, 2024); see also above note 1.

16. See above note 1.

17. See Jesse D. Jenkins, et al., *Electricity Transmission is Key to Unlock the Full Potential of the Inflation Reduction Act*, PRINCETON UNIV. ZERO LAB (Sept. 2022), https://repeatproject.org/docs/REPEAT_IRA_Transmission_2022-09-22.pdf (finding that that transmission expansion is needed to maximize the benefits of investments under the newly enacted Infrastructure Investment and Jobs Act and Inflation Reduction Act. The benefit of those investments will not be realized fully unless the United States can quickly expand enabling electric transmission infrastructure); see also above note 9.

18. See above note 2.

19. W. Elec. Coordinating Council, *10-Year Regional Transmission Plan: 2020 Study Report* (Sept. 2011), <https://doc.westconnect.com/Documents.aspx?NID=20390&dl=1>.

20. See above note 3.

21. See above note 2.

22. Defined as the span from the time of submission of the interconnection request to commercial operation. Joseph Rand, et al., *Queued Up: Characteristics of Power Plants Seeking Transmission Interconnection As of the End of 2022*, LAWRENCE BERKELEY NAT'L LAB'Y (Apr. 2023), https://emp.lbl.gov/sites/default/files/emp-files/queued_up_2022_04-06-2023.pdf.

interconnection over the period from 2000-2017 actually reached commercial operation by the end of 2022.²³

Several presidential administrations have acknowledged this critical need for more transmission, with some proposing solutions at the federal level to address the problem. For example, in 2001, then-Deputy Secretary of Energy Francis Blake testified to Congress that “investment in new transmission capacity has failed to keep pace with growth in demand and with changes in the industry’s structure...Since the transmission system is both Interstate and International, regulation of the grid is a federal responsibility.”²⁴ He noted that legislation “should provide for federal siting of transmission facilities that are in the national interest.”²⁵

In the Energy Policy Act of 2005 (EPA), signed into law by President George W. Bush, Congress created section 216 of the Federal Power Act (FPA) with the goal of increasing the buildout of important electric transmission infrastructure. This statute granted the Federal Energy Regulatory Commission (FERC) authority to approve transmission lines (i.e., “backstop authority”) if states withheld approval for more than one year or lacked authority to consider interstate benefits, or if the utility proposing the transmission line did not qualify to apply for a permit because there were no end-use in-state customers.²⁶ The Infrastructure Investment and Jobs Act (IIJA), signed into law in November 2021 by President Biden, expanded and clarified FERC’s backstop authority under section 216 and gave DOE more authority to help incentivize projects, includ-

ing on public-private partnerships and loans.²⁷ The Inflation Reduction Act (IRA), which became law in August 2022, also made available direct loan programs for transmission project development.²⁸

Section 216 of the FPA also gave DOE power to coordinate all applicable federal authorizations, Tribal consultations, and state agency reviews required to designate National Interest Electric Transmission Corridors (NIETC) and construct needed transmission lines in those corridors. DOE intends for transmission lines constructed in NIETCs to be eligible for public-private partnerships and loan programs under the IRA and IIJA,²⁹ as well as FERC backstop siting authority if the necessary conditions are met.

Despite recognition from several administrations of the need for more transmission and significant policy levers available, the federal government has not yet successfully leveraged its authorities to deploy transmission at the necessary pace and scale. For example, the potential benefits to transmission projects from NIETC designations, including FERC’s backstop authority, have yet to be fully realized after FERC’s interpretation of its backstop authority was partially struck down and its transmission-related regulations implementing the National Environmental Policy Act (NEPA) vacated,³⁰ and DOE’s initial designation of corridors was vacated for failing to comply with NEPA.³¹ DOE and FERC are currently developing regulations pursuant to DOE’s updated NIETC authorities from IIJA. The crux of the challenge does not lie entirely within the bounds of statutory authority, but also in the practical application and implementation of these policies.

23. *Id.* Note that there is more than one reason for this statistic – some argue that this reflects the fact that to address lack of information about system congestion prior to joining the queue, developers will submit multiple interconnection requests for every project they actually intend to build.

24. *National Electricity Policy: Federal Government Perspectives: Hearing Before the Subcomm. on Energy and Air Quality of the Comm. on Energy and Com. H.R.*, 107th Cong. 34-35 (2001) (statement of Francis Blake, Deputy Sec. of Energy).

25. *Id.* at 35.

26. 16 U.S.C. § 824p(b)(1) (2018) (section 216(a) to Federal Power Act).

27. Infrastructure Investment and Jobs Act, Pub. L. No 117-58, 135 Stat. 429, 933 (2021) (codified as amended at 16 U.S.C. § 824p).

28. 42 U.S.C. § 18715 *et seq.* (2022).

29. Dep’t of Energy, *Grid Deployment Office Guidance on Implementing Section 216(a) of the Federal Power Act to Designate National Interest Electric Transmission Corridors* (Dec. 19, 2023), <https://www.energy.gov/sites/default/files/2023-12/2023-12-15%20GDO%20NIETC%20Final%20Guidance%20Document.pdf>.

30. *Piedmont Env’l Council v. FERC*, 558 F.3d 304 (4th Cir. 2009), cert. denied, 558 U.S. 1147 (2010).

31. See *Cal. Wilderness Coal. v. DOE*, 631 F.3d 1072 (9th Cir. 2011).

While the federal government can provide powerful tools and funds to foment change, it must work with states, Tribes, and local authorities to deploy transmission successfully. But providing funds without technical assistance will not address the most fundamental challenges to transmission permitting. Strong federal leadership and guidance can help build state capacity and knowledge on the intricacies of high-voltage, long-distance transmission permitting and ensure effective coordination with the right entities on the complexities of the permitting process.

3. Successful deployment of transmission faces significant challenges, including federal permitting

Contributing to the lack of recent investment is the fact that deployment of planned and financed transmission faces significant challenges, including effective implementation of federal environmental review and permitting processes. Given the diversity of jurisdictional permit and decision-making authorities, the process of obtaining permits to develop new interstate transmission lines or to upgrade existing interstate lines is inherently lengthy, complicated, and costly. Transmission projects that are located entirely on federal lands, that cross federal lands, or that involve federal funding or authorizations are subject to environmental review under NEPA and other federal authorities.³² Federal permitting must also be coordinated with state, Tribal, and local governments with the authority to permit and site transmission projects. While interagency environmental review coordinated through NEPA can help foster decisions that reduce adverse project impacts, existing barriers to efficient and effective decision-making often prevent timely permitting decisions. While there is a plethora of proposed federal per-

mitting reforms, there is too little evidence about which specific solutions are most likely to meaningfully expedite transmission expansion. That is the gap Niskanen and CATF have sought to begin filling with this study. Transmission faces many challenges beyond federal permitting, including difficulties with the planning process, cost allocation, disjointed and overlapping siting authorities, and opposition. Although these challenges are interrelated, this report's underlying analysis and findings focus on federal environmental review and permitting processes.

This paper begins by presenting an overview of and legal background on the permitting status quo and barriers to transmission development. Then, we present our findings and propose informed solutions that would meaningfully expedite transmission expansion.

32. The Fiscal Responsibility Act of 2023 clarified which federal actions are not required to undergo NEPA review, including those “with no or minimal federal involvement where a federal agency cannot control the outcome of the project,” loans or loan guarantees where the agency “does not exercise sufficient control and responsibility over the subsequent use of such financial assistance or the effect of the action.” 42 U.S.C. § 4336e(10)(B)(2023). Future rulemaking and judicial review will elucidate what levels and types of funding are excluded from NEPA review.



B. Overview of and Legal Background on the Permitting Process for Transmission Development

The permitting process for the construction of transmission facilities is convoluted, multi-layered, and project-specific. Most transmission projects require environmental review and a multitude of permits or authorizations. The number of approvals from different authorities (federal, state, Tribal, and local) generally expands as the size and jurisdictional reach of the transmission project increases. This section begins by summarizing the NEPA process, then notes frameworks for coordination among decision-making authorities, and finishes with a discussion of recent federal efforts to facilitate coordination of environmental review and permitting.

1. Transmission projects face numerous permitting requirements, carried out in conjunction with NEPA and its framework for interagency coordination

NEPA was established in 1970 as a tool to enable transparency and informed decision-making and ensure that all federal agencies consider the reasonably foreseeable environmental effects of proposed federal actions before making final decisions, includ-

ing whether to fund, permit, or authorize a project.³³ This was, in part, a response to past failings by government and industry to take into account the impact and externalities of human impacts on the environment.³⁴ The NEPA process establishes a framework whereby consideration of environmental impacts forms a substantial part of the record for an agency's decision and supports greater public awareness of and participation in influencing federal actions and their potential environmental consequences. Effective environmental review is a key component of responsible development as it, ideally, enlightens the decision-maker and the public as to whether a proposed activity will significantly affect the human environment, and whether mitigation measures would avoid, minimize, or compensate for those effects.

The Council on Environmental Quality (CEQ), established by NEPA, advises on NEPA implementation, is responsible for government-wide NEPA implementing regulations, and plays a coordinating role

33. 42 U.S.C. § 4332(2)(C) (2022). The term "authorization" is defined as "any license, permit, approval, finding, determination, or other administrative decision issued by an agency that is required or authorized under Federal law in order to implement a proposed action." 40 C.F.R. § 1508.1(c) (2024).

34. See Congressional Research Service, *The National Environmental Policy Act (NEPA): Background and Implementation*, (Jan. 2011), <https://crsreports.congress.gov/product/pdf/RL/RL33152> at 1.

across agencies.³⁵ Agencies have also prescribed their own regulations for integrating the NEPA process of environmental review into their decision-making.³⁶ For actions not expected to have significant adverse effects on the environment, agencies may conduct a less-detailed environmental assessment (EA) to document impacts and mitigation measures which may result in a Finding of No Significant Impact (FONSI) for the proposed action.³⁷ Other actions are “categorically excluded” from environmental analysis if an agency has found that the category of action is not expected to have significant adverse effects absent extraordinary circumstances.³⁸ Agency NEPA procedures can identify these categories of actions that, under normal circumstances, will not have a significant environmental impact, and require action-specific review for extraordinary circumstances that warrant additional scrutiny.³⁹

For those projects expected to have significant adverse effects on the quality of the human environment or where an EA determines significant effects are likely, an environmental impact statement (EIS) must be prepared that considers the proposed action, action alternatives, and required mitigation measures, among many other topics.⁴⁰ The vast majority of transmission lines do not undergo an EIS, typically because their development does not involve a major federal action that would require a NEPA review, but those that do are more likely to be longer interstate lines and make up a significantly larger proportion of new line miles built. The 33 lines in our dataset compiled for this effort with an EIS in progress or completed between 2010 and 2020 make up 3.5 percent of all new transmission lines built in that period, but 26 percent of all new line miles built in the decade.⁴¹

Importantly, NEPA review for infrastructure projects can serve as a means for coordinating permitting with numerous federal, state, and Tribal agencies and provides a basis for decisions by cooperating agencies. How federal agencies approach the permitting process for transmission projects varies tremendously. Environmental review and approvals for transmission projects must be coordinated among the federal agencies and state, Tribal, and local authorities with jurisdiction. The specific authorizations required for a project depend on the jurisdictional nexus and on land use, ownership, financing, and geography. Each state follows different procedures for approving transmission infrastructure, and interstate lines must comply with the legal requirements of each state. This leads to a complex permitting pathway for a transmission line crossing state or Tribal boundaries and different types of federal land. Each step of approvals may result in “critical adjustments to planning, cost allocation, and siting processes,” and prompt re-evaluation of whether the project is worth advancing.⁴²

The NEPA process provides a procedure for structuring interagency coordination and consultation, requiring concurrent and integrated environmental impact analyses and related surveys and studies mandated by all other federal environmental review laws and Executive Orders applicable to the proposed action, including the Fish and Wildlife Coordination Act,⁴³ the National Historic Preservation Act (NHPA),⁴⁴ and the Endangered Species Act.⁴⁵ NHPA procedures for coordination with NEPA encourage agencies to coordinate compliance with NHPA Section 106 consultation as early as possible in the NEPA process, even to the point of NEPA process substitution for Section 106 consultation.⁴⁶

35. See 42 U.S.C. §§ 4342 (2022) (establishing CEQ), 4344 (CEQ duties and function).

36. See, e.g., DOE’s NEPA Implementing Procedures, 10 C.F.R. pt. 1021, *et seq.*

37. 40 C.F.R. §§ 1501.5-6 (2024).

38. 40 C.F.R. § 1501.4 (2024).

39. See, e.g., 10 C.F.R. pt. 1021, Subpart D (2024).

40. 42 U.S.C. § 4332(2)(C) (2022).

41. See *above* note 6 at 4.

42. Nat’l Elec. Mfrs. Ass’n, *Siting Transmission Corridors - A Real Life Game of Chutes and Ladders*, (2024), https://www.nema.org/docs/default-source/advocacy-document-library/nema_chutesandladder_2024_revised-4web.pdf?sfvrsn=5159d2ca_11.

43. 16 U.S.C. § 661 *et seq.*

44. 54 U.S.C. § 300101 *et seq.*

45. 16 U.S.C. § 1531 *et seq.*

46. 36 C.F.R. § 800.8 (2024); CEQ & Advisory Council Hist. Pres., *NEPA and NHPA A Handbook for Integrating NEPA and Section 106*, (Mar. 2013), https://ceq.doe.gov/docs/ceq-publications/NEPA_NHPA_Section_106_Handbook_Mar2013.pdf.

Any federal agency that has jurisdiction or special expertise with respect to the environmental impact involved must be consulted, and their comments on the EIS must be made publicly available.⁴⁷ An essential purpose of NEPA is to make information available to decision-makers and potentially impacted communities and to coordinate that information-sharing. In this capacity, NEPA acts as a valuable public resource; such information would not necessarily be publicly available or accessible otherwise. Where there is more than one agency involved, one or more federal agencies may act as the “lead agency” or “joint lead agencies” and coordinate the NEPA effort. Because linear infrastructure often overlaps jurisdictions, state, Tribal, or local agencies may also serve as joint lead agencies, and these or other federal agencies may also participate as cooperating agencies.⁴⁸

The purpose of the lead, co-lead, and cooperating agency framework in CEQ’s NEPA regulations is to ensure efficient and consistent environmental reviews.⁴⁹ CEQ also encourages active involvement by non-federal cooperating agencies, and proposed revisions to CEQ’s NEPA regulations would expand provisions for interagency coordination to involve state, Tribal, and local agencies early in the scoping and development of EISs.⁵⁰ In a recent proposed rulemaking, discussed later in this report, CEQ noted that early conversations and coordination, in advance of receipt of a complete application, “can improve efficiencies in the NEPA process and ultimately lead to better environmental outcomes.”⁵¹

In recent and pending updates to NEPA’s implementing regulations,⁵² and amendments to NEPA

in the Fiscal Responsibility Act of 2023 (FRA),⁵³ these core functions of NEPA have been preserved. The FRA amendments, which represent the most substantive amendments to NEPA since its enactment in 1970, codified many aspects of existing NEPA practice. One potentially impactful change from the FRA is a new definition of a “major Federal action” as “an action that the agency carrying out such action determines is subject to substantial Federal control and responsibility.”⁵⁴ The statute also includes a significant codification of some of the case law that has developed under NEPA. The amendments narrow the scope of NEPA applicability and explicitly exclude projects “with no or minimal Federal involvement where a Federal agency cannot control the outcome of the project,” loans or loan guarantees where the agency “does not exercise sufficient control and responsibility over the subsequent use of such financial assistance or the effect of the action,” and Small Business Administration loan guarantees and other financial instruments.⁵⁵ The FRA amendments also codified time limits from the 2020 CEQ regulations,⁵⁶ including that an agency must complete an EIS no later than two years after determining that an EIS is required and an EA no later than one year after determining that an EA is required, unless an agency determines that without additional time it cannot meet such deadlines and consults with project applicants on the deadline extension.⁵⁷ The amendments further provide a project sponsor with rights for judicial intervention if an agency allegedly fails to meet applicable deadlines.⁵⁸ The practical effect of these amendments remains to be seen and potentially could be counterproductive.

47. 42 U.S.C. § 4332(2)(C) (2022).

48. See 42 U.S.C. § 4336a (2023).

49. 40 C.F.R. §§ 1500.4, 1500.5 (2024).

50. National Environmental Policy Act Implementing Regulations Revisions Phase 2, 88 Fed. Reg. 49924 (July 31, 2023).

51. *Id.* at 49946.

52. National Environmental Policy Act Implementing Regulations Revisions, 87 Fed. Reg. 23453 (Apr. 20, 2022).

53. Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, 137 Stat. 10 (2023).

54. 42 U.S.C. § 4336e(10) (2023).

55. *Id.*

56. Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43304 (July 16, 2020).

57. See 42 U.S.C. § 4336a(g) (2023).

58. 42 U.S.C. § 4336a(g)(3) (2023).

2. Recent efforts to facilitate coordination among permitting authorities have focused on improving transparency and reducing timelines

While NEPA provides a broad framework for inter-governmental coordination, additional statutory and agency measures aim to streamline permitting further. This section briefly describes some of these measures.

a. Title 41 of the FAST Act

Title 41 of the FAST Act⁵⁹ (FAST-41), passed in 2015, established the Federal Permitting Improvement Steering Council (“Permitting Council”), an inter-agency council of Deputy Secretaries whose Presidentially-appointed Executive Director is charged with maintaining project timelines and resolving interagency disputes. Under FAST-41, each agency is also required to designate Chief Environmental Review and Permitting Officers (CERPOs), who report to that agency’s Deputy Secretary on environmental reviews and authorizations.⁶⁰ FAST-41 also established the Permitting Dashboard, an online database to track the status of federal environmental reviews and authorizations for covered projects.⁶¹

59. Fixing America’s Surface Transportation Act, Pub. Law. No. 114-94, § 41001-14, 129 Stat. 1312, 1741-62 (2015).

60. 42 U.S.C. §§ 4370m(2), 4370m-1(b)(2)(A)(iii)(I) (2022). CERPOs were created under FAST-41, but they have a broader role, including to: advise the respective agency member of the Permitting Council on matters related to environmental reviews and authorizations; act on behalf of their agency or between their agency and other federal agencies to support timely identification and resolution of potential disputes; make recommendations to their agency’s Permitting Council member for ways to improve their agency’s environmental review and decision-making process; and review and develop training programs for agency staff that support and conduct environmental reviews or authorizations.

61. A FAST-41 “covered” project is any infrastructure project involving a total investment of over \$200 million that is subject to NEPA analysis, authorization by more than one agency, and is one of several infrastructure categories that include transmission infrastructure. To become a “covered” project, the sponsor of a qualified project must submit a FAST-41 Initiation Notice. Several transmission projects currently under federal permitting jurisdiction have initiated FAST-41 procedures as “covered” projects, and future projects should continue to qualify, assuming they exceed the \$200 million threshold. According to data from Niskanen and CATF’s analysis on recently proposed and completed transmission projects in the United States, the majority of the 37 transmission projects we researched would have qualified for FAST-41 coverage. Further, under an amendment

FAST-41 also reduces the statute of limitations for lawsuits on covered projects from six to two years. It also narrows legal standing on NEPA claims to not only parties who submitted comments during the project’s environmental review but also provided sufficiently detailed comments to alert the lead agency to specific issues that might be pursued in court.⁶² This aims to limit uncertainty arising from potential litigation in opposition to a project.

Under FAST-41, all federal and state entities, Tribes, and localities “likely to have financing, environmental review, authorization, or other responsibilities with respect to the proposed project” will be invited to become participating or cooperating agencies.⁶³ A cooperating agency has authority over or special expertise relevant to a covered project, and is commensurate with the same designation as a “cooperating agency” under NEPA.⁶⁴ FAST-41 also allows federal and state entities, Tribes, and localities that do not have jurisdiction or authority over a project, but may have other interests or responsibilities, to elect to participate in the permitting process. If, for example, a state elects to participate in the FAST-41 process, a memorandum of understanding (MOU) would be developed that includes a coordination plan, setting a permitting timetable, and subjecting all relevant state agencies to FAST-41 requirements consistent with state law.

According to the Permitting Council, FAST-41 has saved project sponsors over \$1 billion through improvements in permitting efficiency, enhanced coordination, and avoidance of communication

from the Infrastructure Investment and Jobs Act, the Executive Director of the Permitting Council can post projects other than FAST-41 covered projects to the Dashboard in the interest of transparency. Smaller transmission projects that do not meet the \$200 million threshold may therefore be listed on the Dashboard at the discretion of the Permitting Council.

62. 42 U.S.C. § 4370m-6(a)(1) (2022).

63. 42 U.S.C.A. § 4370m-2(a)(3) (2022).

64. Permitting Council, *FAST-41* and Permitting Council, at 14 (Feb. 2022), https://www.nga.org/wp-content/uploads/2022/03/Permitting-Council-and-FAST-41-Overview_2022.pdf.

failures.⁶⁵ FAST-41 was cited as one of the reasons why an EIS for the *Ten West Link* transmission line in Arizona and California was completed in a relatively quick 2.5 years.⁶⁶

When Congress passed FAST-41, it was subject to a seven-year sunset clause. The IIJA made FAST-41 permanent law and amended FAST-41 to incorporate more aggressive timelines, including schedules that do not exceed two years “to the maximum extent practicable, and consistent with applicable federal law.”⁶⁷ Federal agencies must also issue a record of decision (ROD), a public final document stating the outcome of the NEPA process, within 90 days of issuance of a final EIS. To encourage efficiency, the IIJA also required preparation of a single, joint, interagency EIS and subsequent joint ROD.

The IIJA shortened the timeline to identify all federal and non-federal agencies with decision-making authority with respect to proposed projects from 45 to 21 days. The law also made it more difficult to amend permitting schedules, requiring consultation with the Executive Director of the Permitting Council before any consultation among parties as to the permitting timetable. However, as highlighted elsewhere in this report (*see below* Recommendation 1.2), mandated or shortened timelines do not resolve key factors that determine the success of federal permitting—leadership, coordination, capacity, and effective implementation.

65. Permitting Council, *FAST-41: Tangible Permitting Process Improvements on a Project-Specific Basis*, <https://aapa.files.cms-plus.com/PDFs/8%20FAST41%20Amber.pdf> (last visited Mar. 12, 2024).

66. At groundbreaking for the Ten West Link transmission line, Christine Harada, then-executive director of the Permitting Council, stated that the relatively quick approval of Ten West demonstrated “the fruits of the coordination, collaboration, and transparency of the FAST-41 interagency coordination process” and “what is possible when infrastructure projects are covered by FAST-41.” Permitting Dashboard, *Ten West Link Transmission Line Project Breaks Ground* (updated Jan. 20, 2023), <https://www.permits.performance.gov/fpisc-content/ten-west-link-transmission-line-project-breaks-ground>.

67. 42 U.S.C. § 4370m-1(c)(1)(C)(ii)(II)(aa) (2022).

b. Interagency Memorandum of Understanding on Federal Power Act section 216(h)

Under the FPA section 216(h), created by EAct, DOE has the authority to act as lead agency for federal authorizations and environmental reviews conducted for electric transmission lines.⁶⁸ Under this authority and following a 2009 interagency MOU, DOE established a process in 2016 that allows developers to convene with federal agencies before submitting a formal permitting application.⁶⁹ The Integrated Interagency Pre-Application (IIP) process also identifies an agency to take the lead on NEPA review and allows developers to prepare an early environmental assessment that can inform the federal effort.⁷⁰ Developers can invoke the optional IIP process for interstate high-voltage projects that cross jurisdictions administered by more than one federal agency, or projects that cross at least one federal jurisdiction and where federal financial assistance will be provided.⁷¹

In May 2023, nine federal agencies signed an updated MOU to implement FPA section 216(h), coordinate federal review of transmission projects, and to expedite siting, permitting, and construction.⁷² In signing the MOU, the “signatory agencies recognized that insufficient budgetary resources, lack of agency staff, and limited mechanisms for coordination across federal agencies have contributed to delays in permitting timelines for transmission facilities.”⁷³

68. 16 U.S.C. § 824p(h) (2022).

69. Dep’t of Agric., Dep’t of Def., Dep’t of Energy, Env’t Prot. Agency, Council on Env’t Quality, Fed. Permitting Improvement Steering Council, Dep’t of Interior, & Off. of Mgmt. & Budget, *Memorandum of Understanding Regarding Facilitating Federal Authorizations for Electric Transmission Lines* (May 4, 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/05/Final-Transmission-MOU-with-signatures-5-04-2023.pdf>.

70. The program was created under section 216(h)(4)(C) of the Federal Power Act.

71. 10 C.F.R. § 900.3 (2024).

72. *See above* note 69.

73. Coordination of Federal Authorizations for Electric Transmission Facilities, 88 Fed. Reg. 55826, 55828 (Aug. 16, 2023); *see also above* note 69.

The 2023 MOU aims to further improve coordination between federal agencies as well as between agencies, states, and Tribes. The MOU allows DOE to designate the agency that has the “most significant interest” in the lands or waters traversed by a transmission line as co-lead agency for NEPA review. The terms of the MOU also require the Secretary of Energy to update the DOE regulations implementing 216(h) to: (1) make participation in the IIP a precondition for participation in the coordinated 216(h) process; (2) require submission of resource reports and public engagement plans for affected communities; (3) require public engagement with Tribes and communities affected by the project; and (4) harmonize the IIP process, 216(h) implementing regulations, and the FAST-41 process. In early August 2023, DOE announced a proposed rule to update its regulations accordingly.⁷⁴

The new MOU is not limited to projects sited on federal lands but would include, for example, projects for which federal financial assistance would be provided (similar to qualifying projects under the IIP process). For all projects, DOE will establish prompt and binding intermediate milestones and ultimate deadlines for decisions on federal authorizations and related environmental reviews, including a final decision on all federal authorizations within two years of publishing a Notice of Intent (NOI) to prepare an EIS. Any disagreements among agencies will be elevated to the chair of CEQ and director of Office of Management and Budget (OMB) for prompt resolution.

74. See above note 73, 88 Fed. Reg. 55826.



C. Research Findings: Data and Litigation Analysis

Political actors on both sides of the aisle recognize that large-scale transmission projects take too long to site, permit, and construct.⁷⁵ In an effort to provide ambitious, evidence-based, politically durable solutions, Niskanen and CATF engaged in months-long information-gathering and analysis efforts, including quantitative and legal assessments of recent transmission project permitting processes. These efforts intended to establish insights to inform ongoing dialogues around transmission permitting and set a fact-based context for our recommendations.

75. See, e.g., efforts from opposing sides of the aisle to speed project review, including the Fiscal Responsibility Act, the SITE Act, BIG WIRES, and the Biden Administration's Permitting Action Plan.

1. Contextualizing federal permitting of electricity transmission through data analysis

To better inform the ongoing dialogue regarding transmission permitting, we gathered and analyzed a dataset of major new high-capacity transmission lines.⁷⁶ Our dataset contains 37 electric transmission lines that had an EIS environmental review in progress or completed between 2010 and 2020. These data were derived from various sources, including academic papers, federal agencies, and inventories accessible to the public. Because there is no central database for transmission projects, this dataset cannot be assumed to definitively represent all electric transmission projects that meet the criteria; some eligible lines may have been unintentionally overlooked.

76. See *above* note 6 at 3.

Figure 1: Map of the 33 Completed Lines in the EIS Lines Dataset, by Voltage Class.
 (4 of the original 37 lines were canceled and therefore not included)



The following criteria determined the inclusion of the 37 lines included in our analysis:

- New transmission lines only (excludes rebuilds and upgrades)
- Federal Review Status: Projects that had an EIS in progress or completed between 2010 and 2020 (meaning the project published an NOI, FEIS, ROD, or was in the process of having an EIS prepared at some point during the decade)
- Voltage of at least 115 kV
- Line length of at least 5 miles
- At least one domestic endpoint

Of the 37 lines, four lines were canceled, two projects have yet to release an ROD, and one never published an NOI. Evaluating the timeline for the remaining 30 projects, Niskanen and CATF found that:

- EIS reviews took on average 4.3 years between publication of an initial NOI and the

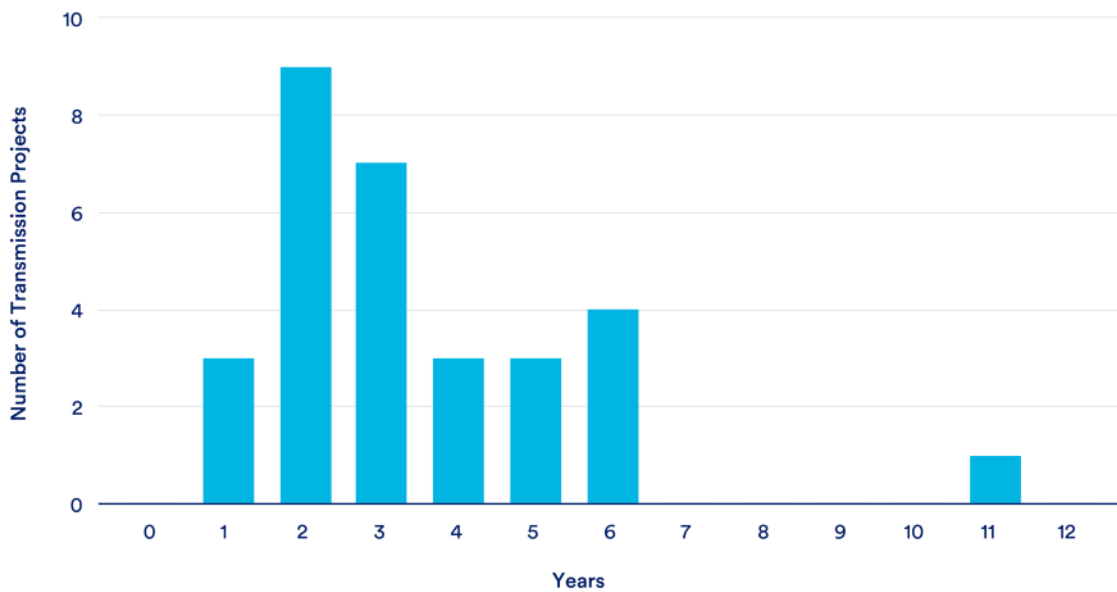
release of a ROD, with a median review time of 3.7 years.

- Of the 17 large transmission lines (longer than 100 miles and above 345 kV) that were not canceled, the average NOI to ROD timeline was 4.7 years — roughly comparable with the timelines CEQ found for all federal environmental reviews.

In 2020, CEQ examined 1,276 EISs for which a Notice of Availability of a final EIS was published between January 1, 2010 and December 31, 2018, and for which a ROD was issued by June 18, 2019. CEQ found that “across all Federal agencies, the average (i.e., mean) EIS completion time (from NOI to ROD) was 4.5 years . . . and the median was 3.5 years.”⁷⁷ These timelines exclude any pre-application processes, for which data are typically not publicly available.

77. CEQ, *Environmental Impact Statement Timelines (2010-2018)* (June 12, 2020), https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timeline_Report_2020-6-12.pdf.

Figure 2: Time to Complete NEPA EIS Review (NOI to ROD)



In addition, our review found:

- 17 of the 30 lines completed federal environmental permitting review under NEPA within four years.
- EIS reviews ranged from 1.2 to 11 years.
- Transmission projects that had an EIS prepared between 2010 and 2020 made up 3.5% of projects, but 26% of total domestic transmission line miles.

2. Understanding the impact of litigation and opposition on projects undergoing federal permitting

Legal challenges are commonly cited as a major factor contributing to delays or cancellations of transmission line projects.⁷⁸ However, research on the true impact of litigation on project delay or cancellation is limited.⁷⁹ Our in-depth analysis of 37 high-capacity

transmission line projects considered whether litigation and significant non-litigation opposition is correlated with project delay. We found that the majority of projects in our analysis (54%) did not face litigation or substantial non-litigation opposition. Of the projects analyzed, around a quarter (27%) faced litigation or significant non-litigation opposition and were either delayed or canceled.

In addition, our review found that:

- The majority of projects proceeded to completion or are in progress, despite litigation and opposition. Notably, of the 37 lines investigated, only four were canceled.
- Most lawsuits filed by project opponents were decided in favor of the project. We identified 18 lawsuits opposing the projects, and only two were resolved in favor of opponents to a project (both of those lawsuits involved a

78. James W. Coleman, *Pipelines & Power-Lines: Building the Energy Transport Future*, 80 Ohio St. L.J. 264, 292 (2019) (“...while oil pipelines grab the national headlines, power-lines across the country are being held up using the same legal arguments.”), https://scholar.smu.edu/cgi/viewcontent.cgi?article=1037&context=law_faculty.

79. For a discussion of impacts of NEPA litigation on transport

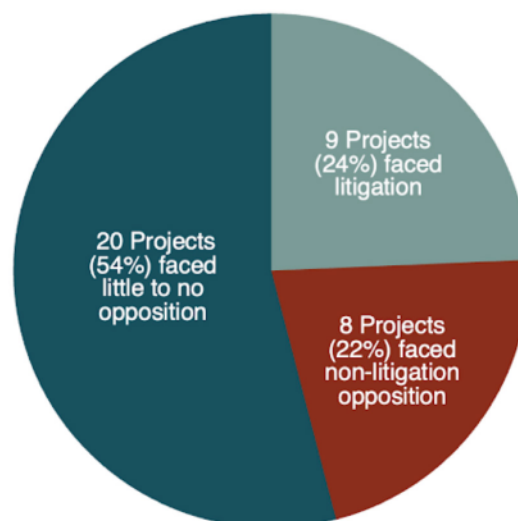
and energy infrastructure projects broadly, see Michael Bennon & Devon Wilson, *NEPA Litigation Over Large Energy and Transport Infrastructure Projects*, STANFORD UNIV. (Oct. 2, 2023) (“our goal was to directly link data on infrastructure projects to NEPA studies to lawsuits to outcomes, which has not been done before”), <https://cddrl.fsi.stanford.edu/publication/nepa-litigation-over-large-energy-and-transport-infrastructure-projects>.

single project, which has been constructed). One lawsuit remains pending as of the time of this analysis.⁸⁰

- The analysis also considered the impact of preliminary injunctions,⁸¹ finding that courts almost always denied motions for preliminary injunctions filed by project opponents. Of the seven preliminary injunction motions identified, five were denied, and one was granted but never went into effect. One motion remains pending at the time of this analysis.⁸²

These findings are consistent with the conclusion that, although litigation and opposition can influence delays and cancellations, factors that cause delays likely compound and it is difficult to draw a throughline from litigation to the extended timelines common for transmission line projects. Addressing these challenges requires a multifaceted approach to ensure greater efficiency and effectiveness in the permitting process. The evidence-based recommendations in this report are tailored to address concurrent challenges in the permitting process and ensure greater efficiency in federal environmental review.⁸³

Figure 3: Percentage of evaluated transmission projects by litigation and opposition status.



80. Susan Montoya Bryan & Ken Ritter, *Tribes, environmental groups ask US court to block \$10B energy transmission project in Arizona*, AP NEWS (Jan. 23, 2024 12:43 PM PDT), <https://apnews.com/article/wind-energy-sunzia-transmission-lawsuit-f414b9c3e4d7fc0ae2aee4a0777be92f>.

81. A preliminary injunction is a court order that can delay or stop a project's construction or regulatory progress.

82. See above note 80.

83. For further analysis, see Olga Baranoff & Zachary Norris, *A closer look at the role of litigation and opposition in transmission projects undergoing federal permitting*, NISKANEN CENTER (Mar. 4, 2024), <https://www.niskanencenter.org/a-closer-look-at-the-role-of-litigation-and-opposition-in-transmission-projects-undergoing-federal-permitting/>.



D. Research-Based Recommendations to Improve Federal Transmission Permitting

In addition to our litigation and quantitative analyses, Niskanen and CATF evaluated case studies of transmission projects undergoing federal permitting and conducted extensive stakeholder interviews.⁸⁴ The sum total of these efforts intended to establish an evidentiary record of permitting challenges faced by electric transmission projects and fact-based insights into: (1) what prevents the pace and scale of transmission buildout needed to achieve a reliable, resilient, clean grid; (2) the levels (federal, state, Tribal and local) and/or nexuses (e.g., developer-agency coordination) at which transmission permitting faces critical hurdles; and (3) concrete opportunities to improve transmission permitting, focusing on federal environmental permitting.

Niskanen and CATF’s research identified three key themes, into which we categorize our summary recommendations. These themes are: (1) the importance of improving federal agency coordination,

84. See Appendix, List of Transmission Line Case Studies, for in-depth project reviews.

cooperation, and capacity; (2) the need for clarifying interactions between federal, state, local, and Tribal authorities; and (3) the need for improvements in the environmental review process.

1. Improving Federal Agency Coordination, Cooperation, and Capacity

From in-depth review of 37 transmission projects,⁸⁵ supporting data analysis of the federal environmental transmission permitting process, and conversations with transmission stakeholders,⁸⁶ Niskanen and CATF found that a lack of federal agency leadership and prioritization of transmission, coupled with insufficient support for agency coordination, cooperation, and capacity, contributes to longer permitting timelines.

Although the NEPA process offers avenues for inter-agency coordination and collaboration (*see above* Section B.1), a lack of sustained engagement and focus on project timelines by an agency until “its turn” in the regulatory review process results in conflicts,

85. See Appendix, List of Transmission Line Case Studies, for in-depth project reviews.

86. “Transmission stakeholders” refers to transmission permitting experts, transmission developers, federal officials with knowledge of and experience in transmission siting and permitting, and representatives from Tribal entities and utilities.

duplicated efforts, and delay. This issue stems from the linear, or “waterfall,” approach to regulatory review where one agency’s activities begin upon the completion of the actions of an agency upstream in the process.⁸⁷ If potential conflicts are wrestled with earlier in the process, i.e., before an agency waits for “its turn” on a project approval, issues could be resolved or avoided altogether. Further, insufficient and inconsistent staffing levels and a lack of comprehensive transmission infrastructure expertise can create bottlenecks in the NEPA process.⁸⁸

For example, the *TransWest Express* and *SunZia Southwest* transmission projects both suffered from a lack of consistent federal agency coordination, cooperation, and capacity that contributed to longer permitting timelines. In the case of *TransWest Express*, although routine coordination calls were held weekly and monthly for more than five years, “major issues remained unresolved as decisions were only finalized if there was a ‘consensus.’”⁸⁹

87. As aptly put by Jennifer Pahlka in her book *Recoding America*, “Whether fed by one source or many, waterfalls determine how information, insights, agency, and power flow. The flow goes only one way: down.” JENNIFER PAHLKA, *RECODING AMERICA: WHY GOVERNMENT IS FAILING IN THE DIGITAL AGE AND HOW WE CAN DO BETTER* (2023). This problem was also noted by legal scholar and former Deputy Secretary of the Department of Interior David J. Hayes: “The linear approach to federal permitting causes problems because when agencies are on the sidelines until late in the process, the project that they are finally presented with is likely to have well-defined and studies features that have been through an EIS process and have been validated by the lead agency. If these late-reviewing agencies identify a serious flaw in the project that was overlooked by, or was not in the jurisdictional purview of the lead agency, it may be too late to reorient the project to avoid that result. What might have been a relatively easy adjustment for a project proponent to make early in the permitting process, before the EIS was prepared and the lead agency completed its work, now becomes difficult or impossible.” David J. Hayes, *Leaning on NEPA to Improve the Federal Permitting Process*, 45 ENV’T L. REP. 10018, 10019 (2015), <https://law.stanford.edu/wp-content/uploads/sites/default/files/publication/824999/doc/slspublic/Hayes%2025%20ELR%2010018%20Leaning%20on%20NEPA.pdf>.

88. Delays in the NEPA process are often due to “inadequate agency budgets, staff turnover, delays receiving information from permit applicants, and compliance with other laws.” John C. Rupple, et al., *Evidence-Based Recommendations for Improving National Environmental Policy Act Implementation*, 47 *Columbia J. ENV’T L. S.* (2022), <https://journals.library.columbia.edu/index.php/cjel/article/view/9479>.

89. *Permitting Processes at the Department of the Interior and the Federal Energy Regulatory Commission for Energy and Resource Infrastructure Projects*, 115th Cong. 46-47 (2017) (testimony by Roxane Perruso, Vice President & Associate General Counsel of The Anschutz Corporation), <https://www.congress.gov/115/chrg/CHRG-115shrg28096/CHRG-115shrg28096.pdf>.

In testimony before the Senate Energy and Natural Resources Committee, Roxane Perruso of The Anschutz Corporation stated the lack of timely issue resolution “substantially increased permitting time and costs” and could have been avoided with more senior-level agency involvement.⁹⁰

Similarly, in development of the *SunZia Southwest Transmission Project*, the Department of Defense raised concerns regarding impacts of the line on the White Sands Missile Range. The project was controversial and the mitigation measures included in the 2015 ROD issued by Bureau of Land Management (BLM) did not settle the Department of Defense’s concerns. After the 2016 presidential election, the Department of Defense stated that national security interests and operations would be hampered by the transmission line and that the developer should pursue potential alternative routes farther from the missile range. Due in part to these concerns, in 2019, the developer performed a siting study to evaluate other routes, and in 2020, submitted an application to amend the right-of-way. Beginning July 29, 2021, SunZia was covered under FAST-41⁹¹ and the project was closely monitored by federal agencies and the Permitting Council. BLM (the lead agency) hosted weekly meetings with the federal cooperating agencies in 2021, leading up to the preparation of the Draft EIS for the amended application, and hosted quarterly meetings with all cooperating agencies, including the non-federal agencies.⁹² The increased collaboration under the auspices of the Permitting Council ultimately led to permits being granted in 2023, and a ROD issued in May 2023, less than two years after coverage under FAST-41.⁹³

90. *Id.*

91. Permitting Council, *Permitting Dashboard*, <https://www.permits.performance.gov/projects> (last visited Mar. 12, 2024).

92. BLM, *Record of Decision SunZia Southwest Transmission Project Right-of-Way Amendment*, at 16 (May 16, 2023), https://eplanning.blm.gov/public_projects/2011785/200481766/20078613/250084795/20230517%20SunZia%20ROD_508.pdf.

93. On January 30, 2024, the Tohono O’odham Nation, San Carlos Apache Tribe, Center for Biological Diversity, and Archaeology Southwest filed a motion for preliminary injunction, seeking to halt construction of the SunZia transmission line and alleging that BLM inadequately considered Traditional Cultural Property under the NHPA. As of the date of publication of this report, the litigation is

Improving federal agency coordination and capacity is fundamental to a more streamlined and effective transmission permitting process. Given the importance of high-voltage, long-distance transmission lines to the security, resilience, and decarbonization of the electric grid, the executive branch should continue to push transmission development as a high-visibility priority for federal agencies. Congress can provide funding for more dedicated agency staff, and DOE, the Permitting Council, and other entities can push for transparency, conflict resolution, and coordination around permitting within their purviews.

a. Recommendation 1.1: The President should continuously recognize transmission infrastructure permitting as a national priority

Executive leadership, spearheaded by the President, plays a pivotal role in establishing and championing strategic national priorities. By actively prioritizing transmission infrastructure, the President can significantly influence the entire executive branch and ensure that every Cabinet secretary, political appointee, frontline manager, and permitting official in the country understands that transmission permitting is a daily priority and interagency conflicts should be avoided or effectively resolved.

The President should establish clear transmission deployment goals and priorities to galvanize a shared vision and concerted effort across the executive branch. This effort should be reinforced by regular coordination at the Cabinet level, facilitation of departmental coordination, and mobilization of support for delivering on federal goals.

Through regular Cabinet-level alignment, and fully leveraging the authorities of the Permitting Council, the President should drive whole-of-government follow-through on the planning, establishment, and construction of long-distance lines of nation-

ongoing. Pls.' Mot. for TRO and Prelim. Inj., Request for Expedited Hr'g, and Mem. of P. & A., *Tohono O'odham Nation et al. v. U.S. Dep't of Interior et al.*, No. 4:24-CV-00034 (D. Ariz. Jan. 30, 2024) (ECF No. 16).

al importance⁹⁴ undergoing federal environmental reviews. Doing so requires clarifying roles and responsibilities, providing the institutional knowledge and support to act on existing authorities, and ensuring that transmission budget requests and appropriated funds are strategically deployed to deliver outcome-driven success. This encompasses essential elements such as the staffing and training needed to implement federal priorities effectively. Executive leadership is also vital for addressing regional and interregional issues, necessitating regular coordination between and among federal agencies, Tribal Nations, state and local governments, and regional grid planning organizations.⁹⁵

To actualize a coordinated transmission effort, the White House should appoint a transmission director with specific authority to oversee these efforts. This director will not only ensure alignment across agencies but will also play a critical role in educating existing agency staff on how to build transmission equitably and expeditiously.

Transmission projects are ripe for conflict—between landowners and developers, among agencies, and among federal, state, Tribal, and local authorities. Often, delays in permitting arise due to interagency conflicts that are not identified or resolved in a timely manner. A senior official in the Executive Office of the President should have the authority to assist in resolving interagency disputes, and the tools and gravitas to successfully advance projects.

A noteworthy example of executive leadership is the Biden administration's clear setting of goals, provision of support, and whole-of-government approach to offshore wind development. This approach has yielded significant milestones, including the approval of six offshore wind farms, four offshore

94. E.g., lines that enhance national energy security and reliability, lines that facilitate efficient and sustainable energy interstate transmission from production to consumption sites, and lines that promote interregional cooperation and economic growth.

95. One example, which has had some success in the transmission planning space, is the Joint Federal-State Task Force on Electric Transmission, in which FERC and NARUC participate. <https://www.ferc.gov/TFSOET> (last updated Mar. 5, 2024).

wind lease auctions,⁹⁶ power reaching the grid from the first and second utility-scale offshore wind farms in the United States,⁹⁷ and proposed regulatory reforms to modernize offshore wind development.⁹⁸ The President should similarly elevate transmission infrastructure modernization as a national priority. And, as administrations change, outgoing officials should emphasize communication and cooperation with their corollaries to align current practice and ensure a shared commitment to the prioritization of transmission as necessary infrastructure.

b. Recommendation 1.2: Congress and agencies should enhance transparency in project review and project timelines

Congress and federal agencies should work to enhance transparency in project timelines and in each step of review. Improving project review timelines and permitting review outcomes does not merely take more mandates and deadlines, which have been the focus of recent reforms. Mandating general timelines without addressing underlying substantive issues (including a lack of proper staffing and resources, *see below* Recommendation 1.3) can have unintended consequences; for example, the two-year EIS deadline imposed in the FRA⁹⁹ does not address the substance of the underlying issues that cause delays at the start of the formal siting and permitting processes. Requiring that agencies complete a process in less time does not help agencies do so. Tight timelines can also reduce the quality of work, which can in turn expose projects to greater litigation risk.

The larger issue is the failure to create and support an iterative, agile process with continuous and con-

96. Press Release, Dep't of Interior, *Biden-Harris Administration Approves Sixth Offshore Wind Project* (Nov. 21, 2023), <https://www.doi.gov/pressreleases/biden-harris-administration-approves-sixth-offshore-wind-project>.

97. Brad Plumer, *Massachusetts Switches On Its First Large Offshore Wind Farm*, N.Y. TIMES (Jan. 4, 2024), <https://www.nytimes.com/2024/01/04/climate/vineyard-wind-massachusetts.html>.

98. See Renewable Energy Modernization Rule, 88 Fed. Reg. 5968 (Jan. 30, 2023).

99. 42 U.S.C.A. § 4336a(g)(1)(A) (2023).

sistent communication among federal agencies, project developers, and stakeholders to identify and address concerns early and often. Instead of relying on mandating timelines alone to address delays resulting from inadequate interagency coordination, the permitting process should include interagency coordination during the pre-application phase—as outlined in DOE's IIP process—and at specific points in the environmental review process. This, coupled with—where appropriate and logistically feasible—use of a public docket throughout the permitting process could take significant strides toward ensuring real-time, effective communication among relevant governmental and non-governmental entities.¹⁰⁰ An informative example of smart use of a public docket is FERC's pre-filing docket and public dockets generally.¹⁰¹ All this combined would support transparent processes, transparent timelines, and ultimately, commitments to timelines. Use of the Permitting Dashboard should also be encouraged to enhance transparency and commitment to timelines. *See below* Recommendation 1.4.

*c. Recommendation 1.3: Congress should invest in interagency coordination, interagency cooperation, and agency capacity*¹⁰²

Insights from conversations with developers and federal government officials underscore a significant barrier to advancing transmission development: limitations on agency capacity.¹⁰³ Signatory agencies to DOE's MOU under FPA section 216(h)

100. See Letter from Niskanen Center to U.S. Dep't of Energy (Oct. 2, 2023), <https://www.niskanencenter.org/wp-content/uploads/2023/10/Niskanen-DOE-NOPR-CITAP-Comments.pdf>.

101. See <https://www.ferc.gov/media/pre-filing-environmental-review-process> (includes pre-filing process flowchart) (last visited Mar. 13, 2024); see generally FERC's eLibrary, linking to pre-filing and other dockets, <https://elibrary.ferc.gov/elibrary/search>.

102. See Appendix, case studies: 2. TransWest Express Transmission Project; 6. Hampton-Rochester-La Crosse Transmission System Improvement Project; 21. SunZia Southwest Transmission Project; 23. Surry-Skiffes Creek-Whealton Project; 28. Ten West Transmission Line Project.

103. See also, Jamie Pleune, *Choosing between Environmental Standards and a Rapid Transition to Renewable Energy is a False Dilemma*, ROOSEVELT INST. 15 (May 2023), <https://rooseveltinstitute.org/publications/choosing-between-environmental-standards-and-a-rapid-transition-to-renewable-energy-is-a-false-dilemma/>.

also recognized that insufficient budgets and agency staff, along with limited mechanisms for interagency coordination, contribute to delays in permitting timelines for transmission.¹⁰⁴

Addressing these coordination shortfalls requires a holistic approach. Simply focusing on expanding agency functions or authorities, without appropriate investment in supporting agency coordination, cooperation, and capacity, will likely fail. Agencies need appropriate resources and expertise to contribute to transmission modernization as a national priority. More funding or more staff does not necessarily mean increased efficiency or effectiveness, however, and there needs to be additional support for retaining, supervising, empowering, and training agency staff, particularly on the nuances of transmission and linear infrastructure. To this end, Congress should also increase funding for interagency coordination and staff dedicated to joint-agency projects. This need extends beyond federal entities to include state and Tribal agencies, which have similar needs for such support. *See below Recommendation 2.1.*

Congress should provide the funding necessary through annual appropriations to ensure that federal agencies have sufficient resources to conduct expeditious, coordinated reviews and permit decisions. The IRA provided more than \$1 billion to support the environmental review process—including \$350 million to the Permitting Council, \$30 million to CEQ, and \$625 million to federal agencies, including DOE, the Department of the Interior, the Forest Service, and the U.S. Department of Agriculture (USDA), to hire and train personnel, support public engagement, and develop helpful tools to improve transparency¹⁰⁵—which represents a significant step forward. However, while the episodic nature of large appropriation packages such as the IRA can boost funding for permitting for a num-

ber of years, relying on individual, unpredictable bills for funding makes it difficult for agencies to recruit and retain qualified permitting staff. Regular appropriations for permitting activities, rather than intermittent financial injections, will provide a more reliable foundation for attracting and retaining the skilled personnel necessary for this vital government function.

Senior agency personnel should be assigned to each major project under environmental review and should report directly to appointed decision-making officials at agency headquarters. One option could be to resume the use of National Project Managers, which existed within BLM. These positions were formerly filled by experienced career staff dedicated to shepherding transmission projects through the permitting process. Their upstream oversight of field offices was combined with a long-term, national view of projects and the experience necessary to make key decisions. After a gradual phase out due to staff retirements and turnover, reestablishing such a role across federal agencies through executive order or personnel action should be prioritized.

Finally, investments in digital tools and data platforms, potentially leveraging new developments in artificial intelligence and DOE's computing capabilities, could pay dividends of more targeted, effective, and expeditious reviews.¹⁰⁶ The Permitting Council's commitment of \$25 million from the IRA to modernize and develop technology solutions for federal environmental review is a commendable step. Sustained investments will help ensure new software and computing developments are harnessed to serve the public interest in efficient and effective federal permitting processes.

104. 88 Fed. Reg. at 55828; *see also above* note 69.

105. White House, *Building a Clean Energy Economy: A Guidebook to the Inflation Reduction Act's Investments in Clean Energy and Climate Action* (Jan. 2023), <https://www.whitehouse.gov/wp-content/uploads/2022/12/Inflation-Reduction-Act-Guidebook.pdf>.

106. *See, e.g.*, U.S. Dep't Transp. Fed. Highway Admin., *Improving Collaboration and Quality Environmental Documentation* (eNEPA and IQED), https://www.fhwa.dot.gov/innovation/pdfs/factsheets/edc/edc-3_factsheet_e-nepa.pdf (last visited Mar. 13, 2024).

d. Recommendation 1.4: DOE, the Permitting Council, and other agencies should require transparency and accountability through use of the Permitting Dashboard”¹⁰⁷

The Permitting Dashboard should be used to enhance transparency and accountability for transmission projects. Agencies should establish clear timeline goals and track key project information, including for projects not eligible for FAST-41 coverage. See above Recommendation 1.2. To further increase the Dashboard’s utility, DOE can work with lead and cooperating agencies to recommend nationally and regionally significant transmission projects, including all transmission projects requiring EIS review, be added to the Permitting Dashboard for their environmental review and authorization processes. Federal agencies can be project proponents under the FAST-41 definition, so federal leadership on transmission does not need to be constrained by the limitations of project applicants.

To support transparency efforts, the Permitting Council should increase the scope and detail of the Permitting Dashboard. Projects should be on the Dashboard before the NOI to prepare an EIS is filed. Where there are coordinated project plans with detailed timelines before the NOI, the Dashboard should track those timelines and project plans with the same level of detail; any points of implementation that can hold up a decision should be tracked on the Dashboard. This allows the Dashboard to function as a spotlight on developer-agency interactions, keeping the agency on track and moving efficiently, even before an NOI is filed.

2. Streamlining Interactions Among Sovereign Authorities

From our in-depth review of 37 transmission projects,¹⁰⁸ supporting data analysis of the federal environmental transmission permitting process, and

107. See Appendix, case study: 18. Tehachapi Renewable Transmission Project.

108. See Appendix, List of Transmission Line Case Studies, for in-depth project reviews.

conversations with transmission stakeholders,¹⁰⁹ Niskanen and CATF found that slow and/or sequential state and federal regulatory processes can add significant time to the total duration of project permitting. For example, on the *Boardman to Hemingway Transmission Line*, the Oregon and Idaho processes have substantially lagged the federal process.¹¹⁰ Interviews with permitting experts singled out Oregon’s Facility Siting Council as a noteworthy example of state and federal misalignment, particularly as Oregon law requires that a Site Certificate application cannot be found to be complete until all federal permit applications are submitted and each federal agency has identified when they will issue a permit decision.¹¹¹ This regulatory discordance can add years to a project’s total permitting timeline.

Moreover, state and local political opposition can create formidable barriers completely independent of the federal permitting process. In the case of the *SunZia Southwest Transmission Project*, BLM originally approved a right-of-way that crossed the Rio Grande near Socorro, New Mexico, a ranching and farming community.¹¹² Some individuals impacted by the route successfully lobbied the New Mexico Public Regulation Commission to reject SunZia’s application, causing additional project delays.¹¹³ The *Plains and Eastern Clean Line*, which would have traversed Oklahoma, Arkansas,

109. “Transmission stakeholders” refers to transmission permitting experts, transmission developers, federal officials with knowledge of and experience in transmission siting and permitting, and representatives from Tribal entities and utilities.

110. See Appendix, case study: 3. Boardman to Hemingway Transmission Line.

111. “The Department may not find the site certificate application to be complete before receiving copies of all federally-delegated permit applications and a letter or other indication from each agency responsible for issuing a federally-delegated permit stating that the agency has received the permit application, identifying any additional information the agency is likely to need from the applicant and estimating the date when the agency will complete its review and issue a permit decision.” OR. ADMIN R. 345-021-0000(6) (2024).

112. See Appendix, case study: 21. SunZia Southwest Transmission Project.

113. Rio Grande Agric. Land Tr., *Protect Our Migratory Birds: Demand SunZia Energy Bury Rio Grande Transmission Lines* (Mar. 8, 2019), <https://rgalt.org/protect-our-migratory-birds/>.

and Tennessee, has failed to come to fruition after considerable political opposition.¹¹⁴ In its proposal to DOE, the project developer stated the project would “make possible some \$12 billion of renewable energy projects that otherwise cannot be built due to limitations of the existing grid.”¹¹⁵ Arkansas rejected Clean Line’s application to operate as a public utility “based on [] information about its current business plan and present lack of plans to serve customers in Arkansas.”¹¹⁶ Members of the Arkansas congressional delegation proposed legislation to impede and stop the project. Even in Tennessee, where it enjoyed some support,¹¹⁷ the project sustained vocal opposition from a Tennessee senator and other Tennessee congressional members for years.¹¹⁸ The Tennessee Valley Authority ultimately decided not to buy power from the project, even though analyses appeared to show the project would have resulted in competitive pricing. The original developer sold a portion of the project in 2017.¹¹⁹

Finally, insufficient state and Tribal resources to participate in federal permitting processes and a lack of comprehensive federal leadership cause additional hurdles. As interstate transmission lines do not always directly benefit each state or Tribe they traverse, the federal government must lead in demonstrating the importance of transmission

development for national and regional policy goals.

To address these challenges and promote a more efficient permitting process, several strategic initiatives are recommended to facilitate and support more streamlined interactions between and among states, Tribes, and federal authorities. Federal agencies should use Congressional funding to enhance state and Tribal capacity to fully partake in the permitting process. The Permitting Council can serve an important coordinator role among permitting officials at federal agencies to ensure cross-agency and cross-jurisdictional alignment. Congress can consolidate permitting and siting authority for multi-state projects in the national interest. And though the focus of this report is federal, our research unearthed the potential of better-harmonized state permitting processes to speed projects undergoing federal reviews. This promising avenue warrants further exploration to identify effective strategies for federal support of harmonization efforts.

a. Recommendation 2.1: Federal agencies, with Congressional support, should enhance state and Tribal capacity to conduct and participate in permitting processes

State and Tribal resource constraints can contribute to the lengthy timelines attributed to federal, state, and Tribal interactions and reviews. For state and Tribal agencies to actively participate in federal permitting processes and avoid delays from sequential review or political challenges, federal agencies should take a leading role in boosting state and Tribal capacity. Federal agencies should also conduct earlier and more comprehensive engagement with Tribes, on par with federal engagement with state entities and developers.

Federal agencies typically have more resources than state or Tribal institutions and can retain extensive expertise on critical technical matters. To make these resources more accessible, Federal agencies should lay out best practices on how local, state, Tribal, and community entities can and should engage in the permitting process. Federal agencies

114. See Appendix, case study: 37. Plains and Eastern Clean Line.

115. Plains and Eastern Clean Line, Project Proposal for New or Upgraded Transmission Line Projects Under Section 1222 of The Energy Policy Act of 2005, (Jul. 2010), <https://www.energy.gov/sites/prod/files/Plains%20%26%20Eastern%20Clean%20Line%20Transmission%20Project%20Application.pdf> at 2.

116. See Order No. 9, *In re* Application of Plains and Eastern Clean Line LLC, No. 10-041-U, at 11 (Ark. Pub. Serv. Comm’n Jan. 11, 2011), http://www.apscservices.info/pdf/10/10-041-u_41_1.pdf at 11.

117. Wesley Brown, *Controversial \$2.5 billion Clean Line project stalled; will evaluate options, officials say*, TALK BUS. & POL. (Jan. 3, 2018), <https://talkbusiness.net/2018/01/controversial-2-5-billion-clean-line-project-stalled-will-evaluate-options-officials-say/>.

118. Patrick Lantrip, *Winds of Change: How massive energy project would fit into the local power structure*, MEMPHIS DAILY NEWS (Jun. 3, 2017), <https://www.memphisdailynews.com/news/2017/jun/3/winds-of-change/>

119. Michelle Froese, *NextEra acquires Oklahoma portion of Plains & Eastern Clean Line transmission project*, WINDPOWER ENG’G & DEV. (Dec. 27, 2017), <https://www.windpowerengineering.com/nextera-acquires-oklahoma-portion-plains-eastern-clean-line-transmission-project/>

should provide technical assistance and make funding available for states and Tribes to hire experts to interpret and conduct any required technical analyses. Such practices can play a major role in equitably distributing knowledge and resources to those entities engaged in the permitting process.

Agencies should also provide funding and support for public engagement around transmission line benefits and costs. Federal assistance should be provided to assist state, Tribal, and local entities in enforcing siting decisions and corridor selection.¹²⁰ Tribal consultation and outreach should be prioritized and, when done effectively and intentionally, can lead to more predictable development outcomes and the possibility of including Tribal Nations in financial project development partnerships. And while federal agencies should use their resources to support Tribes in overcoming barriers to participation in the federal permitting process, this only goes so far. Developers themselves—even before the beginning of the formal federal permitting process—can hire dedicated Tribal affairs consultants, akin to the current standard practice of engaging professional government affairs staff or environmental consultants.

One option for providing technical assistance is for Congress to appropriate funds to DOE’s National Labs to make transmission experts available on-call to eligible entities.¹²¹ Another example of funding support is through existing Transmission Siting and Economic Development (TSED) grants from DOE, where state and Tribal agencies can pursue federal funding to hire dedicated staff with legal and engineering backgrounds to participate actively in the siting and permitting processes for specific large, interstate or offshore transmission projects. In August 2023, DOE released a funding opportunity

120. See Appendix, case study: 1. Southline Transmission Line Project.

121. For example, DOE GDO currently administers a Tribal Nation Offshore Wind Transmission Technical Assistance Program, which offers capacity building through educational resources and provides on-call assistance from experts. See more information at: <https://www.energy.gov/gdo/tribal-nation-offshore-wind-transmission-technical-assistance-program>.

announcement for \$300 million under the TSED program to support state, Tribal, and local entities in analyzing the impacts of high-voltage transmission projects, assessing alternative corridors, participating in regulatory proceedings, and facilitating other actions that could aid the permitting process.¹²²

In the case that conflict arises during the permitting process, the use of a neutral third-party facilitator can also support conflict resolution among federal, state, Tribal, and local authorities. A report from the federal Forum on Environmental Collaboration and Conflict Resolution (ECCR) supports using conflict resolution techniques to shepherd projects to approval.¹²³ This ECCR study shows how increasing the effective use of environmental conflict resolution and building institutional capacity for collaborative problem solving can produce cost savings and more timely decisions, improve relationships between the government and stakeholders, and result in more creative and lasting solutions to even long-term or entrenched disagreements by increasing understanding among stakeholders and reaching durable agreements.

A skilled neutral third-party facilitator can assist with government-to-government consultation between Tribes and federal agencies, facilitate agency and departmental collaborations, and help resolve state and federal differences and conflicts involving multiple levels of government and the public. To avoid delays, disputes should be brought to the attention of alternative dispute resolution professionals as soon as problems are identified.¹²⁴ So far, the Permitting Council has not used its authority for this purpose. This effort should be supported by the Permitting Council, which received

122. DOE Grid Deployment Off., *Transmission Siting and Economic Development (TSED) Program: What Siting Agencies Need to Know* (Oct. 2023), https://www.energy.gov/sites/default/files/2023-10/102023_TSED-SitingAuthorities.pdf.

123. CEQ, “*Environmental Collaboration and Conflict Resolution (ECCR): Enhancing Agency Efficiency and Making Government Accountable to the People. A Report from the Federal Forum on Environmental Collaboration and Conflict Resolution*,” (May 2, 2018), https://ceq.doe.gov/docs/nepa-practice/ECCR_Benefits_Recommendations_Report_%205-02-018.pdf.

124. 42 U.S.C. § 4370m-1(c)(3)(B) (2022).

\$350 million in the IRA to fund the implementation and enforcement of FAST-41 through 2031.¹²⁵

b. Recommendation 2.2: Congress should consolidate permitting and siting authority for multi-state projects that are in the national public interest

Large multi-state transmission lines offer outsized reliability, cost savings, and resilience benefits at the regional and national levels. Yet local opposition, while often rooted in legitimate concerns, can overlook or underestimate the collective value of transmission. The disconnect between local opposition and broader national public interest necessitates a recalibration of the permitting and siting authority paradigm.

Congress should vest and consolidate permitting and siting authority at the federal level for multi-state transmission lines that are in the public interest. This approach is not unprecedented; it draws upon some of the existing framework for siting in NIETCs, which already empowers FERC to step in under specific circumstances.¹²⁶ However, the scope of current federal statutory authority for transmission siting is limited and does not fully address the complexities and scale of need for modern, multi-state transmission projects.

Congress should build on FERC's current backstop siting authority for projects in NIETCs by granting comprehensive permitting and siting powers for such projects. The Streamlining Interstate Transmission of Electricity (SITE)¹²⁷ and Clean Electricity and Transmission Acceleration (CETA)¹²⁸ Acts serve as possible legislative models, aiming to bolster grid security and reliability through enhanced

federal authority, balanced with ample and sensible stakeholder engagement and protections.

This recommendation is made with a clear understanding of the delicate balance between federal oversight and local autonomy, which warrants a structured, transparent, and collaborative approach, ensuring that all stakeholders, including state authorities, local communities, and private entities, are engaged in a constructive dialogue throughout the project lifecycle. This approach is not about undermining local concerns but about elevating and aligning these concerns within a broader national framework, ensuring that the collective benefits of these projects are realized effectively and equitably.

*c. Recommendation 2.3: States should harmonize their permitting processes to create regulatory efficiency and allow more concurrent processes*¹²⁹

State processes need to be harmonized among themselves (state-state) and with federal processes (state-federal). State determinations of project need, through State Certificates of Public Convenience and Necessity (CPCN) or similar siting approval processes, and state-level environmental permitting are often required for transmission facilities. These permitting processes vary greatly in their timelines and applicant requirements, creating a patchwork of distinct regulatory requirements. In some cases, these processes require much more and specific information than federal environmental reviews. Harmonizing state permitting requirements need not require lessening the rigor or authority of state reviews; instead, neighboring states can identify the

125. 42 U.S.C. § 4370m-8(d) (2022).

126. 16 U.S.C. § 824p(b) (2022).

127. Streamlining Interstate Transmission of Electricity or "SITE Act", S. 946, 118th Cong. (1st Sess. 2023), <https://www.congress.gov/bill/118th-congress/senate-bill/946>.

128. Clean Electricity and Transmission Acceleration Act of 2023, H.R.6747, 118th Cong. (1st Sess. 2023), <https://www.congress.gov/bill/118th-congress/house-bill/6747>.

129. See Appendix, case studies: 3. Boardman to Hemingway Transmission Line; 6. Hampton-Rochester-La Crosse Transmission System Improvement Project; 8. Sun Valley to Morgan Transmission Line Project; 9. Antelope Valley Station-Neset Transmission Line; 10. Central Ferry-Lower Monumental Transmission Line Project; 12. City of Tallahassee Southwestern Transmission Line; 13. Tropic to Hatch Transmission Line Project; 14. Barren Ridge Renewable Transmission Project; 16. Bemidji-Grand Rapids Transmission Line Project; 20. New England Clean Power Link; 26. Great Northern Transmission Line; 30. Cardinal-Hickory Creek Transmission Line Project; 31. Mona to Quirrh Transmission Corridor Project; 34. Northern Pass Project; 35. Potomac-Appalachian Transmission Highline.

best of their distinctive processes to inform reforms that align between them and with federal permitting.

One example of effective harmonization between state and federal environmental reviews is in California under the California Environmental Quality Act (CEQA). The projects reviewed by Niskanen and CATF demonstrate multiple examples of joint EISs and Environmental Impact Reports (EIRs) prepared under NEPA and CEQA.¹³⁰ While CEQA's complexity can leave projects more vulnerable to litigation,¹³¹ it provides an example of how state and federal processes can align, as there is the ability for joint CEQA/NEPA review and state agencies can serve as co-lead agencies under the NEPA process. However, CEQA processes include additional procedural rigor and substantive standards that should not be confused with the requirements for federal environmental review under NEPA and federal authorizations.

Incorporation by reference of state environmental review materials for purposes of federal environmental reviews should also be used as appropriate, following proper validation and verification.¹³² For example, in the *Hampton-Rochester-La Crosse Transmission System Improvement Project*, the Rural Utilities Service (RUS) incorporated by reference information from the Minnesota and Wisconsin EISs in preparing its final EIS.¹³³

130. See, e.g., Appendix, case studies: 18. Tehachapi Renewable Transmission Project and 36. San Luis Transmission Project.

131. Whitney Hodges, 2023 Year-in-Review CEQA Litigation, 14 NAT'L L. REV. 73 (Jan. 29, 2024), <https://www.natlawreview.com/article/2023-year-review-ceqa-litigation> (“Despite repeated attempts at reform by the Legislature, [CEQA] continues to be a minefield for those assigned with the herculean task of complying with the law’s myriad of directives.”); Perkins Coie LLP, Governor Newsom Proposes CEQA Reform (May 22, 2023), <https://www.perkinscoie.com/en/news-insights/governor-newsom-proposes-ceqa-reform.html>. To promote efficient and effective environmental reviews, the CEQ and the California Governor’s Office of Planning and Research jointly issued a Handbook for Integrating California State and Federal environmental reviews. NEPA & CEQA, *Integrated Federal and State Environmental Reviews* (Feb. 2014), https://ceq.doe.gov/docs/ceq-publications/NEPA_CEQA_Handbook_Feb_2014.pdf.

132. 40 C.F.R. § 1501.12 (2023).

133. See Appendix, for relevant case study: 6. Hampton-Rochester-La Crosse Transmission System Improvement Project.

Project-specific MOUs between state and federal permitting authorities can also help to align processes and tailor coordination to particular needs. While MOUs will not fix all underlying issues in coordination, developing cross-state MOUs requires the type of deeper examinations of state processes that can help identify and routinize areas of alignment between state permitting processes.¹³⁴ States should also take advantage of opportunities to participate in FAST-41 under an MOU. See above Section B.2.b. So far, no state has opted to do so for a transmission project.

To avoid lengthy sequential review processes, states should revise their need and environmental review processes to be concurrent with federal reviews. In Oregon, for example, the state’s siting process requires a final route be determined before their review can begin, greatly extending permitting timelines for projects that also undergo federal review like the *Boardman to Hemingway Transmission Line*.¹³⁵ Many other states lack such requirements. Another example of streamlining state and federal reviews would be exempting projects that receive thorough federal environmental review from the state environmental review process.¹³⁶ Additionally,

134. For example, Massachusetts, Rhode Island, and Connecticut entered into an MOU to coordinate their selection of offshore wind projects to maximize regional benefits and reduce costs. This kind of coordination could serve as a model for interstate coordination on transmission. See Conn., R.I., Mass., *Memorandum of Understanding on Offshore Wind Multi-State Coordination* (Oct. 3, 2023), <https://energy.ri.gov/sites/g/files/xkgbur741/files/2023-10/MA-RI-CT%20Offshore%20Wind%20Procurement%20Collaboration%20Memorandum%20of%20Understanding%20--%20Final%2010-3-23%20CEM%20Sig%5B45%5D.pdf>. See also CEQ, in collaboration with states and local jurisdictions that have environmental review processes, has been preparing memoranda which compare and contrast state and local environmental review requirements with NEPA requirements. As CEQ notes, the memoranda are “designed to...find opportunities to realize efficiencies through collaboration with state and local governments by aligning, where appropriate, combining the environmental review process, <https://ceq.doe.gov/laws-regulations/States.html> (last visited Mar. 13, 2024).

135. See Appendix, for relevant case study: 3. Boardman to Hemingway Transmission Line.

136. For example, a bill introduced during Oregon’s 2024 legislative session would have excluded renewable energy facilities or transmission lines proposed wholly on federal lands and subject to NEPA review from additional state-level review. See HB 4090, 82nd Legislative Assembly (Oregon, 2024), <https://olis.oregonlegislature.gov/liz/2024R1/Measures/Overview/HB4090>.

there are ongoing discussions regarding the degree to which a federal need designation can be effective in moving a project forward.¹³⁷

Finally, to support successful state-federal harmonization, Congress and the federal agencies should provide support to states to participate in the federal permitting process and/or to states that incorporate national needs into their siting and permitting processes. *See* Recommendation 2.1.

d. Recommendation 2.4: The Permitting Council should work with CERPOs to advance projects and coordinate with and support local authorities

Given the balkanization of authority over interstate transmission lines, there is a clear need for centralized federal transmission leadership to coordinate and support states, Tribes, and local authorities along the permitting and approvals process. The Permitting Council should take advantage of existing positions within agencies to support this effort. Specifically, the Council should work with each agency's CERPO to advance transmission projects.

Federal agencies should not sit passively during the environmental review process for transmission lines; instead, they should take a leading role and use NEPA as a tool to inform other decision-makers and the public about transmission projects. The essential NEPA function of providing information to states, Tribes, and other decision-makers provides an opportunity for CERPOs, the Permitting Council, and other agency staff to support local authorities in making timely related permitting decisions.

3. Improving the Environmental Review and Permitting Process

The NEPA process is intended to support informed federal decision-making and guarantee that infor-

137. For example, the District Court for the Middle District of Pennsylvania issued a decision in December 2023 limiting state authority to deny transmission projects that a Regional Transmission Organization had determined were needed. *See Transcourse Pennsylvania, LLC v. Steven M. Defrank, et al*, 1:21-CV-01101 (M.D. Pa. Dec. 6, 2023), <https://casetext.com/case/transcourse-pa-llc-v-defrank>.

mation on the environmental effects of major federal actions is made available to a larger audience in the decision-making process. NEPA's requirements for information sharing have made NEPA the foundation of federal coordination and assessment of environmental impacts of major federal actions. Decades of NEPA implementation have also shown the importance of NEPA-driven coordination with the communities that infrastructure is intended to serve, creating a framework for developing greater social license for major infrastructure projects and identifying ways to mitigate the impacts of projects that are ultimately built.

While upholding these important goals and purposes of NEPA, there are opportunities to improve efficiencies in the federal permitting process. As found through Niskanen and CATF's in-depth review of 37 transmission projects,¹³⁸ supporting data analysis of the federal environmental transmission permitting process, and conversations with transmission stakeholders,¹³⁹ purposeful and collaborative pre-planning efforts can lead to a more efficient NEPA process. This includes pre-application engagement between developers and agencies to reduce overall project timelines. As one example, Minnesota Power, the developer of the *Great Northern Transmission Line*, a 220-mile, 500 kV line,¹⁴⁰ conducted extensive outreach with federal, state, and local agencies, Tribal governments, and landowners along the proposed routes prior to filing applications with the Minnesota Public Utility Commission and DOE for a Presidential Permit required for crossing international borders.¹⁴¹ This developer's approach to stakeholder engagement demonstrates that pre-planning and early collaboration is an important component

138. See Appendix, List of Transmission Line Case Studies for in-depth project reviews.

139. "Transmission stakeholders" refers to transmission permitting experts, transmission developers, federal officials with knowledge of and experience in transmission siting and permitting, and representatives from Tribal entities and utilities.

140. See Appendix, for relevant case study: 26. Great Northern Transmission Line.

141. See Dep't of Energy Grid Deployment Off., *Presidential Permits*, <https://www.energy.gov/gdo/presidential-permits> (last visited Mar. 13, 2023).

of an efficient permitting process; there were only three years¹⁴² from the issuance of an NOI to prepare an EIS to the start of project construction.¹⁴³ Further, pre-application work can assist in building stakeholder relationships that mitigate conflict in advance of formal federal review. Transparent processes (*see above* Recommendation 1.4) can provide additional clarity to all stakeholders.

Implementation of these recommendations does not require legislative changes to NEPA. Instead, agencies should take advantage of existing processes and authorities, including through associated rule-makings.¹⁴⁴ Fuller use of already-established mechanisms to carry out the below proposals will result in a more coordinated, efficient, and inclusive environmental review and permitting process.

*a. Recommendation 3.1: Agencies and developers should conduct early, sustained, and meaningful stakeholder outreach*¹⁴⁵

Early, sustained, and meaningful stakeholder outreach is critical to improving project design and identifying and resolving potential conflicts that can create delays in transmission development. Done well, pre-application stakeholder outreach that occurs before the formal start of the NEPA process can increase the efficiency of permitting processes, and the outreach and information-sharing require-

ments of NEPA itself further support efficient timelines. In particular, developer coordination and engagement with Tribal communities early in the project design process can help ensure mutually beneficial outcomes. Projects that fail to engage in meaningful outreach are exposed to avoidable opposition and delays that slow timelines.

As previously noted, the *Great Northern Transmission Line* provides an example where early and meaningful engagement improved permitting outcomes. This project was planned to cross the U.S.-Canada border near Roseau, Minnesota and continue on to Grand Rapids, Minnesota. In its pre-filing process, the project developer, Minnesota Power, proposed routes that it developed through 75 voluntary meetings and other outreach forums over a five-year period.¹⁴⁶ The route that emerged at the end of the lengthy stakeholder engagement process had been modified several times to accommodate stakeholders and received letters of support from counties bordering the project and the Red Lake Band of Chippewa Indians, whose land would also border the proposed project.¹⁴⁷ The resulting federal permitting timeline was comparably quick. After the publication of an NOI in June 2014, it only took until November 2016 for an ROD to be released. Without this up-front stakeholder engagement, the transmission line could have been mired in more serious and time-consuming opposition and litigation.¹⁴⁸

Timely, meaningful engagement with impacted communities must be conducted as part of project planning, approval, and post-implementation monitoring. It is also crucial to emphasize the distinct government-to-government responsibilities of federal agencies to ensure robust engagement through the permitting process when consulting with Tribes on projects that may impact natural and cultural

142. Compared with an average of 4.3 years as indicated by findings from our data analysis, *See* Section C.

143. MINN. STAT. § 216E.03(Subd. 3a, Subd3b), requires any utility that is planning to file an application for a route permit with the Minnesota PUC for a new transmission project to notify local governmental officials within a possible route of the existence of the project and the opportunity for a pre-application meeting.

144. Of course, keeping in mind the pending Supreme Court case that will likely impact *Chevron* deference to agency decision-making. *Loper Bright Enters., Inc. v. Raimondo*, 45 F.4th 359 (D.C. Cir. 2022), *cert. granted in part*, 2023 WL 3158352 (2023) (granting the petition as to Question 2: “Whether the Court should overrule *Chevron* or at least clarify that statutory silence concerning controversial powers expressly but narrowly granted elsewhere in the statute does not constitute an ambiguity requiring deference to the agency.”).

145. *See* Appendix, case studies: 1. Southline Transmission Line Project; 15. Hooper Springs Transmission Project; 17. Sigurd to Red Butte Transmission Line Project; 21. SunZia Southwest Transmission Project; 26. Great Northern Transmission Line; 28. Ten West Link Transmission Line Project; 33. Devers-Palo Verde No. 2 Transmission Line; 37. Plains and Eastern Clean Line.

146. Minn. Elec. Transmission Plan., Transmission Projects Report 2013 (Nov. 1, 2013), https://www.minnelectrans.com/documents/2013_Biennial_Report/html/Ch_4_Public_Participation.htm.

147. Eleanor Stein & Mike O’Boyle, *Siting Renewable Generation: The Northeast Perspective* (March 2017), <https://energyinnovation.org/wp-content/uploads/2020/01/siting-renewable-generation.pdf>.

148. *See above* note 83.

resources. State and local agencies can coordinate with Tribal agencies, including through NHPA consultations involving state and Tribal Historic Preservation Officers, and applicants are encouraged to coordinate with Tribal agencies with jurisdiction or special expertise regarding the effects of their proposed actions and alternatives. However, coordination on environmental review under NEPA or consultation under NHPA Section 106 should not be confused with the sovereign authorities of Tribes to consult with federal agencies on a government-to-government basis.¹⁴⁹

Transmission developers do many studies pre-application, but historically Tribes have only been involved or engaged once the formal study begins. In some cases, agency consultation issues are to blame—for example, our research uncovered that agencies have wrongly told developers not to talk to Tribes prior to the commencement of the formal consultation period. Agencies should be resourced and empowered to invest in capacity-building programs to support agency personnel and communities’ ability to meaningfully participate. Implementation of the NEPA process must prioritize early, robust, and responsive stakeholder outreach as an essential aspect, ensuring an efficient and timely permitting process.

*b. Recommendation 3.2: Agencies should implement robust pre-filing processes*¹⁵⁰

Pre-filing processes provide an opportunity for the applicant and agency to have detailed interactions before the official commencement of environmental review. The key purposes of pre-filing are: 1) to allow an agency and applicant to discuss the application requirements to create a common understanding of

what must be filed, and 2) to allow an applicant to vet its project with the agency before filing so that the agency can identify potentially significant problems with the project.

FERC has recognized the value of pre-filing processes in issuing certificates for natural gas pipelines, and encourages pre-filing procedures for all major pipelines, noting that it “reduces the time it takes to develop the record ... while ensuring the highest levels of environmental protection and public participation.”¹⁵¹ FERC has found that pre-filing “provides an opportunity for constructive discussions about potential issues and environmental concerns, and early consideration of alternative pipeline routing.”¹⁵² FERC adds that, if used effectively, the pre-filing process “can streamline the review once an application is filed. It allows the Commission to focus on any remaining significant issues, and to make more timely decisions.”¹⁵³ As part of its 2023 Notice of Proposed Rulemaking on the siting of interstate electric transmission facilities, FERC has proposed to revise its policy that the Commission’s pre-filing processes must begin at least one year after the filing of relevant state siting applications in NIETCs, acknowledging that federal and state pre-filing processes beginning simultaneously can eliminate an unneeded delay.¹⁵⁴

A recent proposal to support pre-filing procedures is DOE’s proposed Coordinated Interagency Transmission Authorizations and Permits (CITAP) Program.¹⁵⁵ The CITAP Program would improve the IIP Process, make participation in the IIP Process mandatory for a permitting decision from DOE pursuant to the 2023 MOU (see Section B.2.b),

149. Exec. Order No. 13175, 65 Fed. Reg. 67249 (Nov. 9, 2000); White House, *Memorandum for the Heads of Executive Departments and Agencies on Uniform Standards for Tribal Consultation* (Nov. 30, 2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/11/30/memorandum-on-uniform-standards-for-tribal-consultation/>; <https://www.achp.gov/government-to-government> (last visited Mar. 13, 2024).

150. See Appendix, case studies: 26. Great Northern Transmission Line; 33. Devers-Palo Verde No. 2 Transmission Line.

151. FERC, *Suggest Best Practices for Industry Outreach Programs to Stakeholder 1, 3* (Jul. 2015), <https://www.ferc.gov/sites/default/files/2020-04/stakeholder-brochure.pdf>.

152. *Id.* at 17.

153. *Id.*

154. See *Applications for Permits to Site Interstate Electric Transmission Facilities*, 88 Fed. Reg. 2770 (Jan 17, 2023).

155. See *above* note 73, 88 Fed. Reg. 55826.

and set milestones and deadlines for the review of authorizations and environmental reviews.¹⁵⁶

Following FERC and DOE's lead, agencies making decisions about transmission should implement agency-specific pre-filing processes and encourage applicants to opt in to pre-filing where appropriate.¹⁵⁷ Agencies are best situated to know what they need from an applicant and whether a project presents a problem that should be dealt with before an application is filed. For this reason, there is not necessarily an advantage to standardizing the pre-filing process across different agencies, although there should be predictability and transparency in what the pre-filing process requires.¹⁵⁸ Some amount of standardization at this stage can facilitate coordination at later stages. CEQ can assist this effort by issuing pre-filing guidance specific to transmission. *See below*, Recommendation 3.3. Pre-filing processes should also be supported with sufficient investments in agency capacity and coordination. *See above* Recommendation 1.3.

Moreover, to maximize the efficacy and efficiency of pre-filing processes, it is essential that these procedures are designed to complement, rather than replicate, the formal permitting or application processes. By focusing on early identification and resolution of potential issues, pre-filing should streamline the subsequent stages of project approval without introducing unnecessary redundancies. This approach ensures a pre-filing phase adds value by fostering a more collaborative, informed, and efficient path through the regulatory landscape, ultimately

benefiting both the agency and the applicant by saving time and resources.

*c. Recommendation 3.3: Developers and agencies should engage in early and collaborative identification of alternatives to be analyzed in an environmental impact statement (EIS)*¹⁵⁹

The consideration of alternatives is the heart of the environmental analysis of a proposed project. Identifying and evaluating alternatives that meet a project's purpose, need, and technical requirements is time- and resource-intensive. Evidence from the transmission projects evaluated by Niskanen and CATF demonstrates that project alternatives should be identified as early as is feasible in a collaborative process that includes relevant federal agencies, the project developer, state and local officials, Tribes, relevant stakeholders, and the public. This facilitates the permitting process by identifying the least contentious alternatives early in the planning process, reducing the likelihood of delay from project opposition. *See also* Recommendation 3.1. That, in turn, creates a strong foundation for the preparation of the EIS and subsequent permitting actions based on the environmental analysis.

For example, Southline Transmission, LLC, based on a series of public meetings, routing workshops, and meetings with local, state, and other federal agencies prior to developing the *Southline Transmission Line Project*, published a project routing study. Many different route segments were identified and analyzed. This process resulted in two alternatives for the new build section of the project (the other section of the project would upgrade an existing transmission line owned by the Western Area Power Administration [WAPA]). Southline presented the two alternatives to the BLM and WAPA, the joint lead agencies in the preparation of the EIS.

156. *Id.* at 55828.

157. FERC in early 2023 issued a Notice of Proposed Rulemaking to update backstop siting authority that would, if adopted, allow developers to start pre-filing process with FERC at the same time they start state permitting process (cutting down on delays if backstop siting ultimately becomes primary). *See above* note 154, 88 Fe. Reg. 2770.

158. For example, the USDA Rural Utilities Service requires applicants to submit special preliminary studies when applying for financing assistance for classes of electric generation and/or transmission projects that require preparation of an EIS. These preliminary studies are the Alternative Evaluation Study, the Site Selection Study and the Macro-Corridor Study. 7 C.F.R. § 1794.51(c) (2024).

159. *See* Appendix, case studies: 2. TransWest Express Transmission Project; 11. Vantage to Pomona Heights Transmission Line Project; 15. Hooper Springs Transmission Project; 18. Tehachapi Renewable Transmission Project; 21. SunZia Southwest Transmission Project; 22. Gateway South Transmission Project-Segment F; 36. San Luis Transmission Project.

Because WAPA and BLM participated in Southline’s routing study and public outreach, they each understood why various route segments were selected or rejected. Both agencies analyzed the Southline alternatives and used the NEPA process to identify reasonable, technically and economically feasible alternatives.¹⁶⁰ As stated by WAPA in its ROD, “[d]ue to Southline’s thorough routing process, extensive stakeholder outreach, and early route screening with Western and the BLM, agency alternatives developed through the NEPA process resulted in only small route variations which could potentially reduce or avoid local resource conflicts.”¹⁶¹

Project developers can proactively initiate the investigation of potential alternatives themselves.¹⁶² Agencies can lead early evaluation of project alternatives by engaging with project sponsors and by adopting practices such as the Macro-Corridor Study, a preliminary study that USDA’s RUS requires applicants to submit in anticipation of developing an EIS.¹⁶³ CEQ can also support these efforts by developing guidance encouraging early and collaborative identification of alternatives.

d. Recommendation 3.4: Agencies should carefully expand categorical exclusions for transmission development

One means of accelerating transmission infrastructure delivery and decreasing project costs is to increase the efficiency of the environmental review and permitting process through the strategic and appropriate use of categorical exclusions. Appropriately using categorical exclusions with adequate environmental and community safeguards for

much-needed transmission projects that are known to have no significant impacts is an important way for agencies to accelerate the deployment of transmission infrastructure. Categorical exclusions are not absolute, meaning that if the agency finds an extraordinary circumstance (e.g., identification of adverse effects on threatened or endangered species in the project area) exists and determines that the presumption of a categorical exclusion is overcome, an EA or EIS will be required. This extraordinary circumstances requirement provides a critical safeguard to the use of categorical exclusions where they would not be appropriate.

Available categorical exclusions should be expanded for more categories of projects within existing project rights-of-way that are known to have no significant impacts. Agencies should look for opportunities to establish or expand existing categorical exclusions for transmission development, where EIS-level review is unnecessary. As an example, a recently proposed rule from DOE would revise an existing categorical exclusion (B4.13, which applies to upgrading or rebuilding transmission lines that are approximately 20 miles in length or less) to exclude the mileage limitation.¹⁶⁴ DOE indicated that its experience with power line upgrades and rebuilds does not suggest that a particular mileage limit is a reliable threshold for whether a project has significant effects. Instead, the potential significance of environmental impacts from upgrading or rebuilding power lines more often depends on local environmental conditions, which well-designed definitions of and screening for extraordinary circumstances can safeguard against. Agencies should look to their existing categorical exclusions and, based on their institutional knowledge, consider how they can be thoughtfully expanded to increase the efficiency of environmental review without causing significant impacts to the environment or impacting public participation.

160. Southline Transmission Line Project Environmental Impact Statement, 81 Fed. Reg. 22076 (Apr. 14, 2016).

161. *Id.* at 22077.

162. As required under the FRA NEPA amendments, an EIS must consider a “reasonable range” of alternatives that includes a consideration of “any negative environmental impacts of not implementing the proposed agency action in the case of the no action alternative,” signaling the benefits of agency action. 42 U.S.C. § 4332(2)(C) (2022).

163. See USDA Rural Dev., *Exhibit D-8: Guidance for Preparing a Macro-Corridor Study* (Sept. 2011) <https://www.rd.usda.gov/sites/default/files/Macro-CorridorStudyGuidance.pdf>.

164. National Environmental Policy Act Implementing Procedures, 88 Fed. Reg. 78681 (Nov. 16, 2023).

*e. Recommendation 3.5: Agencies should expand the use of programmatic EIS (PEIS) reviews for transmission infrastructure projects, and Congress should ensure that agencies have sufficient capacity to do so*¹⁶⁵

CEQ's NEPA implementing regulations support the use of broader, programmatic environmental reviews that consider the impacts of programmatic federal actions; for example, actions occurring in the same geography, or actions with relevant similarities, including timing, impacts, implementation, or subject matter.¹⁶⁶ CEQ's NEPA regulations also encourage the use of "tiering" to increase the efficiency of environmental review, eliminate repetitive discussions, and focus on issues ripe for decision.¹⁶⁷ Tiering refers to citing earlier NEPA review documents to expedite project-specific environmental review.

For transmission development, a programmatic EIS (PEIS) can be used to identify potential environmental impacts that are common to electric transmission lines, such as viewsheds, migratory birds, and land-use changes. These reviews can be applied where common impacts of transmission development, given the location or nature of particular projects, are "well understood."¹⁶⁸ Programmatic reviews could also identify areas that are more (or less) conducive to transmission and identify potential mitigation measures to be applied on an individual project basis. For example, BLM has issued a draft PEIS to plan for utility-scale solar energy development on public lands throughout the West.¹⁶⁹ Under the draft's proposed alternative, BLM would amend its Western Solar Plan for public land management to make lands available for solar development that have

minimal natural resource constraints (e.g., avoiding habitat for sensitive species), less than 10 percent slope, and are located within 10 miles of existing or planned transmission lines.¹⁷⁰ Once finalized, this PEIS will also provide a foundation for subsequent, tiered environmental reviews for individual solar projects.

As one potential approach, a transmission PEIS could be prepared alongside Independent System Operator/Regional Transmission Organization plans for transmission development. Additionally, agencies could expressly make PEIS data available to federal and non-federal permitting entities, including state and Tribal Historic Preservation Offices, for purposes of their own environmental reviews.¹⁷¹

Programmatic reviews are a significant investment of federal resources and so must still be implemented carefully to ensure there are subsequent benefits from improved and faster tiered reviews. For example, programmatic reviews that are likely to facilitate many future project-specific reviews are much more valuable than programmatic reviews with vague, small, or speculative future use. Agencies should consider how they can use their authority to conduct PEISs and do so where there are efficiency gains and where PEIS-level review is appropriate. Congress should provide sufficient funding to agencies to ensure data, staff, and other resources are available to prepare useful PEISs with sufficient levels of detail. Environmental reviews for specific transmission projects could then be tiered off of these PEISs.

165. See Appendix, case studies: 5. Susquehanna to Roseland Transmission Line; 7. Southwest Intertie Project-South.

166. 40 C.F.R. § 1502.4(b) (2024).

167. 40 C.F.R. § 1501.11 (2024).

168. Aspen Inst. Energy & Env't Program, *Building Cleaner, Faster: Final Report 1* (2021), <https://www.aspeninstitute.org/wp-content/uploads/2021/06/Building-Cleaner-Faster-Final-Report.pdf>.

169. See BLM, *BLM National Register for Draft Utility-Scale Solar Energy Development PEIS/RMPA*, Document No. DOI-BLM-HQ-3000-2023-0001-RMP-EIS, <https://eplanning.blm.gov/eplanning-ui/project/2022371/570> (last visited Mar. 13, 2024).

170. BLM, *Draft Programmatic Environmental Impact Statement for Utility-Scale Solar Energy Development*, Doc. No. DOI-BLM-HQ-3000-2023-0001-RMP-EIS, 2-40-2-47 (Jan. 2024), https://eplanning.blm.gov/public_projects/2022371/200538533/20102762/251002762/2023%20Draft%20Solar%20PEIS%20Volume%201-10-2024_508compliant.pdf.

171. Letter from Oceti Sakowin Power Authority to DOEon Comments to Docket DOE-HQ-2023-0050: Coordination of Federal Authorizations for Electric Transmission Facilities, at 4 (Oct. 2, 2023), <https://www.regulations.gov/comment/DOE-HQ-2023-0050-0039>.

f. Recommendation 3.6: DOE and FERC should minimize environmental review redundancy for the NIETC process

There is the potential for a duplication of efforts with respect to NEPA analysis and permitting review process for the use of the NIETC process—first for DOE’s corridor designation process, and subsequently through FERC’s siting decision for a project through the DOE-designated corridor. This potential redundancy not only risks delaying the implementation of vital infrastructure projects but also imposes additional burdens on the agencies and stakeholders involved. However, given the different focus for each review, in some instances both agencies may need to conduct separate reviews. For the NIETCs that could benefit from coordinated NEPA reviews, existing regulations may help mitigate the risk of redundancy and delays.¹⁷²

To reduce redundancy and truly capitalize on the benefits of the updated FPA, it is imperative that DOE, FERC, and other relevant agencies use existing regulatory authorities and practices to collaborate closely and streamline environmental review for FERC’s siting decision, ensuring that environmental protections are upheld without unnecessary duplication of efforts. These existing tools—including tiering, FERC’s participation as a cooperating agency in DOE’s review, and FERC’s adoption of DOE’s review—allow DOE and FERC to collaborate directly on environmental reviews and FERC to use part or all of DOE’s environmental review for a NIETC when subsequently permitting a transmission line. To the extent the environmental reviews actually address the same issues, these tools will allow FERC’s analysis to proceed expeditiously.

172. See, e.g., collaboration as cooperating agencies, 40 C.F.R. 1501.8; tiering, 40 C.F.R. 1501.11; incorporation by reference, 40 C.F.R. 1501.12; and adoption, 40 C.F.R. 1506.3

E. Conclusion

A significant scale up of high-voltage, long-distance transmission lines is critical to relieving congestion, keeping electricity affordable, interconnecting new clean resources, meeting decarbonization goals, and hardening the grid to weather and security threats. Many have identified the federal permitting process as one area of transmission development due for improvement, but little concrete evidence exists to support claims for suggested improvements.

Niskanen and CATF's analysis of transmission permitting data, deep dives on key transmission line permitting timelines and litigation, and interviews with developers, government officials, and other transmission stakeholders provide substantial evidence of the current challenges facing federal transmission permitting. These findings are foundational to the recommendations offered in this report to improve permitting while maintaining protections for communities and the environment.

Our recommendations reflect the need for clear, specific, and ongoing leadership from the President, at the White House, and within federal agencies. Maintaining transmission development as a national priority and identifying key actors responsible for permitting process coordination will pay dividends in resolving disputes, clarifying roles, and reducing review timelines. There are opportunities for existing bodies, like the Permitting Council, to lean into their role of coordinating agencies. Making transmission an ongoing national priority will require boosted agency capacity and the use of expertise on transmission infrastructure and joint-agency projects. Though many of our recommendations do not require legislative action, Congress can play a significant role by providing federal agencies with the funding needed to plan and deploy transmission and by consolidating permitting and siting authorities for interstate projects in the public interest.

Transmission lines requiring federal permits can pass through different states, Tribal Nations, and

local jurisdictions, each with their own regulatory and community engagement processes. At the same time, they involve and impact communities, developers, and other stakeholders key to project success. Our recommendations posit that federal support of and alignment with state, Tribal, and local processes will improve the entire permitting process. This means federal agencies, in tandem with project developers, should conduct meaningful and sustained stakeholder outreach and help identify alternative routes with stakeholder input. Federal agencies should ensure that state, Tribal, and local entities have enough capacity to participate fully in the permitting process. And where appropriate and responsible, federal agencies can propose categorical exclusions or PEISs.

Finally, our data analysis, the interviews we conducted with stakeholders, and our recommendations show that more data transparency is needed across the board to fully understand permitting processes and timelines, and to promote accountability for each step. Existing tools like the Permitting Dashboard should be better leveraged to enable interagency coordination and provide visibility to the public. Better data collection can make digital tools under development today much more useful and comprehensive while enabling future advances.

Throughout the course of our work, several avenues for continuing research emerged. Though this report focused on federal matters, interviews and transmission line data show that harmonization of state regulatory requirements and processes is integral to the success of interstate transmission lines. More work can be done to investigate federal incentives to smooth out regulatory differences between states, or to investigate ways for states to better coordinate among themselves. It is also likely that there are federal authorities already in effect not explicitly identified in this report that can be leveraged to better the current permitting process.

Niskanen and CATF conducted this work in order to build an evidentiary record for transmission permitting reforms. In doing so, we hope to have provided

not just our own perspective on opportunities to improve the permitting process, but we also hope to have created a body of work from which others may reference, analyze, and draw solutions. We look forward to furthering this important conversation and hope our work prompts additional recommendations that go beyond our own.



Appendix: Transmission Case Studies

This Appendix contains a high-level summary of the 37 electric transmission lines analyzed for this report, with a focus on the National Environmental Policy Act (NEPA) timeline for each project. The goal in reviewing the transmission lines was to develop a thorough understanding of how each project navigated (or failed to navigate) the Federal regulatory process. In particular, the reviews focused on what factors led to efficient permitting, extended permitting, or cancelation of a proposed transmission line.

As noted in the report, there is no centralized database for transmission projects, and, as the authors of this Appendix found, locating permitting documents and decisions for individual projects can be extremely difficult. Although the Permitting Dashboard for Federal Infrastructure Projects¹ was developed to create a comprehensive inventory of environmental reviews and authorizations, in practice it does not provide sufficient information to document the complex, multi-layered permitting process that most electric transmission line developers experience.

Accordingly, the authors analyzed the 37 projects through a piecemeal information-gathering process by reviewing NEPA documents, developers' websites, court opinions, media and press releases, studies conducted by other interested entities and, where applicable, state permitting agency documents.

To prepare this portion of the analysis of transmission lines that underlies the report, the Niskanen Center and Clean Air Task Force contracted the services of Nils Nichols and Elisabeth Blaug, both of whom worked for many years at the Federal Energy Regulatory Commission (FERC) on legal and policy issues with respect to Federal permitting and siting issues for natural gas infrastructure and hydroelectric projects. Mr. Nichols and Ms. Blaug have extensive NEPA and environmental law backgrounds; Nils is the author of the 'NEPA Caselaw Digest' published by the American Bar Association, and Elisabeth worked for the White House's Council on Environmental Quality from 1991-1998.

1. Permitting Dashboard, Federal Infrastructure Projects, available at <https://www.permits.performance.gov/>.

List of Transmission Line Case Studies:

1. Southline Transmission Line Project
2. TransWest Express Transmission Project
3. Boardman to Hemingway Transmission Line
4. Big Eddy-Knight Transmission Project
5. Susquehanna to Roseland Transmission Line
6. Hampton-Rochester-La Crosse Transmission System Improvement Project
7. Southwest Intertie Project-South
8. Sun Valley to Morgan Transmission Line Project
9. Antelope Valley Station-Neset Transmission Line
10. Central Ferry-Lower Monumental Transmission Line Project
11. Vantage to Pomona Heights Transmission Line Project
12. City of Tallahassee Southwestern Transmission Line
13. Tropic to Hatch Transmission Line Project
14. Barren Ridge Renewable Transmission Project
15. Hooper Springs Transmission Project
16. Bemidji-Grand Rapids Transmission Line Project
17. Sigurd to Red Butte Transmission Line Project
18. Tehachapi Renewable Transmission Project
19. Teckla-Osage-Rapid City Transmission Line Project
20. New England Clean Power Link
21. SunZia Southwest Transmission Project
22. Gateway South Transmission Project-Segment
23. Surry-Skiffes Creek-Wheaton Project
24. Kake to Petersburg Transmission Intertie Project
25. McClellanville Transmission Project
26. Great Northern Transmission Line
27. Champlain Hudson Power Express
28. Ten West Transmission Line Project
29. Gateway West Transmission
30. Cardinal-Hickory Creek Transmission Line Project
31. Mona to Oquirrh Transmission Corridor Project
32. Sunrise PowerLink Transmission Project
33. Devers-Palo Verde No. 2 Transmission Line
34. Northern Pass Transmission Line Project
35. Potomac-Appalachian Transmission Highline
36. San Luis Transmission Project
37. Plains & Eastern Clean Line

1. Southline Transmission Line Project

Main Takeaways

- Early collaboration among stakeholders facilitates the NEPA process.
- Once a project is permitted, it may take years to complete engineering, acquire needed lands, and finalize commercial arrangements before construction can begin.

Summary

Southline Transmission proposed to construct the Southline Transmission Line Project in New Mexico and Arizona.² The project would, among other things, upgrade 120 miles of the Western Area Power Administration's (WAPA) Saguaro-Tucson and Tucson-Apache 115-kV single-circuit transmission lines to a double-circuit 230-kV transmission line.³ The project would include 225 miles of new 345-kV line between New Mexico and Arizona.⁴

In March 2011, Southline requested financing from WAPA.⁵ Based on a series of public meetings, routing workshops, and engagement with local, State, and other Federal agencies prior to developing the project, Southline published a project routing study in April 2012.⁶ The study analyzed different route segments designed to maximize the paralleling of existing linear infrastructure, maximize use of existing access roads, and identify and reject route segments with substantial environmental conflicts.⁷ This resulted in a "Proponent Preferred" or northern route, and a "Proponent Alternative" or southern route for the New Build portion of the project.⁸

In April 2012, BLM issued a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) with WAPA as a joint lead agency.⁹ BLM issued the draft EIS (DEIS) in March 2014¹⁰ and the final EIS (FEIS) in November 2015.¹¹ WAPA issued its Record of Decision (ROD) on April 14, 2016, noting that due to Southline's April 2012 project routing study, alternatives developed through the NEPA process resulted in only small route variations from those originally proposed.¹² BLM issued its ROD on May 6, 2016.¹³

2. Southline Bureau of Land Management (BLM) Notice of Intent (NOI) to Prepare Environmental Impact Statement (EIS), 77 Fed. Reg. 20411, 20412 (Apr. 4, 2012), available at <https://www.federalregister.gov/documents/2012/04/04/2012-8094/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-proposed-southline>.

3. Southline DOE Draft Environmental Impact Statement (DEIS) at Abstract (Mar. 2014), available at <https://www.energy.gov/sites/default/files/2014/04/f15/EIS-0474-DEIS-Volume1-2014.pdf>.

4. NOI to Prepare EIS at 20412.

5. Southline WAPA Record of Decision (ROD), 81 Fed. Reg. 22076 (Apr. 14, 2016), available at <https://www.federalregister.gov/documents/2016/04/14/2016-08620/southline-transmission-line-project-environmental-impact-statement>.

6. *Id.* at 22077.

7. *Id.*

8. *Id.*

9. Southline NOI to Prepare EIS.

10. Southline DOE DEIS.

11. Southline DOE Final Environmental Impact Statement (FEIS) (Nov. 2015), available at https://www.energy.gov/sites/default/files/2015/11/f27/EIS-0474_FEIS_Front_Matter.pdf.

12. Southline WAPA ROD at 22077.

13. Southline BLM Press Release (May 6, 2016), available at <https://www.blm.gov/press-release/blm-issues-final-approval-southline-transmission-line-project>.

Southline obtained approval from Arizona and New Mexico in February 2017 and August 2017, respectively;¹⁴ the New Mexico State Land Commission granted a right-of-way (ROW) for the project on August 30, 2016.¹⁵

Southline’s website states that the project is in the final stages of development, which includes completing engineering, concluding land acquisition, and finalizing commercial arrangements.¹⁶ Southline states that “all major...permits have been obtained” and it expects to commence construction in 2025 for Phase 1 (Hidalgo to Vail), which could be operational by 2027, with Phase 2 operational by 2028.¹⁷ In October 2023, the Department of Energy (DOE) announced Phase 1 as one of three transmission lines selected as part of a \$1.3 billion funding commitment through the Bipartisan Infrastructure Law’s Transmission Facilitation Program (TFP).¹⁸

Timeline:

April 4, 2012	BLM NOI to prepare EIS
March 2014	BLM DEIS
November 2015	BLM FEIS
April 5, 2016	WAPA ROD
May 6, 2016	BLM ROD
August 30, 2016	New Mexico State Land Commission ROW
February 2017	Arizona completes siting process
August 2017	New Mexico completes siting process
October 2023	DOE selects Phase 1 as TFP project

2. TransWest Express Transmission Project

Main Takeaways:

- Agency coordination is paramount.
- Project scale impacts timelines: TransWest Express is an approximately 730-mile line crossing four states, 14 counties, 15 BLM field offices and five Forest Service offices, convening 49 cooperating agencies in the NEPA review.
- State and federal approvals issued on piecemeal or staggered basis resulted in delay.
- Two federal agencies worked at cross purposes resulting in litigation that delayed the project.

14. Southline Transmission Project 2022 WECC Annual Progress Report at 2 (Feb. 25, 2022), available at <https://www.wecc.org/Reliability/Southline%202022%20APR.pdf>.

15. “New Mexico Grants right-of-way (ROW) to Southline Transmission Project,” KRWG (Aug. 30, 2016), available at <https://www.krwg.org/regional/2016-08-30/new-mexico-grants-right-of-way-to-southline-transmission-project>.

16. Project website, <https://southlinetransmission.com>.

17. *Id.*

18. Project website, <https://southlinetransmission.com/southline-transmission-project-selected-as-part-of-a-1-3-billion-commitment-to-build-out-nations-electric-transmission/>.

Summary

In November 2007, National Grid filed a ROW application with BLM to construct a transmission line from Wyoming to delivery points in the southwestern U.S., crossing Wyoming, Colorado, Utah, and Nevada.¹⁹ The project includes approximately 730 miles of 600 kV transmission lines and two terminals, each containing an AC/DC converter station.²⁰ The segment between Wyoming and Utah will be a 3,000 MW direct current line; between Utah and Nevada will be two 1,500 MW alternating current segments.²¹ In 2008, the project was transferred to TransWest Express, LLC, a newly formed affiliate of the Anschutz Corporation.²² TransWest Express submitted amended ROW applications in December 2008 and in January 2010 to reflect changes in the proposed project.²³

WAPA, which provided funding, and BLM, which issued a ROW permit, were joint lead agencies in preparing an EIS.²⁴ There were 49 cooperating agencies including the Forest Service and Bureau of Reclamation (“Reclamation”).²⁵ The lead agencies issued the NOI to prepare an EIS on January 4, 2011.²⁶ The Notice of Availability (NOA) of the DEIS on July 3, 2013;²⁷ and the NOA of the FEIS on May 1, 2015.²⁸ BLM, WAPA, Reclamation, and the Forest Service issued separate RODs: BLM published its NOA of its ROD on December 16, 2016;²⁹ WAPA issued its NOA of its ROD on April 3, 2017;³⁰ and The Forest Service published its NOA of its ROD on May 31, 2017.³¹ Reclamation issued its ROD on June 19, 2017.³²

By January 2020, all federal, state, and county permitting decisions were complete.³³ By June 2021, TransWest Express secured nearly all of the ROWs for the route, including those over 99% of the privately owned lands.³⁴ The likely hold up of the ROW for the less than one percent of remaining privately owned lands appeared to be from litigation over a conservation easement issued in December 2014 by the Natural Resources Conservation Service (NRCS), part of the U.S. Department of Agriculture (USDA) that

19. TransWest Express BLM FEIS at 1-1 (May 2015), available at https://eplanning.blm.gov/public_projects/nepa/65198/78873/90724/07-Chapter1-Introduction.pdf.

20. Project website, <https://www.transwestexpress.net/>; TransWest Express application to BLM for ROW (Jan. 2010, as amended from Dec. 2008 application), available at https://eplanning.blm.gov/public_projects/nepa/65198/78891/90929/09-ROWApplication-01-2010.pdf.

21. TransWest Express application to BLM for ROW.

22. Project website, <https://www.transwestexpress.net/about/history.shtml>.

23. TransWest Express application to BLM for ROW.

24. TransWest Express BLM FEIS Introduction at 1-7 (May 1, 2015), available at https://eplanning.blm.gov/public_projects/nepa/65198/78873/90724/07-Chapter1-Introduction.pdf.

25. *Id.*

26. TransWest Express BLM NOI to prepare EIS, 76 Fed. Reg. 379 (Jan. 4, 2011), available at <https://www.govinfo.gov/content/pkg/FR-2011-01-04/pdf/2010-33180.pdf>.

27. TransWest Express BLM NOA of DEIS, 78 Fed. Reg. 40163 (July 3, 2013), available at <https://www.federalregister.gov/documents/2013/07/03/2013-16009/notice-of-availability-of-the-draft-environmental-impact-statement-for-the-transwest-express-600-kv>.

28. TransWest Express BLM NOA of FEIS, 80 Fed. Reg. 24962 (May 1, 2015), available at <https://www.federalregister.gov/documents/2015/05/01/2015-10248/notice-of-availability-of-the-final-environmental-impact-statement-for-the-transwest-express-600-kv>.

29. TransWest Express BLM NOA of ROD, 81 Fed. Reg. 91189 (Dec. 16, 2016), available at <https://www.federalregister.gov/documents/2016/12/16/2016-30345/notice-of-availability-of-the-record-of-decision-for-the-transwest-express-transmission-project-in>.

30. TransWest Express WAPA ROD, 82 Fed. Reg. 16196 (Apr. 3, 2017), available at <https://www.federalregister.gov/documents/2017/04/03/2017-06479/transwest-express-transmission-project-environmental-impact-statement-doeis-0450>.

31. TransWest Express Forest Service ROD (May 31, 2017), available at <https://www.fs.usda.gov/project/?project=42526>.

32. TransWest Express Reclamation ROD (June 19, 2017), available at https://www.usbr.gov/lc/region/g2000/envdocs/Transwest_ROD_Vol_1_6-19-17.pdf.

33. Project website, <https://www.transwestexpress.net/about/history.shtml>.

34. *Id.*

encompassed 0.19 percent of the total conservation easement needed for the project.³⁵

TransWest Express filed a lawsuit against the USDA on December 19, 2019 and a second amended complaint on March 20, 2020.³⁶ The parties ultimately reached a settlement in December 2021, which included as a condition that the private parties would grant easements only if NRCS approved applications to waive interest in the easements.³⁷ In 2022, TransWest Express finalized acquisition of the remaining private lands.³⁸ In September 2023, TransWest began construction in Wyoming.³⁹

Timeline:

November 2007	National Grid files ROW application
July 2008	TransWest forms and acquires project
December 2008	TransWest amends preliminary BLM ROW application
January 4, 2011	BLM NOI to prepare EIS
July 3, 2013	BLM NOA of DEIS
May 1, 2015	BLM NOA of FEIS
December 16, 2016	BLM NOA of ROD
April 3, 2017	WAPA NOA of ROD
May 2017	Forest Service NOA of ROD
June 2017	Reclamation NOA of ROD
December 19, 2019	TransWest files lawsuit against NRCS/USDA
January 2020	All federal, state and county permits complete
June 2021	TransWest secures nearly all ROWs
December 2021	Parties to easement lawsuit file settlement
June 2022	TransWest finalizes acquisition of all private easements
September 2023	Construction activity starts in Wyoming

3. Boardman to Hemingway Transmission Line

Main Takeaways

- Oregon's approval processes are out of sync with the federal NEPA process; route selection is required before approval process can occur.
- Oregon issued approvals more than 3 ½ years after the federal government issued RODs.

35. *Transwest Express LLC v. Vilsack*, Civil Action No. 19-cv-3603-WJM-STV (D. Colo. Mar. 19, 2021).

36. *Id.* at 2.

37. "Developers, Landowner Strike Deal to Advance 2 Western US Power Lines," S&P Global (Dec. 29, 2021), available at <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/developers-landowner-strike-deal-to-advance-2-western-us-power-lines-68233278>.

38. Project website, <https://www.transwestexpress.net/about/history.shtml>.

39. *Id.*

Summary

PacifiCorp, Bonneville Power Administration (BPA),⁴⁰ and Idaho Power Company proposed to develop a 290-mile, 500-kV line from the Longhorn substation near Boardman, Oregon to the Hemingway substation near Boise, Idaho.⁴¹ The project will provide additional exchange capacity between the Pacific Northwest and the Intermountain West.⁴² The line is part of PacifiCorp's Energy Gateway Transmission Expansion Project, a plan to build more than 2,300 miles of new high-voltage transmission lines, primarily in Wyoming, Utah, Idaho, and Oregon.⁴³

The developers applied to BLM for a ROW on December 19, 2007.⁴⁴ BLM served as the lead agency alongside several other cooperating federal agencies, including the Army Corps of Engineers ("Corps of Engineers"), BPA, Navy, the U.S. Forest Service ("Forest Service"), Reclamation, and the U.S. Fish and Wildlife Service (FWS).⁴⁵ The agencies issued a NOI to prepare an EIS on July 27, 2010,⁴⁶ an NOA of the DEIS on December 18, 2014,⁴⁷ and the FEIS on November 28, 2016.⁴⁸ BLM issued the ROD authorizing a ROW in November 2017.⁴⁹

The Forest Service issued its ROD on November 9, 2018, approving a special-use authorization for the line to cross lands administered by the Wallowa-Whitman National Forest.⁵⁰ The Navy issued its ROD on October 19, 2019, allowing for an easement on Navy-administered land.⁵¹

Oregon requires an energy project developer to obtain a Site Certificate from the Oregon Department of Energy's Energy Facility Siting Council (ESFC) to construct the project on state land.⁵² For a linear facility, like a transmission line, the process requires the transmission line boundary be established (a route selected) and fully evaluated to determine if the project meets established standards.⁵³

40. Bonneville Power Administration (BPA) is a federal agency within the U.S. Department of Energy (DOE) that owns and operates more than 15,000 circuit miles of high-voltage transmission lines in the Pacific Northwest. Agency website, <https://www.bpa.gov/>.

41. Project website, <https://www.pacificcorp.com/transmission/transmission-projects/energy-gateway.html>.

42. Boardman to Hemingway BLM press release (Nov. 28, 2016), available at <https://www.blm.gov/press-release/environmental-impact-statement-boardman-hemingway-project-released>.

43. Project website.

44. Boardman to Hemingway BLM Revised NOI to prepare EIS, 75 Fed. Reg. 44008, 44009 (July 27, 2010), available at <https://www.govinfo.gov/content/pkg/FR-2010-07-27/pdf/2010-18220.pdf>.

45. Boardman to Hemingway BLM ROD at 51-52 (Nov. 2017), available at https://eplanning.blm.gov/public_projects/nepa/68150/125243/152690/20171117_Record_Of_Decision.pdf. 34% (100 miles) of the approved route crosses Federal land (29% BLM-administered land, 2% land administered by the U.S. Forest Service, less than 1% land administered by Reclamation, and 2% land administered by the U.S. Department of Defense. Boardman to Hemingway Project, BLM National NEPA Register, available at <https://eplanning.blm.gov/eplanning-ui/project/68150/510>.

46. Boardman to Hemingway BLM Revised NOI to prepare EIS.

47. Boardman to Hemingway BLM NOA of Draft EIS, 79 Fed. Reg. 75834 (Dec. 19, 2014), available at <https://www.federalregister.gov/documents/2014/12/19/2014-29770/notice-of-availability-of-the-draft-environmental-impact-statement-and-land-use-plan-amendments-for>.

48. Boardman to Hemingway BLM NOA of FEIS, 81 Fed. Reg. 85632 (Nov. 28, 2016) available at https://www.energy.gov/sites/default/files/2016/11/f34/EIS-0507_BLM_NOA_FEIS.pdf.

49. Boardman to Hemingway BLM ROD.

50. Boardman to Hemingway Forest Service ROD Press Release (Nov. 20, 2018), available at <https://www.fs.usda.gov/detail/wallowa-whitman/news-events/?cid=FSEPRD603547>.

51. Boardman to Hemingway Navy NOA of ROD (Oct. 2, 2019), available at <https://www.federalregister.gov/documents/2019/10/02/2019-21341/notice-of-availability-of-the-record-of-decision-for-department-of-the-navy-real-estate-actions-in>.

52. "Facilities Under EFSE," Oregon Department of Energy, available at <https://www.oregon.gov/energy/facilities-safety/facilities/pages/facilities-under-efsc.aspx>.

53. Idaho Power 2023 Western Electricity Coordinating Council Annual Supplemental Progress Report at 3 (Feb. 22, 2023), available at <https://www.wecc.org/Reliability/IPC%202023%20APR.pdf>.

Idaho Power submitted its NOI to apply for a site certificate on August 28, 2008.⁵⁴ Throughout the next 10 years, Idaho Power engaged in community outreach and public meetings to obtain input and refine the proposed project.⁵⁵ In September 2018, Idaho Power finalized its application for a Site Certificate.⁵⁶ EFSC issued a final order on September 27, 2022.⁵⁷ In a separate proceeding, on June 29, 2023, the Oregon Public Utility Commission (PUC) issued a Certificate of Public Convenience and Necessity (PCN) authorizing the project.⁵⁸

To date, project construction has not started; PacifiCorps' website states the project is "expected to be placed in-service in 2026."⁵⁹

Timeline:

December 19, 2007	Developers jointly apply for BLM ROW
August 28, 2008	Idaho Power NOI to apply for Oregon Site Certificate
July 27, 2010	BLM NOI to prepare EIS
December 18, 2014	BLM NOA DEIS
November 28, 2016	BLM NOA FEIS
November 2017	BLM ROD
January 9, 2018	BLM ROW
September 2018	Idaho Power applies for Oregon Site Certificate
November 9, 2018	Forest Service ROD
October 19, 2019	Navy ROD
September 27, 2022	Oregon Site Certificate
March 29, 2023	Oregon Supreme Court upholds Site Certificate
June 29, 2023	Oregon PUC Certificate of PCN

4. Big Eddy-Knight Transmission Project

Main Takeaway

- A smaller project will facilitate streamlined review.

Summary

As approved, the Big Eddy-Knight Transmission Project is a 28-mile, 500-kV line between BPA's existing Big Eddy Substation in The Dalles, Oregon and a proposed new Knight Substation that would connect to an exist-

54. In the Matter of the Application for Site Certificate for the Boardman to Hemingway Transmission Line, Final Order on Application for Site Certificate, Energy Facility Siting Committee of the State of Oregon ("Oregon Siting Order") at fn. 9, available at <https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2022-09-27-Final-Order-on-ASC.pdf>.

55. *Matter of Site Certificate for Boardman to Hemingway Transmission Line*, 370 Or. 792, 797-798 (Or. 2023), available at <https://cases.justia.com/oregon/supreme-court/2023-s069924.pdf?ts=1678831716>.

56. Oregon Siting Order at 5.

57. Oregon Siting Order. On March 29, 2023, the Oregon Supreme Court upheld the Certificate. *Matter of Site Certification for the Boardman to Hemingway Line*, 525 P.3d 864 (Or. 2023).

58. Boardman to Hemingway Oregon PUC Approval Press Release (June 29, 2023), available at <https://www.oregon.gov/puc/news-events/Documents/PR-202312.pdf>.

59. PacifiCorp website, <https://www.pacificcorp.com/transmission/transmission-projects/energy-gateway.html>.

ing BPA line near Goldendale, Washington.⁶⁰ The project will accommodate transmission service requests by increasing BPA's 500-kV transmission capability to move power from the east side of the Cascade Mountains to load centers on the west side of the Cascades and to major transmission lines serving California.⁶¹

On June 3, 2009, BPA, as lead agency, published a NOI to prepare an EIS; Washington Energy Facility Site Evaluation Council and the Oregon Energy Facility Siting Council also participated in preparing the EIS.⁶² On December 10, 2010, they published the NOA of the DEIS.⁶³ BPA issued the FEIS in July 2011⁶⁴ and its ROD in September 2011.⁶⁵

On July 11, 2012, BPA issued a supplemental analysis concluding that the construction of certain temporary structures and roads not previously evaluated did not represent a substantial change to the project.⁶⁶ On November 28, 2012, BPA issued another supplemental analysis examining information relevant to the existing transmission line's crossing of an area of high cultural importance that would be further impacted by construction of the project.⁶⁷ The supplemental analysis concluded that the potential to disturb cultural sites and adverse effects will be minimized by design adjustments, and that such design adjustments are not substantial changes to the actions described in the FEIS and the ROD.⁶⁸

Construction of the project began in fall 2011 and underwent design adjustments in the latter half of 2012 and 2013 to accommodate newly discovered culturally sensitive sites along the route.⁶⁹ The project was energized in the fall of 2015.⁷⁰

Timeline:

June 3, 2009	BPA NOI to prepare EIS
December 2010	BPA NOA of DEIS
July 2011	BPA NOA of FEIS
September 2011	BPA ROD
July 11, 2012	BPA issues supplemental environmental analysis
November 28, 2012	BPA issues second supplemental environmental analysis
Fall 2015	Project energized

60. Big Eddy-Knight BPA NOI to prepare an EIS, 74 Fed. Reg. 26679 (June 3, 2009), available at <https://www.federalregister.gov/documents/2009/06/03/E9-12915/big-eddy-knight-transmission-project>.

61. *Id.* at 26680.

62. Big Eddy-Knight BPA NOI to prepare an EIS.

63. Big Eddy-Knight NOA of DEIS, 75 Fed. Reg. 237 (Dec. 10, 2010), available at <https://www.govinfo.gov/content/pkg/FR-2010-12-10/pdf/2010-31090.pdf>.

64. Big Eddy-Knight FEIS (July 2011), available at <https://www.bpa.gov/-/media/Aep/efw/nepa/completed/big-eddy-knight-trans-project/Final-EIS/Final-EIS-Vol-1/big-eddy-final-eis-volume-1.pdf>.

65. Big Eddy-Knight BPA ROD (Sept. 2011), available at <https://www.bpa.gov/-/media/Aep/efw/nepa/completed/big-eddy-knight-trans-project/big-eddy-rod.pdf>.

66. Big Eddy-Knight BPA Supplemental Analysis for FEIS (July 11, 2012), available at <https://www.bpa.gov/-/media/Aep/efw/nepa/completed/big-eddy-knight-trans-project/big-eddy-sa-01.pdf>.

67. Big Eddy-Knight BPA Decision on Supplemental Analysis (Nov. 28, 2012), available at <https://www.bpa.gov/-/media/Aep/efw/nepa/completed/big-eddy-knight-trans-project/big-eddy-sa-02.pdf>

68. *Id.*

69. "BPA starts up new Northwest transmission line," News Channel 21 (Nov. 17, 2015), available at <https://ktvz.com/news/2015/11/17/bpa-starts-up-new-northwest-transmission-line/>.

70. BPA Website, available at <https://www.bpa.gov/learn-and-participate/public-involvement-decisions/project-reviews/big-eddy-knight>.

5. Susquehanna to Roseland Transmission Line

Main Takeaways

- Locating a transmission line on an existing transmission ROW can expedite a project.
- RTO directives can give projects an imperative and a timeline.
- Compensatory mitigation can assuage critical concerns over project impacts.

Summary

In 2007, PJM Interconnection identified a 500-kV transmission line between the Susquehanna Substation in Pennsylvania and the Roseland Substation in New Jersey as the solution for reliability violations forecasted as part of the FERC-approved Regional Transmission Expansion Plan process.⁷¹

In response, Pennsylvania Power and Light Electric Utilities (PPL) and Public Service Electric and Gas Company's (PSEG) jointly proposed the Susquehanna to Roseland Transmission Line, a 146-mile, 500-kV line that would link the Susquehanna and Roseland substations.⁷² The project, which would upgrade an existing 230-kV line, crosses three units of the National Park Service (NPS): the Delaware Water Gap National Recreation Area, Appalachian National Scenic Trail, and Middle Delaware National Scenic and Recreational River in Pennsylvania and New Jersey.⁷³

PPL filed an application with the Pennsylvania PUC on January 6, 2009,⁷⁴ which authorized the Pennsylvania portion of the line on January 14, 2010.⁷⁵ The New Jersey Board of Public Utilities' determination of need for the project was granted on February 11, 2010.⁷⁶

The applicants filed for construction and ROW permits from the NPS to cross three NPS units covering a 4.5 mile section of the 146 mile line.⁷⁷ On January 21, 2010, NPS issued a NOI to prepare an EIS.⁷⁸ The FWS served as a cooperating agency.⁷⁹ NPS published the NOA of the DEIS on November 21, 2011.⁸⁰ In their January 30, 2012, comments on the DEIS, PPL and PSEG proposed as compensatory mitigation a Middle

71. Susquehanna to Roseland NPS ROD, 77 Fed. Reg. 63856, 63857 (Oct. 17, 2012), available at <https://www.federalregister.gov/documents/2012/10/17/2012-25457/record-of-decision-for-the-final-environmental-impact-statement-for-the-susquehanna-to-roseland>.

72. "Interior Approves Susquehanna-Roseland Transmission Line," DOI Press Release (Oct. 10, 2012), <https://www.doi.gov/news/pressreleases/Interior-Approves-Susquehanna-Roseland-Transmission-Line>.

73. Susquehanna to Roseland NPS ROD at 63857.

74. Susquehanna to Roseland Pennsylvania PUC Press Release (Mar. 3, 2009), available at <https://www.puc.pa.gov/press-release/2009/puc-schedules-two-public-input-hearings-on-proposed-ppl-susquehanna-roseland-transmission-line-siting-application>.

75. "N.J. Susquehanna-Roseland Power Line is Approved in Pennsylvania," N.J. Star Ledger (Jan. 15, 2010), available at https://www.nj.com/news/2010/01/nj_power_line_approved_in_penn.html.

76. New Jersey PUC Press Release re Susquehanna-Roseland (Feb. 11, 2010), available at <https://nj.gov/bpu/newsroom/news/pdf/20100211a.pdf>.

77. Susquehanna to Roseland NPS NOI to prepare EIS, 75 Fed. Reg. 3486 (Jan. 21, 2010), available at <https://www.govinfo.gov/content/pkg/FR-2010-01-21/pdf/2010-1094.pdf>.

78. *Id.*

79. Susquehanna to Roseland NPS ROD, 77 Fed. Reg. 63856, 63871 (Oct. 17, 2012), available at <https://www.federalregister.gov/documents/2012/10/17/2012-25457/record-of-decision-for-the-final-environmental-impact-statement-for-the-susquehanna-to-roseland>.

80. Susquehanna to Roseland NOA of DEIS, 76 Fed. Reg. 72001 (Nov. 21, 2011), available at <https://www.federalregister.gov/documents/2011/11/21/2011-29943/draft-environmental-impact-statement-for-the-susquehanna-to-roseland-500-kilovolt-transmission-line>.

Delaware Mitigation Fund to preserve, restore and enhance NPS lands in the area.⁸¹ NPS published an NOA of the FEIS on August 31, 2012⁸² and issued the ROD on October 1, 2012.⁸³ In December 2012, NPS issued permits for the project and entered into a Memorandum of Agreement with the applicants that established a \$66 million compensatory mitigation fund.⁸⁴

On October 15, 2012, ten environmental groups filed a complaint in the U.S. District Court for the District of Columbia against NPS claiming violations of NEPA and other environmental laws.⁸⁵ In August 2013, the court granted summary judgment for NPS and dismissed as moot a request for a preliminary injunction.⁸⁶ The final portion of the project was energized in May 2015.⁸⁷

Timeline:

2007	PJM determines project is needed
January 6, 2009	PPL requests authorization from PA PUC
January 14, 2010	PA PUC approves project
January 21, 2010	NPS NOI to prepare an EIS
February 11, 2010	NJ BPU approves project
November 21, 2011	NPS NOA of DEIS
August 2012	NPS NOA of FEIS
October 1, 2012	NPS ROD
October 15, 2012	Sierra Club et al. lawsuit opposing project
August 30, 2013	DC District Court grants summary judgment for NPS
May 2015	Project energized

6. Hampton-Rochester-La Crosse Transmission System Improvement Project

Main Takeaway

- State and federal coordination results in a more efficient process.

Summary

Dairyland Power Cooperative, Xcel Energy, Southern Minnesota Municipal Power Agency, Rochester Public Utilities, and WPPI Energy proposed a 345-kV transmission line (with a new 161-kV line component)

81. Susquehanna to Roseland FEIS Volume 3, Appendix L, Part 2 at L-276 to L-277, available at <https://parkplanning.nps.gov/document.cfm?documentID=49285&parkID=220&projectID=25147>.

82. Susquehanna to Roseland NPS NOA of FEIS, 77 Fed. Reg. 53226 (Aug. 31, 2012), available at <https://www.federalregister.gov/documents/2012/08/31/2012-20697/final-environmental-impact-statement-for-the-susquehanna-to-roseland-500-kilovolt-transmission-line>.

83. Susquehanna to Roseland NPS ROD (Oct. 1, 2012), available at <https://parkplanning.nps.gov/showFile.cfm?projectID=25147&MIMEType=application%252Fpdf&filename=SRTRecord%5Fof%5FDecision%5FFINAL%2Epdf&sfid=143473>.

84. *Nat'l Parks Conservation Ass'n v. Jewell*, 965 F. Supp. 2d 67, 72-73, 77 (D.D.C. 2013).

85. *Nat'l Parks Conservation Ass'n, et al.* Complaint (Oct. 15, 2012), available at <https://earthjustice.org/wp-content/uploads/susquehannaroselandcomplaint101512.pdf>.

86. *Nat'l Parks Conservation Ass'n v. Jewell*, 965 F. Supp. 2d 67, 77, fn. 3 (D.D.C. 2013).

87. "Susquehanna-Roseland Power Line, a \$1.4 Billion Project, Switched On," *LehighValleyLive.com* (May 13, 2015), available at https://www.lehighvalleylive.com/breaking-news/2015/05/susquehanna-roseland_power_lin_4.html.

between Hampton, Minnesota, and La Crosse, Wisconsin.⁸⁸ The total length of the lines as approved is approximately 141 miles.⁸⁹

On May 28, 2009, the Rural Utilities Service (RUS) published a NOI to prepare an EIS, noting that Dairyland requested financing for the project and that pursuant to the RUS procedures, Dairyland submitted an Alternative Evaluation Study and a Macro Corridor Study for the RUS review.⁹⁰ Based on these studies, the NOI identified preliminary proposed transmission line corridors and siting areas for substations to be considered in the EIS.⁹¹

On May 22, 2009, the Minnesota PUC granted a Certificate of Need.⁹² On January 20, 2010, the applicant filed a Route Permit application,⁹³ which required a state-level EIS from the Minnesota Department of Commerce.⁹⁴ The Minnesota Department of Commerce published a DEIS in March 2011 and FEIS in August 2011.⁹⁵ The Minnesota PUC approved the Route Permit in May 2012.⁹⁶

The Wisconsin Public Service Commission (PSC) and the Wisconsin Department of Natural Resources jointly prepared an EIS to inform the Wisconsin PSC's certificate determination.⁹⁷ The DEIS was published in November 2011 and the FEIS was published in January 2012.⁹⁸ The Wisconsin PSC approved the project on May 30, 2012.⁹⁹

The RUS used information directly from the Minnesota and Wisconsin EISs in preparing its EIS.¹⁰⁰ The DEIS was issued in December 2011¹⁰¹ and the FEIS was issued in July 2012.¹⁰² The ROD was issued in January 2013.¹⁰³ Construction started in January 2013 and the project was completed in September 2016.¹⁰⁴

88. Hampton-Rochester-La Crosse Rural Utilities Service (RUS) ROD at 3-4 (Jan. 2013), available at https://www.rd.usda.gov/sites/default/files/UWP_WI64-Dairyland_CapXHRLC_ROD.pdf.

89. *Id.* at 4.

90. Dairyland Power Cooperative NOI to Prepare EIS, 74 Fed. Reg. 25485, 25485-25486 (May 28, 2009), available at https://www.rd.usda.gov/sites/default/files/UWP_WI64-Dairyland_CapXHRLC_NOI05282009.pdf.

91. *Id.* at 25486.

92. See *In the Matter of the Application of Great River Energy*, Minnesota PUC Order (May 22, 2009, as modified Aug. 10, 2009), available at <https://nocapx2020.info/wp-content/uploads/2009/08/finalorder20098-40627-01.pdf>.

93. Minnesota Commerce Department website, Docket No. E002/TL-09-1448, available at <https://mn.gov/commerce/energyfacilities/Docket.html?id=25731>.

94. Minn. Sta. 216B.2425; Minnesota Admin. Rules 7850.1900 Subpart 2; see Hampton-Rochester-La Crosse RUS FEIS, Executive Summary at 4 (July 2012), available at https://www.rd.usda.gov/sites/default/files/UWP_WI64-Dairyland_CapXHRLC_FEIS-Cover-TOC.pdf.

95. See Hampton-Rochester-La Crosse RUS FEIS, Executive Summary at 4-5.

96. Minnesota Commerce Department website, Docket No. E002/TL-09-1448.

97. Hampton-Rochester-La Crosse RUS ROD at 6 (Jan. 2013), available at https://www.rd.usda.gov/sites/default/files/UWP_WI64-Dairyland_CapXHRLC_ROD.pdf.

98. Hampton-Rochester-La Crosse RUS FEIS, Executive Summary at 4-5.

99. Dairyland Wisconsin PSC Final Decision, Appendix BB (May 30, 2012), available at https://www.rd.usda.gov/sites/default/files/UWP_WI64-Dairyland_CapXHRLC_FEIS-AppBB.pdf.

100. Hampton-Rochester-La Crosse RUS ROD at 3.

101. Hampton-Rochester-La Crosse RUS DEIS (Dec. 2011), available at https://www.rd.usda.gov/sites/default/files/UWP_WI64-Dairyland_CapXHRLC_DEIS-Cover-Sec1.pdf

102. Hampton-Rochester-La Crosse RUS FEIS.

103. Hampton-Rochester-La Crosse RUS ROD.

104. Minnesota Commerce Department website, Docket No. E002/TL-09-1448.

Timeline:

May 22, 2009	Minnesota PUC Certificate of Need
May 28, 2009	RUS NOI to prepare EIS
January 20, 2010	Dairyland applies for Route Permit
March 2011	Minnesota DEIS
August 2011	Minnesota FEIS
November 2011	Wisconsin DEIS
December 2011	RUS DEIS
January 2012	Wisconsin FEIS
May 2012	Minnesota approves Route Permit
May 30, 2012	Wisconsin approves certificate of PC&N
July 2012	RUS FEIS
January 2013	RUS ROD/construction starts
September 2016	Project completed

7. Southwest Intertie Project-South

Main Takeaway

- Adopting previous NEPA reviews facilitates streamlined decisions.

Summary

Idaho Power Company, and later Great Basin Transmission, proposed the Southwest Intertie Project (SWIP), a 520-mile, 500-kV transmission line from the Harry Allen Substation near Las Vegas, Nevada, to the Mid-point Substation, near Twin Falls, Idaho.¹⁰⁵ In July 1993, BLM prepared an EIS,¹⁰⁶ and in December 1994 issued a ROD for SWIP.¹⁰⁷ Great Basin Transmission decided to develop SWIP as two independent transmission projects: SWIP-South and SWIP-North.¹⁰⁸ SWIP-South comprises a 235-mile, 500-kV southern portion of SWIP, extending from the Harry Allen Substation near Las Vegas, Nevada, northward to the proposed ThirtyMile Substation near Ely, Nevada.¹⁰⁹

In July 2008, BLM prepared an Environmental Assessment (EA) for SWIP-South, which analyzed the impacts of amending the previously approved ROWs for SWIP, and updated relevant areas evaluated in the 1994 SWIP EIS.¹¹⁰ In July 2008, the BLM issued a Finding of No Significant Impact (FONSI).¹¹¹

105. WAPA Southwest Intertie Project-South FEIS at 3 (Jan. 2010), available at https://www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/EIS-0443-FEIS-2010.pdf.

106. *Id.*

107. *Id.*

108. *Id.*

109. Southwest Intertie Project-South DOE Conditional Commitment for Project Financing ROD, 75 Fed. Reg. 65615 (Oct. 26, 2010), available at <https://www.federalregister.gov/documents/2010/10/26/2010-27046/conditional-commitment-for-a-federal-loan-guarantee-for-project-financing-for-southwest-intertie>.

110. Southwest Intertie Project-South BLM Environmental Assessment (EA) at 1-1 to 1-3 (July 2008), available at <https://www.wapa.gov/wp-content/uploads/2023/04/SWIPEASection1.pdf>.

111. Southwest Intertie Project-South BLM FONSI (July 2008), available at <https://www.wapa.gov/wp-content/uploads/2023/04/SWIPEAFONSI.pdf>.

In response to Great Basin’s request for partial financing from WAPA, WAPA issued an EIS in January 2010 comprising a four-page cover letter in which it attached and adopted BLM’s 1993 SWIP EIS and 2008 SWIP EA, finding that WAPA’s financing would not change the environmental impacts.¹¹² Because WAPA later decided not to provide financial assistance for SWIP-South, DOE decided to conditionally support SWIP-South through DOE’s its Loan Guarantee Program, and on October 26, 2010, published a ROD stating it based its decision on WAPA’s January 2010 EIS (which had adopted BLM’s 1993 EIS and 2008 EA).¹¹³ In January 2014, the line, renamed One Nevada Transmission Line, was completed.¹¹⁴

Timeline:

July 1993	BLM issues EIS for entire SWIP project
December 1994	BLM ROD for entire SWIP project
July 2008	BLM EA for SWIP-South
January 2010	WAPA issues EIS that adopts BLM EIS/EA
October 26, 2010	DOE issues ROD that adopts WAPA EIS
January 2014	Project completed

8. Sun Valley to Morgan Transmission Line Project

Main Takeaways

- Projects within one state have fewer complications; a key federal permit was issued in less than 3 years from the start of the NEPA process.
- Small project means fewer complications; here, the transmission line was 38 miles.
- Early state approval is key: the state certificated the project route before the federal permitting process started.

Summary

In July 2008, Arizona Public Service (APS) filed an application with the Arizona Corporation Commission (ACC) proposing a 38-mile, 500-kV and 230-kV transmission line from the Sun Valley Substation to the Morgan Substation.¹¹⁵ The lines would be constructed on monopole structures.¹¹⁶

In March 2009, the ACC certificated a route that modified the APS proposal to include the BLM lands

112. Southwest Intertie Project-South WAPA FEIS at 4 (Jan. 2010), available at <https://www.wapa.gov/wp-content/uploads/2023/04/SWIPCoverSheet.pdf>.

113. Southwest Intertie Project-South DOE ROD, 75 Fed. Reg. 65615, 65616 (Oct. 26, 2010), available at <https://www.federalregister.gov/documents/2010/10/26/2010-27046/conditional-commitment-for-a-federal-loan-guarantee-for-project-financing-for-southwest-intertie>.

114. NV Energy-Great Basin Joint Press Release (Jan. 23, 2014), available at <https://www.lspower.com/wp-content/uploads/2017/05/2014-ms-js-on-line-dedication-final.pdf>.

115. Proposed APS Sun Valley to Morgan BLM Newsletter at 1 (Feb. 2012), available at https://eplanning.blm.gov/public_projects/nepa/80018/107558/131807/newsletter-1.pdf.

116. Sun Valley to Morgan BLM NOA of DEIS, 77 Fed. Reg. 68816 (Nov. 2012), available at <https://www.federalregister.gov/documents/2012/11/16/2012-27929/notice-of-availability-of-the-draft-environmental-impact-statement-for-the-proposed-sun-valley-to>.

north of State Route 74.¹¹⁷ APS filed a ROW application with the BLM for this route.¹¹⁸ The BLM rejected the application in April 2010 because the Bradshaw-Harquahala Resource Management Plan for the area did not include a BLM-designated utility corridor along State Route 74.¹¹⁹ APS appealed the decision and in December 2010 BLM agreed to prepare an EIS to consider an amendment to the Resource Management Plan to include a utility corridor along the requested route.¹²⁰

The BLM published a NOI to prepare an EIS on April 11, 2011¹²¹ and an NOA of the DEIS on November 16, 2012.¹²² In June 2013, the BLM issued the FEIS¹²³ and issued its ROD granting a right-of-way on January 16, 2014.¹²⁴ The project was in-service as of April 2018.¹²⁵

Timeline:

July 2008	APS submits proposal to ACC
March 2009	ACC certifies project route
April 2010	BLM rejects APS ROW application
December 2010	BLM agrees to prepare an EIS for the project
April 11, 2011	BLM NOI to prepare EIS
November 16, 2012	BLM NOA of DEIS
June 2013	BLM FEIS
January 16, 2014	BLM ROD
April 2018	Project in-service

9. Antelope Valley Station-Neset Transmission Line

Main Takeaway

- Project in a single state has fewer complications and results in faster permitting.

Summary

Basic Electric Power Cooperative proposed the Antelope Valley Station-Neset Line to meet the need for addi-

117. Proposed APS Sun Valley to Morgan BLM Newsletter at 1.

118. *Id.*

119. *Id.*

120. *Id.*

121. Sun Valley to Morgan BLM NOI to prepare EIS, 76 Fed. Reg. 20006 (Apr. 2011), available at <https://www.federalregister.gov/documents/2011/04/11/2011-8551/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-proposed-sun-valley-to-morgan>.

122. Sun Valley to Morgan BLM NOA of DEIS, 77 Fed. Reg. 68816 (Nov. 2012), available at <https://www.federalregister.gov/documents/2012/11/16/2012-27929/notice-of-availability-of-the-draft-environmental-impact-statement-for-the-proposed-sun-valley-to>.

123. Sun Valley to Morgan BLM FEIS (June 2013), available at https://eplanning.blm.gov/public_projects/lup/74804/99555/120625/Chapter_1_Introduction.pdf.

124. Sun Valley to Morgan BLM Press Release (Jan. 21, 2014), available at <https://www.blm.gov/press-release/blm-approves-arizona-public-service-transmission-line-northern-maricopa-county>.

125. APS Ten-Year Transmission System Plan at 6, available at <https://www.aps.com/-/media/APS/APSCOM-PDFs/About/Construction-and-Power-Line-Siting/Power-Line-Siting/10-yearTransmissionSystemPlan2019.ashx>.

tional transmission capacity in northwestern North Dakota.¹²⁶ The final project design included a 265-mile, 345-kV transmission line, a 13-mile, 230-kV line, and five new substations.¹²⁷ The project would connect the Integrated System to the high-voltage transmission grid in the upper Great Plains, managed by WAPA, at several locations.¹²⁸

Basin requested financial assistance from the RUS, which served as the lead federal agency for the NEPA review.¹²⁹ WAPA and the Forest Service were cooperating agencies.¹³⁰ They published the NOI to prepare an EIS on November 2, 2011,¹³¹ the DEIS in November 2012,¹³² and the supplemental DEIS in December 2013 to evaluate project changes that resulted from an increase in the electric load forecast.¹³³ In May 2014, the RUS issued the FEIS.¹³⁴

The North Dakota Public Service Commission approved the project in April 2014.¹³⁵ On September 22, 2014, the RUS published an NOA of its ROD.¹³⁶ WAPA issued its ROD on December 8, 2014.¹³⁷ Basin completed the project in 2017.¹³⁸

Timeline:

November 2, 2011	RUS NOI to prepare an EIS
November 2012	RUS DEIS
December 2013	RUS supplemental DEIS
April 2014	North Dakota PSC approval
May 2014	RUS FEIS
September 22, 2014	RUS NOA of ROD
December 8, 2014	WAPA ROD
2017	Project completed

126. Antelope Valley Station-Neset RUS NOI to prepare EIS, 76 Fed. Reg. 67670 (Nov. 2011), available at <https://www.federalregister.gov/documents/2011/11/02/2011-28309/basin-electric-power-cooperative-inc-notice-of-intent-to-prepare-an-environmental-impact-statement>.

127. Antelope Valley Station-Neset RUS ROD, 79 Fed. Reg. 72677 (Nov. 2014), available at <https://www.federalregister.gov/documents/2014/12/08/2014-28721/antelope-valley-station-to-neset-transmission-project-record-of-decision-doeis-0478>.

128. Id.

129. Antelope Valley Station-Neset RUS NOA of ROD, 79 Fed. Reg. 56557, 56558 (Sept. 22, 2014), available at <https://www.federalregister.gov/documents/2014/09/22/2014-22412/basin-electric-power-cooperative-inc-antelope-valley-station-neset-345-kv-transmission-line-project>.

130. Antelope Valley Station-Neset RUS ROD.

131. Antelope Valley Station-Neset RUS NOI to prepare EIS.

132. Antelope Valley Station-Neset RUS DEIS (Nov. 2012), available at <https://www.energy.gov/sites/default/files/EIS-0478-DEIS-Volume1-2012.pdf>.

133. Antelope Valley Station-Neset RUS Supplemental DEIS (Dec. 2013), available at https://www.rd.usda.gov/files/UWP_ND45-Basin_AVS-Neset_SDEIS.pdf.

134. Antelope Valley Station-Neset RUS FEIS (May 2014), available at https://www.rd.usda.gov/files/UWP_ND45-Basin_AVS-Neset_FEIS.pdf.

135. "PSC approves siting for a controversial western ND power line," Prairie Public News Room (Apr. 23, 2014), available at <https://news.prairiepublic.org/energy-environment/2014-04-23/psc-approves-siting-for-a-controversial-western-nd-power-line>.

136. Antelope Valley Station-Neset RUS NOA of ROD, 79 Fed. Reg. 56557 (Sept. 22, 2014), available at <https://www.federalregister.gov/documents/2014/09/22/2014-22412/basin-electric-power-cooperative-inc-antelope-valley-station-neset-345-kv-transmission-line-project>.

137. Antelope Valley Station-Neset WAPA ROD (Dec. 8, 2014), available at <https://www.energy.gov/sites/default/files/2014/12/f19/EIS-0478-ROD-2014.pdf>.

138. Antelope Valley Station-Neset Line, Power Technology, available at <https://www.power-technology.com/marketdata/antelope-valley-station-neset-line-us/?cf-view>.

10. Central Ferry-Lower Monumental Transmission Line Project

Main Takeaway

- A smaller project in a single state has fewer complications.

Summary

BPA proposed the Central Ferry-Lower Monumental Transmission Line Project in Washington, comprising a 38-40 mile, 500-kV line from BPA's new Central Ferry Substation in Garfield County, Washington west to BPA's existing Lower Monumental Substation in Walla Walla County, Washington.¹³⁹

BPA served as the lead agency.¹⁴⁰ In furtherance of cooperative agreements between BPA and Washington, the Washington Energy Facility Site Evaluation Council also participated in preparation of the EIS.¹⁴¹ The agencies issued a NOI to prepare an EIS on June 19, 2009,¹⁴² the DEIS in July 2010,¹⁴³ and the FEIS in February 2011.¹⁴⁴ BPA issued the ROD in March 2011 approving the 38-mile line.¹⁴⁵

In August 2011, BPA put the project on hold because of uncertainties regarding the readiness of customer utilities.¹⁴⁶ After an approximately two year delay, project construction moved forward, and the line was energized in late 2015.¹⁴⁷

Timeline:

June 19, 2009	BPA NOI to prepare EIS
July 2010	BPA DEIS
February 2011	BPA FEIS
March 2011	BPA ROD
August 2011	BPA puts project on hold to reassess need
2013	BPA decides to move forward with project
Late 2015	Project energized

139. Central Ferry-Lower Monumental BPA DEIS at 5-1 to 5-2 (July 2010), available at https://www.energy.gov/sites/default/files/nepapub/nepa_documents/RedDont/EIS-0422-DEIS-2010.pdf.

140. Central Ferry-Lower Monumental BPA Page, available at <https://www.bpa.gov/learn-and-participate/public-involvement-decisions/project-reviews/central-ferry-trans-line-project>.

141. *Id.*

142. Central Ferry-Lower Monumental BPA NOI to prepare EIS (June 2009), available at <https://www.govinfo.gov/app/details/FR-2009-06-19/E9-14448>.

143. Central Ferry-Lower Monumental BPA DEIS (July 2010), available at https://www.energy.gov/sites/default/files/nepapub/nepa_documents/RedDont/EIS-0422-DEIS-2010.pdf.

144. Central Ferry-Lower Monumental BPA FEIS (Feb. 2011), available at https://www.energy.gov/sites/default/files/nepapub/nepa_documents/RedDont/EIS-0422-FEIS-2011.pdf.

145. Central Ferry-Lower Monumental BPA ROD (Mar. 2011), available at https://www.energy.gov/sites/default/files/nepapub/nepa_documents/RedDont/EIS-0422-ROD-2011.pdf.

146. National Wind Watch, "BPA to Resume Construction of Electricity Transmission Line" (Aug. 10, 2013), available at <https://www.wind-watch.org/news/2013/08/10/bpa-to-resume-construction-of-electricity-transmission-line/>.

147. BPA Website, available at <https://www.bpa.gov/learn-and-participate/public-involvement-decisions/project-reviews/central-ferry-trans-line-project>.

11. Vantage to Pomona Heights Transmission Line Project

Main Takeaway

- Early identification of a new alternative delayed the issuance by 2 years.

Summary

Pacific Power, a division of PacifiCorp, proposed the Vantage to Pomona Heights Transmission Line Project, a new 230-kV line that would extend approximately 40 miles from Yakima County, Washington to Grant County, Washington.¹⁴⁸

In April 2008, Pacific Power submitted a request to BPA to interconnect the project to BPA's Vantage Substation.¹⁴⁹ In October 2008, Pacific Power filed ROW applications with the BLM and the Army Joint Base Lewis-McChord Yakima Training Center (JBLMYTC).¹⁵⁰ In April 2011, Pacific Power filed a ROW application with Reclamation.¹⁵¹ Pacific Power filed updated applications with JBLMYTC in November 2013, and with the BLM and Reclamation in June 2016.¹⁵² The BLM served as the lead federal agency, with twelve other public entities, including Reclamation and BPA, as cooperating agencies.¹⁵³

The BLM published a NOI to prepare an EIS on January 5, 2010.¹⁵⁴ On January 4, 2013, the BLM issued the DEIS.¹⁵⁵ Comments on the DEIS identified a new alternative route, triggering a supplemental DEIS, which they issued in January 2015.¹⁵⁶ On October 21, 2016, BLM issued the FEIS.¹⁵⁷ In January 2017, Reclamation issued its ROD.¹⁵⁸ On October 16, 2017, BPA issued its ROD.¹⁵⁹ Project was completed in May 2020.¹⁶⁰

Timeline:

2008	Pacific Power submits ROW applications
April 2008	Pacific Power files to interconnect with BPA
January 5, 2010	BLM NOI to prepare EIS

148. Vantage to Pomona Heights BPA ROD at 1 (Sept. 2017), available at <https://www.bpa.gov/-/media/Aep/efw/nepa/completed/vantage-to-pomona/vantage-pomona-rod.pdf>.

149. *Id.* at 2.

150. *Id.*

151. *Id.*

152. *Id.*

153. *Id.*

154. Vantage to Pomona Heights BLM NOI to prepare EIS, 75 Fed. Reg. 429 (Jan. 5, 2010), available at <https://www.federalregister.gov/documents/2010/01/05/E9-31240/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-vantage-to-pomona-heights-230>.

155. Vantage to Pomona Heights BLM DEIS (Jan. 4, 2013), available at <https://www.bpa.gov/-/media/Aep/efw/nepa/completed/vantage-to-pomona/vantage-pomona-draft-eis.pdf>.

156. Vantage to Pomona Heights BLM Supplemental DEIS (Jan. 2, 2015), available at <https://www.bpa.gov/-/media/Aep/efw/nepa/completed/vantage-to-pomona/vantage-pomona-supp-draft.pdf>

157. Vantage to Pomona Heights BLM FEIS (Oct. 21, 2016), available at [available at https://www.bpa.gov/-/media/Aep/efw/nepa/completed/vantage-to-pomona/vantage-pomona-final-eis.pdf](https://www.bpa.gov/-/media/Aep/efw/nepa/completed/vantage-to-pomona/vantage-pomona-final-eis.pdf).

158. Vantage to Pomona Heights Reclamation ROD (Jan. 2017), available at <https://www.usbr.gov/pn/programs/ea/wash/vantage/v2prod.pdf>.

159. Vantage to Pomona Heights BPA NOA of ROD, 82 Fed. Reg. 48069 (Oct. 16, 2017), available at <https://www.federalregister.gov/documents/2017/10/16/2017-22046/electrical-interconnection-of-the-vantage-to-pomona-heights-transmission-line-project>.

160. Rocky Mountain Power letter at 352 (May 27, 2021), available at https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/rates-regulation/idaho/filings/case-no-pac-e-21-07/5-27-21-application-and-direct-testimony/PAC-E-21-07_RMP_GRC_Application_and_Direct_Testimony_REDACTED.pdf (noting: "The first work sequence to expand the Pomona Heights substation...").

April 2011	Pacific Power submits ROW application to Reclamation
January 4, 2013	BLM DEIS
November 2013	Pacific Power updates ROW application
January 2, 2015	BLM NOA of supplemental DEIS
June 2016	Pacific Power updates ROW application
October 21, 2016	BLM FEIS
January 13, 2017	Reclamation ROD
October 16, 2017	BPA ROD

12. City of Tallahassee Southwestern Transmission Line

Main Takeaways

- A small project within one state will result in more efficient environmental review.
- Unclear what happened to this project.

Summary

The City of Tallahassee proposed the 230-kV Southwestern Transmission Line that would connect the Hopkins-Crawfordville 230-kV line south of the Tallahassee Regional Airport with the existing BP-5 S Substation.¹⁶¹ The project would be approximately eight miles long, of which 6.4 miles would be in the Apalachicola National Forest.¹⁶² The portion of the project in the forest would be adjacent to an existing utility corridor currently under a Forest Service special use permit with Florida Gas Transmission Company.¹⁶³

On October 14, 2010, the Forest Service issued a NOI to prepare a DEIS.¹⁶⁴ They published the NOA of the DEIS on December 23, 2011.¹⁶⁵ The Forest Service issued the FEIS in March 2012¹⁶⁶ and the ROD authorizing the issuance of a special use permit on March 16, 2012.¹⁶⁷ Further information about the final project status is not easily accessible in the public record.

Timeline:

October 14, 2010	Forest Service NOI to prepare EIS
December 23, 2011	Forest Service NOA of DEIS
March 2012	Forest Service FEIS
March 16, 2012	Forest Service ROD

161. City of Tallahassee Forest Service NOI to prepare EIS, 75 Fed. Reg. 63141, 63142 (Oct. 14, 2010), available at <https://casetext.com/federal-register/apalachicola-national-forest-florida-city-of-tallahassee-230kv-southwestern-transmission-line>.

162. *Id.*

163. *Id.*

164. *Id.*

165. City of Tallahassee Forest Service NOA of DEIS, 76 Fed. Reg. 80367 (Dec. 23, 2011), available at <https://www.federalregister.gov/documents/2011/12/23/2011-32944/environmental-impacts-statements-notice-of-availability>.

166. City of Tallahassee Forest Service FEIS (Mar. 2012), available at <https://usfs-public.app.box.com/v/PinyonPublic/file/932486739933>.

167. City of Tallahassee Forest Service ROD (Mar. 16, 2012), available at <https://usfs-public.app.box.com/v/PinyonPublic/file/932484957550>.

13. Tropic to Hatch Transmission Line Project

Main Takeaway

- Smaller project footprint has fewer permitting complications.

Summary

Garkane Energy Cooperative proposed a 138-kV line from a new East Valley Substation east of Tropic to the Hatch Substation along a 31-mile route.¹⁶⁸ The project would cross federal lands and therefore requires a Forest Service special use easement across the Dixie National Forest, a BLM ROW, a proposed amendment to the Grand Staircase-Escalante National Monument Management Plan, potential Bryce Canyon National Park issuance of a special park permit for a ROW, and Utah School and Institutional Trust Lands Administration issuance of a ROW.¹⁶⁹

The Forest Service served as the lead agency, and the BLM and the NPS as cooperating agencies.¹⁷⁰ The agencies published a NOI to prepare an EIS on February 21, 2008,¹⁷¹ the DEIS in December 2009,¹⁷² and the FEIS in April 2011.¹⁷³ The Forest Service issued its ROD in April 2011.¹⁷⁴ The BLM published its NOA of the ROD on September 14, 2011.¹⁷⁵ Construction began in 2013 and the project was energized in 2019.¹⁷⁶

Timeline:

February 21, 2008	BLM NOI to prepare an EIS
December 2009	BLM DEIS
April 2011	BLM FEIS
April 2011	Forest Service ROD
September 14, 2011	BLM NOA of ROD
2013	Construction commences
2019	Project energized

168. Tropic to Hatch Forest Service NOI to prepare EIS, 73 Fed. Reg. 9517, 9518 (Feb. 21, 2008), available at <https://www.federalregister.gov/documents/2008/02/21/E8-3194/dixie-national-forest-ut-tropic-to-hatch-138kv-transmission-line-project>.

169. Tropic to Hatch Forest Service NOA of FEIS, 76 Fed. Reg. 19744 (Apr. 8, 2011), available at <https://www.federalregister.gov/documents/2011/04/08/2011-8062/final-tropic-to-hatch-138-kv-transmission-line-project-environmental-impact-statement-and-proposed>.

170. Tropic to Hatch Forest Service NOA of FEIS, 76 Fed. Reg. 19744 (Apr. 8, 2011), available at <https://www.federalregister.gov/documents/2011/04/08/2011-8062/final-tropic-to-hatch-138-kv-transmission-line-project-environmental-impact-statement-and-proposed>.

171. Tropic to Hatch Forest Service NOI to prepare EIS.

172. Tropic to Hatch Forest Service DEIS, 74 Fed. Reg. 64660 (Dec. 8, 2009), available at <https://www.federalregister.gov/documents/2009/12/08/E9-29227/draft-tropic-to-hatch-138-kv-transmission-line-project-environmental-impact-statement-and-draft>.

173. Tropic to Hatch Forest Service FEIS, 76 Fed. Reg. 19744 (Apr. 8, 2011), available at <https://www.federalregister.gov/documents/2011/04/08/2011-8062/final-tropic-to-hatch-138-kv-transmission-line-project-environmental-impact-statement-and-proposed>.

174. Tropic to Hatch Forest Service ROD (Apr. 2011), available at [https://permanent.fdlp.gov/gpo75708/47912_FSPLT2_050157\[1\].pdf](https://permanent.fdlp.gov/gpo75708/47912_FSPLT2_050157[1].pdf).

175. Tropic to Hatch BLM NOA of ROD, 76 Fed. Reg. 56791 (Sept. 14, 2011), available at <https://www.govinfo.gov/content/pkg/FR-2011-09-14/html/2011-23485.htm>.

176. Garkane Energy Newsletter (Fall 2019), available at <https://www.garkaneenergy.com/sites/default/files/documents/newsletters/fall%202019.pdf>.

14. Barren Ridge Renewable Transmission Project

Main Takeaway

- Smaller project footprint within one state helps streamline the permitting process.

Summary

In February 2007, the Los Angeles Department of Water and Power (LADWP) filed a special use application with the Forest Service to cross the Angeles National Forest for the Barren Ridge Renewable Transmission Project in California, which would, as proposed: expand the existing Barren Ridge Switching Station and construct a new Haskell Canyon Switching Station; add 61 miles of new double-circuit, 230-kV transmission between the two switching station; upgrade the existing Barren Ridge-Rinaldi 230-kV line with larger capacity conductor wires for 76 miles between the Barren Ridge Switching Station and the Rinaldi Station; add 12 miles of new 230-kV line to be attached to existing towers between Haskell Canyon and the Castaic Power Plant.¹⁷⁷

The proposed line would cross BLM and National Forest System lands.¹⁷⁸ The Forest Service and the BLM served as co-lead agencies for the EIS.¹⁷⁹ LADWP was the lead agency for the California Environmental Impact Report (EIR).¹⁸⁰ The BLM, Forest Service, and LADWP published a NOI to prepare a joint EIS/EIR on April 7, 2008.¹⁸¹ They published the NOA of the DEIS/EIR on August 26, 2011¹⁸² and the NOA of the FEIS/EIR on August 10, 2012.¹⁸³

LADWP approved those components of the project under its jurisdiction in August 2012 and issued a Notice of Determination on September 26, 2012.¹⁸⁴ The BLM signed its ROD on September 24, 2012.¹⁸⁵ The Forest Service issued its ROD on June 14, 2013.¹⁸⁶ The project was placed in service on September 29, 2016.¹⁸⁷

Timeline:

April 7, 2008	Forest Service and BLM NOI to prepare EIS
August 2011	Forest Service and BLM NOA of DEIS
August 2012	Forest Service and BLM NOA of FEIS
August 14, 2012	LADWP approves its project components

177. Barren Ridge Forest Service ROD at 1 (June 14, 2013), available at <https://usfs-public.app.box.com/v/PinyonPublic/file/932114835794>.

178. Barren Ridge Forest Service NOI to prepare an EIS, 73 Fed. Reg. 18734, 17835 (Apr. 7, 2008), available at <https://www.federalregister.gov/documents/2008/04/07/E8-6897/angeles-national-forest-ca-ridgecrest-field-office-ca-barren-ridge-renewable-transmission-project>.

179. *Id.*

180. *Id.*

181. *Id.*

182. Barren Ridge Forest Service NOA of DEIS, 76 Fed. Reg. 53453 (Aug. 26, 2011), available at <https://casetext.com/federal-register/environmental-impacts-statements-notice-of-availability-228>.

183. Barren Ridge Forest Service NOA of FEIS, 77 Fed. Reg. 47839 (Aug. 10, 2012), available at <https://www.federalregister.gov/documents/2012/08/10/2012-19687/environmental-impacts-statements-notice-of-availability>.

184. Barren Ridge Forest Service ROD at 2.

185. Barren Ridge LADWP EIR Addendum at 3 (Oct. 2018), available at https://clkrep.lacity.org/onlinedocs/2019/19-0419_misc_09-26-2019.0001.pdf.

186. *Id.*; Barren Ridge Forest Service ROD.

187. "LADWP Completes Barren Ridge Transmission Project," News Data (Sept. 29, 2016), available at https://www.newsdata.com/california_energy_markets/news_in_brief/ladwp-completes-barren-ridge-transmission-project/article_7442ebd5-e738-5697-a160-c58c2303e22b.html.

September 24, 2012	BLM ROD
September 26, 2012	LADWP Notice of Determination
June 2013	Forest Service ROD
September 2016	Project placed in service

15. Hooper Springs Transmission Project

Main Takeaways

- Agencies should identify potential issues as early as feasible while the NEPA process should identify important information that informs and results in project revisions. The later issues are identified, the longer the process takes.
- Here, the NEPA process took six years because route options/alternatives were revised several times.

Summary

BPA proposed the Hooper Springs Transmission Project comprising the following: 1) A new 138/115-kV Hooper Springs Substation; 2) a new 24-mile, 115-kV transmission line extending from the Hooper Springs Substation to a new BPA facility that will connect the new line to Lower Valley Energy's existing transmission system in Caribou County, Idaho; and 3) a new 0.2-mile, single circuit 138-kV transmission line extending from the Hooper Springs Substation to PacifiCorp's existing Threemile Knoll Substation to connect the new line to the regional transmission grid.¹⁸⁸

In May 2009, BPA issued a preliminary EA which revealed that the proposed route crossed contaminated mining sites that are the subject of a Superfund Site Investigation; accordingly, BPA determined that an EIS was required.¹⁸⁹

BPA served as the lead agency, with Forest Service, the BLM, and the Idaho Governor's Office of Energy Resources as cooperating agencies.¹⁹⁰ The agencies issued a NOI to prepare an EIS on July 8, 2010¹⁹¹ and the DEIS in March 2013.¹⁹² In May 2014, BPA issued a supplemental DEIS to evaluate an additional route option.¹⁹³ The agencies issued the FEIS in January 2015.¹⁹⁴ BPA issued its ROD in March 2015.¹⁹⁵ The Forest Service issued its ROD in February 2015.¹⁹⁶ The project was energized in October 2019.¹⁹⁷

188. Hooper Springs BPA ROD at 1 (Mar. 2015), available at <https://www.energy.gov/sites/default/files/2015/04/f21/EIS-0451-ROD-MAP-2015.pdf>.

189. Hooper Springs BPA NOI to prepare EIS, 75 Fed. Reg. 39241, 39242 (July 8, 2010), available at <https://www.govinfo.gov/content/pkg/FR-2010-07-08/pdf/2010-16622.pdf>.

190. *Id.*

191. *Id.*

192. Hooper Springs BPA DEIS (Mar. 2013), available at www.energy.gov/sites/default/files/EIS-0451-DEIS-Volume1-2013_0.pdf.

193. Hooper Springs BPA Supplemental DEIS (May 2014), available at https://www.energy.gov/sites/default/files/2014/05/f15/EIS-0451-SDEIS_Vol1-2014.pdf.

194. Hooper Springs BPA FEIS (Jan. 2015), available at <https://www.energy.gov/sites/default/files/2015/01/f19/EIS-0451-FEIS-2015.pdf>.

195. Hooper Springs BPA ROD (Apr. 2015), available at <https://www.energy.gov/sites/default/files/2015/04/f21/EIS-0451-ROD-MAP-2015.pdf>.

196. Hooper Springs Forest Service ROD (Feb. 2015), available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3829750.pdf.

197. Lower Valley Energy website, available at <https://www.lvenergy.com/about-us/history/>.

Timeline:

July 8, 2010	BPA NOI to prepare EIS
March 2013	BPA DEIS
May 2014	BPA supplemental DEIS
January 2015	BPA FEIS
February 2015	Forest Service ROD
March 2015	BPA ROD
October 2019	Project energized

16. Bemidji-Grand Rapids Transmission Line Project

Main Takeaway

- Single state, smaller footprint projects result in a more efficient process.

Summary

Minnkota Power Cooperative, Otter Tail Power Company, and Minnesota Power¹⁹⁸ proposed the Bemidji-Grand Rapids Transmission Line, an approximately 68-mile, 230-kV line between Bemidji, Minnesota and Grand Rapids, Minnesota.¹⁹⁹ The project will meet future electric demand and maintain electric transmission reliability standards.²⁰⁰ It is part of CapX2020, which is a joint initiative of 11 transmission-owning utilities in Minnesota, North Dakota, South Dakota, and Wisconsin, formed to expand the electric transmission grid to ensure continued reliable service.²⁰¹

Minnkota Power applied to the RUS for project financing.²⁰² The RUS and the State of Minnesota jointly served as lead agencies, with the Forest Service, Corps of Engineers, U.S. Bureau of Indian Affairs (BIA), and the Leech Lake Band of Ojibwe as cooperating agencies.²⁰³ The RUS issued a NOI to prepare an EIS on July 18, 2008, noting it would prepare the EIS jointly with the Minnesota Department of Commerce, Office of Energy Security.²⁰⁴ They issued the DEIS in February 2010.²⁰⁵ They issued the FEIS in September 2010.²⁰⁶ The RUS issued the ROD in November 2010.²⁰⁷

198. Bemidji-Grand Rapids RUS NOI to prepare EIS, 73 Fed. Reg. 41312 (July 18, 2008), available at <https://www.federalregister.gov/documents/2008/07/18/E8-16493/minnkota-power-cooperative-inc-notice-of-intent-to-hold-public-scoping-meetings-and-prepare-an>.

199. Bemidji-Grand Rapids RUS DEIS at ES-2 (Feb. 2010), available at https://www.rd.usda.gov/sites/default/files/UWP_ND20-Minnkota_BGR_DEIS.pdf.

200. *Id.* at ES-4.

201. Minnesota Electric Transmission Planning website, available at https://www.minnelectrans.com/documents/2009_Biennial_Report/html/Ch_6_Needs_Sec_6.2_Northwest_6.2.5.htm.

202. Bemidji-Grand Rapids RUS NOI to prepare EIS at 41313.

203. *Id.*

204. *Id.* at 41312.

205. Bemidji-Grand Rapids RUS DEIS (Feb. 2010), available at https://www.rd.usda.gov/sites/default/files/UWP_ND20-Minnkota_BGR_DEIS.pdf.

206. Bemidji-Grand Rapids RUS FEIS (Sept. 2010), available at https://www.rd.usda.gov/sites/default/files/UWP_ND20-Minnkota_BGR_FEIS.pdf.

207. Bemidji-Grand Rapids RUS ROD (Nov. 2010), available at https://www.rd.usda.gov/sites/default/files/UWP_ND20-Minnkota_BGR_ROD.pdf.

The Minnesota PUC issued its order adopting the proposed Route Permit for the project in November 2010.²⁰⁸ The project was energized in September 2012.²⁰⁹

Timeline:

July 18, 2008	RUS NOI to prepare DEIS
February 2010	RUS DEIS
September 15, 2010	RUS NOA of FEIS
November 2010	Minnesota PUC Route Permit
November 2010	RUS ROD
September 2012	Project energized

17. Sigurd to Red Butte Transmission Line Project

Main Takeaway

- Early stakeholder process streamlines the permitting process.

Summary

PacifiCorp, d/b/a Rocky Mountain Power (“Rocky Mountain”), proposed a 170-mile line between Sevier County, Utah, and Washington County, Utah to respond to anticipated load growth in southwestern Utah.²¹⁰ The project is one segment of PacifiCorp’s Energy Gateway Transmission Expansion Program.²¹¹

On December 19, 2008, Rocky Mountain submitted a ROW application to the BLM and the Forest Service to cross their respective lands, which they revised on September 11, 2009 and July 5, 2011 to reflect changes to the project.²¹² In the year between the initial December 2008 application and the January 5, 2010 NOI to prepare an EIS, the federal agencies and the applicant invested significant resources in the public scoping process.²¹³ As a result, the draft EIS included an agency preferred route.²¹⁴ After the close of the DEIS comment period, the applicant had enough certainty and public acceptance of the preferred route to submit applications for all local and state permits.²¹⁵ They received all permits without any public opposition.²¹⁶

The BLM served as the lead agency, and cooperating agencies included the Forest Service and other federal,

208. “Bemidji-Grand Rapids power line project receives approval,” MPR News (Nov. 1, 2010), available at <https://www.mprnews.org/story/2010/11/01/bemidji-grand-rapids-power-line-project-receives-approval>.

209. “Xcel, Otter Tail Power Complete 345-kV transmission line,” Power Grid International (Sept. 1, 2017), available at <https://www.power-grid.com/td/xcel-energy-otter-tail-power-complete-345-kv-transmission-line/#gref>

210. Sigurd to Red Butte BLM NOA of FEIS, 77 Fed. Reg. 61020 (Oct. 5, 2012), available at <https://www.federalregister.gov/documents/2012/10/05/2012-24521/notice-of-availability-of-final-environmental-impact-statement-for-the-sigurd-to-red-butte-no>.

211. PacifiCorp Website, “Energy Gateway,” available at <https://www.pacificorp.com/transmission/transmission-projects/energy-gateway.html>.

212. Sigurd to Red Butte BLM ROD at 4 (Dec. 2012), available at <https://pscdocs.utah.gov/electric/12docs/1203597/241309ExARebutGerrard1-18-2013.pdf>.

213. PacifiCorp Comments on DOE’s Improving Performance of Federal Permitting and Review of Infrastructure Projects Request for Information at 7 (Oct. 30, 2013), available at https://www.energy.gov/sites/prod/files/2013/10/f4/Comments_RFI-IIP_PacifiCorp.pdf.

214. *Id.* at 8.

215. *Id.*

216. *Id.*

state, and county agencies.²¹⁷ The agencies published the NOA of the DEIS on May 27, 2011.²¹⁸ They published their NOA of the FEIS on October 5, 2012.²¹⁹ The BLM issued its ROD in December 2012.²²⁰

On September 17, 2012, Rocky Mountain applied to the Utah PSC for a certificate for the project.²²¹ Utah PSC issued the certificate on March 19, 2013.²²² The project was placed in service in May 2015.²²³

Timeline:

December 19, 2008	Rocky Mountain applies for BLM/Forest Service ROW
September 11, 2009	BLM and Forest Service revise ROW application
January 5, 2010	BLM NOI to prepare DEIS
May 27, 2011	BLM NOA of DEIS
July 5, 2011	BLM and Forest Service revise ROW application
September 17, 2012	Rocky Mountain applies for Utah PSC certificate
December 2012	BLM ROD
March 19, 2013	Utah PSC issues certificate
May 2015	Project placed in service

18. Tehachapi Renewable Transmission Project

Main Takeaway

- Unexpected and unforeseen events can delay the permitting process. Here, shortly before the DEIS/EIR was issued, a fire affected 75% of the project area on Forest Service lands, requiring a supplemental EIS.
- Late identification of an issue raised by another agency extended the NEPA process.

Summary

The Tehachapi Renewable Transmission Project is a series of new and upgraded high-voltage electric transmission lines with eight segments totaling 173 miles, proposed to be constructed and operated by Southern California Edison (SCE).²²⁴ The project would be located within Kern, Los Angeles, and San Bernardino counties, California.²²⁵

217. Sigurd to Red Butte BLM NOI to prepare EIS, 75 Fed. Reg. 430 (Jan. 5, 2010), available at <https://www.federalregister.gov/documents/2010/01/05/E9-31239/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-sigurd-red-butte-transmission>.

218. Sigurd to Red Butte BLM NOA of DEIS, 76 Fed. Reg. 30962 (May 27, 2011), available at <https://www.govinfo.gov/content/pkg/FR-2011-05-27/pdf/2011-13009.pdf>.

219. Sigurd to Red Butte BLM NOA of FEIS.

220. Sigurd to Red Butte BLM ROD (Dec. 2012), available at <https://pscdocs.utah.gov/electric/12docs/1203597/241309ExARebutGerrard1-18-2013.pdf>.

221. Sigurd to Red Butte Utah PSC Certificate of Public Convenience and Necessity at 1 (Mar. 19, 2013), available at <https://pscdocs.utah.gov/electric/12docs/1203597/2425891203597ROri.pdf>.

222. *Id.*

223. Gateway South website, available at <https://www.pacificorp.com/transmission/transmission-projects/energy-gateway/gateway-south.html>.

224. Tehachapi Forest Service NOI to prepare EIS, 72 Fed. Reg. 51405 (Sept. 7, 2007), available at <https://www.govinfo.gov/content/pkg/FR-2007-09-07/pdf/E7-17168.pdf>.

225. *Id.*

On June 29, 2007, SCE filed an application with California PUC for a Certificate of Public Convenience and Necessity to construct the project.²²⁶ SCE also filed an application for a special use authorization with the Forest Service on June 29, 2007 because the proposed transmission line would traverse approximately 42 miles of National Forest System lands.²²⁷

On September 7, 2007, the Forest Service issued a NOI to prepare a joint EIS/EIR with the California PUC.²²⁸ An NOA for the DEIS/EIR was issued on February 20, 2009.²²⁹ Shortly before they issued DEIS/EIR, the Station Fire broke out and caused widespread damage in the project area.²³⁰ An estimated 75% of the project area on Forest Service lands was affected by the fire.²³¹ The Forest Service determined additional analysis was required, but because these changed conditions did not necessitate the preparation of a supplemental EIR, the process to prepare a joint FEIS/EIR was discontinued, and the Forest Service and CPUC proceeded to independently complete their respective environmental reviews.²³² In October 2009, the CPUC issued its final EIR.²³³

On February 8, 2010, Forest Service issued a NOI to prepare a draft supplemental EIS addressing impacts of the fire on Forest Service lands.²³⁴ The Forest Service published the NOA of the draft supplemental EIS on April 30, 2010,²³⁵ the NOA of the final supplemental EIS on September 24, 2010,²³⁶ and the ROD on October 4, 2010.²³⁷

Earlier approvals of the project by the CPUC and Forest Service required SCE to consult with the Federal Aviation Administration (FAA) for aviation safety.²³⁸ The FAA recommended installing marker balls on certain transmission line spans and aviation lighting on certain transmission structures, thus requiring project modifications.²³⁹ In light of this, on September 26, 2012, the Forest Service issued a NOI to prepare a joint supplemental EIS/EIR with CPUC for the project.²⁴⁰ The agencies issued the draft on April 11, 2013,²⁴¹

226. Tehachapi Forest Service FEIS at ES-1 (Oct. 2009), available at <https://file.lacounty.gov/SDSInter/bos/supdocs/58826.pdf>.

227. *Id.*

228. Tehachapi Forest Service NOI to prepare EIS.

229. Tehachapi Forest Service NOA of Joint DEIS/EIR, 74 Fed. Reg. 7889 (Feb. 20, 2009), available at <https://www.govinfo.gov/content/pkg/FR-2009-02-20/pdf/E9-3661.pdf>.

230. Tehachapi Forest Service NOI to prepare Supplemental DEIS, 75 Fed. Reg. 6168 (Feb. 8, 2010), available at <https://www.govinfo.gov/content/pkg/FR-2010-02-08/pdf/2010-2263.pdf>.

231. *Id.*

232. Tehachapi Forest Service ROD at 2 (Oct. 2010), available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5212352.pdf.

233. *Id.* Contradicting this language in the ROD, the U.S. Forest Service appears to have been a signatory to CPUC's Final EIR. Tehachapi CPUC Final EIR (Oct. 2009), available at <https://file.lacounty.gov/SDSInter/bos/supdocs/58826.pdf>

234. Tehachapi Forest Service NOI to prepare Supplemental DEIS.

235. Tehachapi Forest Service NOA of Supplemental DEIS, 75 Fed. Reg. 22778 (Apr. 30, 2010), available at <https://www.govinfo.gov/content/pkg/FR-2010-04-30/pdf/2010-10156.pdf>.

236. Tehachapi Forest Service NOA of Supplemental FEIS, 75 Fed. Reg. 58376 (Sept. 24, 2010), available at <https://www.federalregister.gov/documents/2010/09/24/2010-23974/environmental-impacts-statements-notice-of-availability>.

237. Tehachapi Forest Service ROD (Oct. 4, 2010), available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5212352.pdf.

238. Tehachapi Forest Service NOI to prepare Joint Supplemental EIS, 77 Fed. Reg. 59165 (Sept. 26, 2012), available at <https://www.federalregister.gov/documents/2012/09/26/2012-23471/notice-of-intent-to-prepare-a-joint-supplemental-environmental-impact-statementenvironmental-impact>.

239. *Id.*

240. *Id.*

241. Tehachapi Forest Service ROD at 2 (Oct. 17, 2012), available at <https://usfs-public.app.box.com/v/PinyonPublic/file/933148218443>.

and the final in October 2014.²⁴² The Forest Service issued its ROD on October 17, 2014.²⁴³ In Q4 2016, the project was energized.²⁴⁴

Timeline:

June 29, 2007	SCE submits special use application to Forest Service
June 29, 2007	SCE submits project certificate application to CPUC
September 7, 2007	Forest Service NOI to prepare joint EIS/EIR
February 20, 2009	Forest Service NOA of DEIS/EIR
Summer 2009	Station fire in project area
October 2009	Forest Service and CPUC final EIR
February 8, 2010	Forest Service NOI to prepare draft supplemental EIS
April 30, 2010	Forest Service NOA of draft supplemental EIS
September 24, 2010	Forest Service NOA of final supplemental EIS
October 4, 2010	Forest Service ROD
September 26, 2012	Forest Service NOI to prepare joint supplemental EIS/EIR
April 11, 2013	Forest Service draft supplemental EIS/EIR
October 2014	Forest Service final supplemental EIS/EIR
October 17, 2014	Forest Service ROD
Q4 2016	Project energized

19. Teckla-Osage-Rapid City Transmission Line Project

Main Takeaway

- From the NOI to preparing an EIS to project operation took just more than 5 years.

Summary

Black Hills Power proposed a 150-mile, 230-kV, transmission line between Wyoming and Rapid City, South Dakota, to strengthen the regional transmission network, improve system reliability, and help meet regional demand.²⁴⁵ In South Dakota, the project would cross the Black Hills National Forest.²⁴⁶ In Wyoming, the project would cross the Thunder Basin National Grasslands, private lands, state lands, and BLM lands.²⁴⁷

The Forest Service served as the lead agency with the BLM as a cooperating agency.²⁴⁸ On August 26, 2011,

²⁴². *Id.*

²⁴³. *Id.*

²⁴⁴. "SoCalEd finishes multipart Tehachapi transmission project to move renewables," S&P Global (Jan. 5, 2017), available at <https://www.spglobal.com/marketintelligence/en/news-insights/trending/wxiro-axiapzcc99tzncdg2>.

²⁴⁵. Teckla-Osage-Rapid City Forest Service NOI to prepare EIS, 76 Fed. Reg. 53400 (Aug. 26, 2011), available at <https://www.federalregister.gov/documents/2011/08/26/2011-21712/black-hills-national-forest-sd-thunder-basin-national-grassland-wy-teckla-osage-rapid-city>.

²⁴⁶. *Id.*

²⁴⁷. *Id.*

²⁴⁸. *Id.*

the Forest Service published a NOI to prepare an EIS.²⁴⁹ They issued the DEIS in December 2013²⁵⁰ and published the NOA of the FEIS on December 5, 2014.²⁵¹ On May 19, 2015, the Forest Service and the BLM issued a joint ROD as well as separate RODs for lands within their respective jurisdictions.²⁵²

Black Hills Power filed an application to the South Dakota PUC on June 30, 2014, which was approved on December 24, 2014.²⁵³ In July 2015, the Wyoming PSC approved Black Hill's request to construct a 15-mile segment of the project.²⁵⁴ Black Hills Power started construction in March 2016²⁵⁵ and the project was placed in service by December 2016.²⁵⁶

Timeline:

August 2011	Forest Service NOI to prepare DEIS
December 24, 2013	Forest Service DEIS
June 30, 2014	Black Hills applies for South Dakota Certificate of PCN
July 22, 2014	Black Hills applies for Wyoming Certificate of PCN
November 2014	South Dakota issues Certificate of PCN
November 2014	Forest Service FEIS
May 19, 2015	Forest Service and BLM RODs
July 2015	Wyoming issues Certificate of PCN
March 2016	Project construction starts
December 2016	Project placed in service

20. New England Clean Power Link

Main Takeaway

- Single state, underground line that had a quick permitting process, but the developer could not secure power contracts.

Summary

On May 20, 2014, TDI New England filed an application with DOE for a Presidential Permit to construct a 154-mile, 300- to 320-kV transmission line extending from the Quebec border under Lake Champlain to Benson, Vermont, where it would follow existing ROWs to a converter station to be built in Ludlow, Ver-

249. *Id.*

250. Teckla-Osage-Rapid City Forest Service DEIS (Dec. 2013), available at <https://puc.sd.gov/commission/dockets/electric/2014/EL14-061/appendixc.pdf>.

251. Teckla-Osage-Rapid City Forest Service NOA of FEIS, 79 Fed. Reg. 72172 (Dec. 5, 2014), available at <https://casetext.com/federal-register/environmental-impact-statements-notice-of-availability-925>.

252. Teckla-Osage-Rapid City Forest Service Press Release (May 19, 2015), available at <https://www.fs.usda.gov/detail/mbr/news-events/?cid=STELPRD3838289>.

253. Teckla-Osage South Dakota PUC Order Approving Black Hills Application, Docket No. EL14-061 (Dec. 24, 2014), available at <https://puc.sd.gov/commission/Orders/electric/2014/EL14-061final.pdf>.

254. "Black Hills starts construction on 230-kV transmission line," S&P Global (Mar. 24, 2016), available at <https://www.spglobal.com/marketintelligence/en/news-insights/trending/evleu7ms7n6znmn6mz4aw2>.

255. *Id.*

256. Black Hills Corporation Transmission Plan, slide 2 (Dec. 8, 2016), available at <https://doc.westconnect.com/Documents.aspx?NID=17530&dl=1>.

mont.²⁵⁷ The total distance through Lake Champlain would be approximately 97.6 miles, and the 56.1-mile overland portion of the line would be buried, primarily within existing public road and railroad ROWs.²⁵⁸

On August 26, 2014, DOE, as the lead agency, published a NOI to prepare an EIS with the Corps of Engineers, U.S. Coast Guard, and EPA as cooperating agencies.²⁵⁹ They issued the DEIS in May 2015²⁶⁰ and the FEIS in October 2015.²⁶¹ The Vermont Public Service Board issued a Certificate of Public Good on January 5, 2016.²⁶² DOE published its ROD issuing a Presidential permit to the project on December 12, 2016.²⁶³

In 2017, TDI proposed the Clean Power Link project in response to Massachusetts Clean Energy Request for Proposals, a program to help utilities procure renewable energy.²⁶⁴ In January 2018, Clean Power Link was not selected.²⁶⁵ In February 2023, lacking contracts,²⁶⁶ TDI filed an application for project funding under DOE's Transmission Facilitation Program. As of the publication of this report, the New England Clean Power Link has not received funding through the Transmission Facilitation Program.²⁶⁷

Timeline:

May 20, 2014	TDI files application for Presidential Permit
August 26, 2014	DOE issues NOI to prepare DEIS
May 2015	DOE issues DEIS
October 2015	DOE issues FEIS
January 5, 2016	Vermont Public Service Board issues Cert. of Public Good
December 12, 2016	DOE issues ROD for Presidential Permit
2017	TDI files proposal in response to Massachusetts RFP
January 2018	Massachusetts rejects proposal
February 2023	TDI files application for project funding from DOE

257. New England Clean Power Link Application at cover letter pg. 1, application at 2-1, 2-3, 2-5, 2-15 (May 20, 2014), available at <http://necplinkeis.com/wp-content/uploads/2014/08/US-DOE-Presidential-Permit-Application.pdf>.

258. *Id.* at 2-3, 2-7, 2-15.

259. New England Clean Power Link DOE NOI to prepare EIS, 79 Fed. Reg. 50901 (Aug. 26, 2014), available at <http://www.necplink.com/docs/NECPL-Notice-of-Intent-79-Fed-Reg-50901.pdf>.

260. New England Clean Power Link DOE DEIS (May 2015), available at <https://www.energy.gov/sites/default/files/2015/06/f22/EIS-0503-DEISv1-2015.pdf>.

261. New England Clean Power Link DOE FEIS (Nov. 2015), available at <https://www.energy.gov/sites/prod/files/2015/10/f27/Final%20NECPL%20EIS%20Appendix%20M%20CRD%202015-10-26.pdf>.

262. New England Clean Power Link Vermont Public Service Board Order (Jan. 5, 2016), available at http://www.necplink.com/docs/final_order.pdf.

263. New England Clean Power Link DOE ROD, 81 Fed. Reg. 89450 (Dec. 12, 2016), available at https://www.energy.gov/sites/default/files/2016/12/f34/EIS-0503_NECPL_ROD_FR.pdf.

264. "5 companies propose transmission projects for Massachusetts clean energy RFP," Utility Dive (July 31, 2017), available at <https://www.utilitydive.com/news/5-companies-propose-transmission-projects-for-massachusetts-clean-energy-rf/448239/>.

265. "Rejected transmission projects forge ahead after Massachusetts picks Eversource," S&P Global (Jan. 29, 2018), available at https://www.spglobal.com/marketintelligence/en/news-insights/trending/hk-u3svcanlg43exe_u0ew2.

266. "Scott renews hope in billion-dollar underwater powerline," VermontBiz (Feb. 16, 2023), available at <https://vermontbiz.com/news/2023/february/16/scott-renews-hope-billion-dollar-underwater-powerline>.

267. TDI Press Release (Feb. 1, 2023), available at <http://www.necplink.com/press-releases.php> and <http://www.necplink.com/press-releases/020123.php>. DOE press release (10/30/2023), available at <https://www.energy.gov/articles/biden-harris-administration-announces-13-billion-build-out-nations-electric-transmission>.

21. SunZia Southwest Transmission Project

Main Takeaways

- Large project footprint impacts timing.
- Significant changes to a project will inevitably slow the review process.
- Interagency coordination and stakeholder engagement are paramount.

Summary

On September 11, 2008, Sunzia Transmission, LLC filed an application for a ROW from the BLM to locate two 500-kV transmission lines located across approximately 515 miles of Federal, State, and private lands between central New Mexico and central Arizona.²⁶⁸ The purpose of the Project is to transport up to 4,500 megawatts of primarily renewable energy from New Mexico to markets in Arizona and California.²⁶⁹

Three NEPA analyses were prepared for SunZia between 2009 and 2023:

On May 29, 2009, BLM issued a NOI to prepare an EIS that identified 14 cooperating agencies, including the Department of Defense (DOD) and the U.S. Department of the Army, White Sands Missile Range (WSM-R).²⁷⁰ On May 29, 2012, BLM issued an NOA of the DEIS.²⁷¹ In June 2013, the BLM issued the FEIS.²⁷² The DOD identified issues with the Preferred Alternative corridor detailed in the EIS, citing potential impacts of the above-ground transmission line on military operations and readiness activities in a locale north of the White Sands Missile Range, and on May 27, 2014, the Secretary of Defense sent a letter to the Secretary of Interior with proposed mitigation measures that would address DOD's objections.²⁷³

In November 2014, the BLM prepared an EA to assess the DOD's proposed mitigation measures that would include placing five miles of the line underground.²⁷⁴ The BLM concluded that the DOD mitigation measures would not create new impacts significantly different from those analyzed in the 2013 FEIS.²⁷⁵

In January 2015, the BLM issued its ROD for the 2013 EIS, which identified the BLM preferred alternative evaluated in the 2013 FEIS that incorporated the DOD's mitigation measures.²⁷⁶ The BLM issued a

268. SunZia 2015 BLM ROD at 1 (Jan. 2015), available at [https://eplanning.blm.gov/public_projects/2013584/200486954/20040619/250046814/SunZia%20ROD%20with%20Appendices%20\(January%202015\).pdf](https://eplanning.blm.gov/public_projects/2013584/200486954/20040619/250046814/SunZia%20ROD%20with%20Appendices%20(January%202015).pdf).

269. SunZia 2009 BLM NOI to prepare EIS, 74 Fed. Reg. 25764 (May 29, 2009), available at <https://www.govinfo.gov/content/pkg/FR-2009-05-29/pdf/E9-12512.pdf>.

270. *Id.*

271. SunZia 2012 BLM NOA of DEIS, 76 Fed. Reg. 31637 (May 29, 2012), available at <https://www.federalregister.gov/documents/2012/05/29/2012-12978/notice-of-availability-of-the-draft-environmental-impact-statement-for-the-sunzia-southwest-500-kv>.

272. "BLM Releases Environmental Assessment on DOD Proposal to Run Segments of SunZia Southwest Transmission Line Underground," BLM Press Release (Nov. 25, 2014), available at <https://www.blm.gov/press-release/blm-releases-environmental-assessment-dod-proposal-run-segments-sunzia-southwest>.

273. *Id.*

274. *Id.*

275. *Id.*

276. SunZia 2015 BLM ROD (Jan. 2015), available at [https://eplanning.blm.gov/public_projects/2013584/200486954/20040619/250046814/SunZia%20ROD%20with%20Appendices%20\(January%202015\).pdf](https://eplanning.blm.gov/public_projects/2013584/200486954/20040619/250046814/SunZia%20ROD%20with%20Appendices%20(January%202015).pdf).

ROW grant in September 2016.²⁷⁷ However, the DOD continued to raise concerns about the WSMR.²⁷⁸ In addition, stakeholders expressed concerns that the ROW would allow the line to cross the Rio Grande near Socorro, which would affect bird migration routes.²⁷⁹ From 2017 to 2019, SunZia and the DOD engaged in discussions regarding the WSMR.²⁸⁰

On March 27, 2020, as revised on December 21, 2020 and September 14, 2021, SunZia submitted an application to the BLM and the Forest Service to co-locate the SunZia transmission line with existing transmission line easements across the Sevilleta National Wildlife Refuge; obtain a ROW to construct a transmission line on Forest Service lands; and to request amendment of their September 2016 ROW to the Socorro Field Office RMP.²⁸¹ SunZia's proposed revisions would result in the project, among other things, crossing the Rio Grande at a different spot and avoiding the WSMR.²⁸²

On June 4, 2021, the BLM, as lead agency, issued a NOI to prepare an EIS on the proposed amendments.²⁸³ On July 29, 2021, SunZia became a Fixing America's Surface Transportation Act project pursuant to Title 41 of the Act ("FAST-41").²⁸⁴ FAST-41 status means the proposed action is closely monitored by Federal agencies and the Federal Permitting Improvement Steering Council.²⁸⁵

On May 2, 2022, the BLM issued an NOA of the DEIS.²⁸⁶ On February 17, 2023, the BLM issued a FEIS addressing only the amendments.²⁸⁷ On May 23, 2023, BLM issued its ROD.²⁸⁸ Construction began on September 1, 2023.²⁸⁹

Timeline:

September 11, 2008

SunZia applies for BLM ROW

May 29, 2009

BLM NOI to prepare EIS

277. SunZia Project Update for New Mexico Renewable Energy Transmission Authority at slide 6 (May 3, 2017), available at https://nmreta.com/wp-content/uploads/legacy_pdf/SunZia-Update-for-RETA--5.3.2017.pdf.

278. SunZia Application to BLM for Transportation and Utility Systems on Federal Lands at A3-1 (Dec. 2020), available at https://eplanning.blm.gov/public_projects/2011785/200481766/20041457/250047650/E_SunZia_Att_A3_Segment_4_Reroute_2020-12-18.pdf.

279. "Protect Our Migratory Birds: Demand SunZia Energy Bury Rio Grande Transmission Lines," Rio Grande Agricultural Land Trust (Mar. 8, 2019), available at <https://rgalt.org/protect-our-migratory-birds/>.

280. SunZia Application to BLM for Transportation and Utility Systems on Federal Lands at A3-1 (Dec. 2020), available at https://eplanning.blm.gov/public_projects/2011785/200481766/20041457/250047650/E_SunZia_Att_A3_Segment_4_Reroute_2020-12-18.pdf.

281. SunZia 2022 BLM NOA of DEIS, 87 Fed. Reg. 25653 (May 2, 2022), available at <https://www.federalregister.gov/documents/2022/05/02/2022-09379/notice-of-availability-of-a-draft-environmental-impact-statement-and-resource-management-plan>; SunZia 2023 BLM ROD at ES vii, (May 16, 2023), available at https://eplanning.blm.gov/public_projects/2011785/200481766/20078613/250084795/20230517%20SunZia%20ROD_508.pdf.

282. SunZia 2023 BLM ROD at ES vii-viii, 32, available at <https://www.federalregister.gov/documents/2022/05/02/2022-09379/notice-of-availability-of-a-draft-environmental-impact-statement-and-resource-management-plan>.

283. SunZia 2021 NOI to prepare EIS, 86 Fed. Reg. 30066 (June 4, 2021), available at <https://www.federalregister.gov/documents/2021/06/04/2021-11788/notice-of-intent-to-prepare-an-environmental-impact-statement-and-resource-management-plan>.

284. SunZia 2023 BLM ROD at 16.

285. *Id.*

286. SunZia 2022 BLM NOA of DEIS, 87 Fed. Reg. 25653 (May 2, 2022), available at <https://www.federalregister.gov/documents/2022/05/02/2022-09379/notice-of-availability-of-a-draft-environmental-impact-statement-and-resource-management-plan>.

287. SunZia 2023 BLM ROD at vii.

288. *Id.*

289. Department of the Interior (DOI) Press Release (Sept. 1, 2023), available at <https://www.doi.gov/pressreleases/biden-harris-administration-celebrates-groundbreaking-new-sunzia-transmission-line>.

May 29, 2012	BLM DEIS
June 2013	BLM FEIS
May 27, 2014	DOD proposes mitigation measures
November 2014	BLM EA on DOD proposal
January 2015	BLM ROD incorporating DOD measures
September 2016	BLM ROW
March 27, 2020-September 2021	SunZia files amendments to Sep 2016 ROW
June 4, 2021	BLM NOI to prepare EIS for ROW amendment
May 2, 2022	BLM NOA of DEIS
February 17, 2023	BLM FEIS
May 16, 2023	BLM ROD on amendment
September 1, 2023	Construction begins

22. Gateway South Transmission Project-Segment F

Main Takeaways

- Large scale projects crossing multiple states take longer to permit.
- Project revisions during the permitting process will delay the project.

Summary

PacifiCorp, d/b/a Rocky Mountain Power, proposed Gateway South, Segment F, a 416-mile, 500-kV single-circuit transmission line that would traverse Wyoming, Colorado, and Utah.²⁹⁰ The project would begin in Wyoming at the Aeolus Substation and extend south and west to the Clover Substation near Mona, Utah.²⁹¹ The project is Segment F of Gateway South, part of Pacificorps’ Energy Gateway Transmission Expansion Project.²⁹²

On November 28, 2007, Rocky Mountain filed an application for a ROW with the BLM and the Forest Service, which they revised in December 2008, October 2010, and January 2013 to reflect changes in the project, including reductions in the project’s geographic footprint and providing a preferred route.²⁹³ The BLM served as the lead agency with numerous federal, state, county, and conservation districts serving as cooperating agencies (including the Forest Service, BIA, Corps of Engineers, DOD, and FWS at the federal level).²⁹⁴

290. Energy Gateway website, available at <https://www.pacificorp.com/transmission/transmission-projects/energy-gateway.html>.

291. *Id.*

292. *Id.*

293. Energy Gateway South NOA of DEIS, 79 Fed. Reg. 9916, 9918 (Feb. 21, 2014), available at <https://www.federalregister.gov/documents/2014/02/21/2014-03683/notice-of-availability-of-the-draft-environmental-impact-statement-and-land-use-plan-amendments-for>.

294. Energy Gateway South NOI to prepare EIS, 76 Fed. Reg. 18241 (Apr. 1, 2011), available at <https://www.federalregister.gov/documents/2011/04/01/2011-7736/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-proposed-energy-gateway-south>.

On April 1, 2011, the BLM issued a NOI to prepare an EIS.²⁹⁵ On February 21, 2014, BLM issued the DEIS.²⁹⁶ On May 13, 2016, the BLM published the NOA of the FEIS.²⁹⁷

In December 2016, the BLM issued its ROD, which authorized relocating a two-mile portion of the existing Bears Ears to Bonanza 345-kV transmission line to eliminate multiple line crossings and avoid the Raven Ridge Area of Critical Environmental Concern.²⁹⁸ In January 2017, the BLM issued a ROW for the portions of the project that would cross BLM land.²⁹⁹

In July 2020, PacifiCorp notified the BLM that WAPA had expressed concerns about moving the Bears Ears line due to cost, required service interruptions, impacts on agency workload and staff, and the complications of the government's contracting process to move.³⁰⁰

In December 2020, the BIA issued its ROD, granting a ROW for the project to cross 1.6 miles of tribal land within the Uintah and Ouray Reservation.³⁰¹

In March 2021, PacifiCorp proposed an alternate route to address WAPA's concerns.³⁰² On December 21, 2021, the BLM issued a NOI to prepare an EA for the alternative route.³⁰³ In March 2022, the BLM issued the EA and a FONSI.³⁰⁴ On May 25, 2022, the BLM issued a Notice to Proceed with Construction of Gateway South.³⁰⁵ PacifiCorp estimates the project will be placed in service at the end of 2024.³⁰⁶

Timeline:

November 28, 2007	PacifiCorp submits initial application for BLM ROW
2008-2013	PacifiCorp submits revisions to reflect project changes
April 1, 2011	BLM NOI to prepare a DEIS

295 *Id.*

296 Energy Gateway South NOA of Draft EIS, 79 Fed. Reg. 9916 (Feb. 21, 2014), available at <https://www.federalregister.gov/documents/2014/02/21/2014-03683/notice-of-availability-of-the-draft-environmental-impact-statement-and-land-use-plan-amendments-for>.

297. Energy Gateway South BLM NOA of FEIS, 81 Fed. Reg. 29912 (May 13, 2016), available at <https://www.federalregister.gov/documents/2016/05/13/2016-11371/notice-of-availability-of-the-final-environmental-impact-statement-for-the-energy-gateway-south>; https://eplanning.blm.gov/public_projects/nepa/53044/73680/80928/006_Ch1_PurposeNeed.pdf.

298. Energy Gateway South BLM ROD (Dec. 2016), available at https://eplanning.blm.gov/public_projects/nepa/53044/92847/111847/EGS-RecordofDecision.pdf.

299. Energy Gateway South BLM ROW (Jan. 18, 2017), available at https://eplanning.blm.gov/public_projects/nepa/53044/169715/206293/Energy_Gateway_South_executed_grant.pdf.

300. Alternate Route for the Gateway South Transmission Line at the Colorado/Utah Border BLM EA at 3 (Mar. 2022), available at https://eplanning.blm.gov/public_projects/2013749/200504573/20056952/250063134/Raven%20Ridge%20ACEC%20RMPA_Proposed%20RMPA_508%20final.pdf.

301. Energy Gateway South BIA ROD at i (Nov. 2020), available at https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/transmission/energy-gateway/GWS_BIA_EPG_SIGNED_FINAL_ROD_12-16-2020.pdf

302. Energy Gateway South NOI to prepare EA, 86 Fed. Reg. 72269, 72270 (Dec. 21, 2021), available at https://eplanning.blm.gov/public_projects/53044/200078762/20061076/250067258/Notice%20to%20Proceed%20-%20Gateway%20South.pdf.

303. Alternate Route for the Gateway South Transmission Line at the Colorado/Utah Border BLM Environmental Assessment at 8 (Mar. 2022), available at https://eplanning.blm.gov/public_projects/2013749/200504573/20056952/250063134/Raven%20Ridge%20ACEC%20RMPA_Proposed%20RMPA_508%20final.pdf

304. *Id.*; Alternate Route for the Gateway South Transmission Line at the Colorado/Utah Border BLM FONSI (Mar. 30, 2022), available at https://eplanning.blm.gov/public_projects/2013749/200504573/20056951/250063133/Raven%20Ridge_FONSI_508%20final.pdf.

305. Gateway South BLM Notice to Proceed (May 25, 2022), available at https://eplanning.blm.gov/public_projects/53044/200078762/20061076/250067258/Notice%20to%20Proceed%20-%20Gateway%20South.pdf.

306. Gateway South website, available at <https://www.pacificorp.com/transmission/transmission-projects/energy-gateway/gateway-south.html>.

February 21, 2014	BLM NOA of DEIS
May 13, 2016	BLM NOA of FEIS
December 2016	BLM ROD
January 2017	BLM ROW
November 2020	BIA ROD
March 2021	PacifiCorp submits alternative route proposal
December 21, 2021	BLM NOI to prepare EA
March 2022	BLM EA/FONSI
May 25, 2022	BLM Notice to Proceed with Construction
End of 2024	Expected in-service date

23. Surry-Skiffes Creek-Whealton Project

Main Takeaway

- Agencies must work together and respect expertise of other agencies or risk litigation.

Summary

In August 2013, Virginia Electric and Power Company (Dominion) filed with the Corps of Engineers for a Joint Permit Application for a proposed transmission line and associated infrastructure, known as Surry-Skiffes Creek-Whealton project.³⁰⁷ The project, which crosses the James River in Virginia, includes a 7.76-mile, 500-kV overhead transmission line from Surry Nuclear Power Plant to the proposed Skiffes Creek switching station in James City County, and 20.2 miles of 230-kV overhead line along an existing ROW from the switching station to Whealton Substation in Hampton, Virginia.³⁰⁸ The project would include 17 in-stream transmission towers to support the 500-kV line, and placement of 27 transmission towers in non-tidal wetlands.³⁰⁹

In June 2017, the Corps of Engineers prepared an EA concluding that the project would not significantly affect the environment.³¹⁰ The Corps of Engineers received comments expressing concern with the Project's proximity to historic sites, including from the NPS.³¹¹ On July 3, 2017, the Corps of Engineers issued a permit for the project, which several conservation groups challenged in the U.S. District Court for the District of Columbia.³¹² On May 23, 2018, the District Court upheld the permit.³¹³ On February 26, 2019, the project was energized.³¹⁴ On March 1, 2019, the U.S. Court of Appeals for the District of Columbia Circuit found

307. Joint Application for Surry-Skiffes-Whealton Project (Aug. 8, 2013), available at <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll7/id/6555>.

308. *Id.* at iii; Surry-Skiffes Creek-Whealton Corps of Engineers NOI to prepare EIS, 84 Fed. Reg. 29177, 29178 (June 21, 2019), available at <https://www.federalregister.gov/documents/2019/06/21/2019-13229/intent-to-prepare-a-draft-environmental-impact-statement-for-a-proposed-high-voltage-electrical>.

309. Surry-Skiffes Creek-Whealton Corps of Engineers NOI to prepare EIS at 29177.

310. Surry-Skiffes Creek-Whealton Corps of Engineers DEIS at 1-28 (Nov. 27, 2020), available at <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll7/id/16460>.

311. Nat'l Parks Conservation Ass'n v. Semonite, 311 F. Supp. 3d 350, 359 (D.D.C. 2018), available at <https://casetext.com/case/natl-parks-conservation-assn-v-todd-t-semonite-lieutenant-gen-us-army-corps-of-engrs-1>.

312. *Id.* at 360.

313. *Id.* at 356-57.

314. Surry-Skiffes Creek-Whealton Corps of Engineers NOI to prepare EIS at 29178.

that the Corps of Engineers' FONSI was arbitrary and capricious, and reversed and remanded to the District Court with instructions to vacate Dominion's permit and direct the Corps of Engineers to prepare an EIS.³¹⁵ However, the appeals court was unaware that Surry-Skiffes was already constructed and energized by February 26, 2019.³¹⁶ Accordingly, on May 19, 2019, it remanded the case to the District Court to consider whether vacatur was appropriate.³¹⁷ On November 8, 2019, the District Court remanded to the Corps of Engineers without vacatur and with instructions to prepare an EIS.³¹⁸

On June 21, 2019, the Corps of Engineers issued a NOI to prepare an EIS.³¹⁹ On November 27, 2020, the Corps of Engineers issued a DEIS.³²⁰ The FEIS is anticipated to be issued in 2024.³²¹

Timeline:

August 2013	Dominion files Joint Permit Application for Corps permits
June 2017	Corps EA/FONSI
July 3, 2017	Corps issues final project permits
May 2018	Federal District Court upholds Corps permits
February 26, 2019	Dominion energizes transmission line
March 1, 2019	Court of Appeals vacates permits and requires EIS
May 19, 2019	Court of Appeals remands to consider proper remedy
November 8, 2019	District Court remands with instructions to prepare EIS
June 21, 2019	Corps NOI to prepare EIS
November 27, 2020	Corps DEIS
2024	Corps FEIS anticipated

24. Kake to Petersburg Transmission Intertie Project

Main Takeaway

- Project approved but not built due to unfavorable economics.

Summary

Southeast Alaska Power Agency (SEAPA) proposed to construct the Kake to Petersburg Transmission Intertie Project, a 46.8- to 56.5-mile line connecting the isolated electric system currently serving the city of Kake,

315. *Nat'l Parks Conservation Ass'n v. Semonite*, No. 18-5179 (D.C. Cir. 2019), available at [https://www.cadc.uscourts.gov/internet/opinions.nsf/0/87FABC162438AE4B852583B000549984/\\$file/18-5179.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/0/87FABC162438AE4B852583B000549984/$file/18-5179.pdf).

316. *Nat'l Parks Conservation Ass'n v. Semonite* No. 18-5179 at 5 (D.C. Cir. 2019), available at [https://www.cadc.uscourts.gov/internet/opinions.nsf/0/87FABC162438AE4B852583B000549984/\\$file/18-5179.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/0/87FABC162438AE4B852583B000549984/$file/18-5179.pdf).

317. *Nat'l Parks Conservation Ass'n v. Semonite*, No. 18-5179 (D.C. Cir. 2019) (on remand), available at <https://caselaw.findlaw.com/court/us-dc-circuit/2000799.html>.

318. *Nat'l Parks Conservation Ass'n v. Semonite*, 422 F.Supp.3d 92 (D.D.C. 2019), available at <https://casetext.com/case/natl-parks-conservation-assn-v-semonite-4>.

319. Surry-Skiffes Corps of Engineers NOI to prepare EIS, 84 Fed. Reg. 29177 (June 21, 2019), available at <https://www.federalregister.gov/documents/2019/06/21/2019-13229/intent-to-prepare-a-draft-environmental-impact-statement-for-a-proposed-high-voltage-electrical>.

320. Surry-Skiffes Corps of Engineers DEIS (Nov. 27, 2020), available at <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll7/id/16460>.

321. Corps of Engineers website, available at <https://www.nao.usace.army.mil/Missions/Regulatory/SkiffesCreekPowerLine.aspx>.

Alaska with SEAPA's interconnected electric network near Petersburg, Alaska.³²² The line would cross the Tongass National Forest, requiring a special use authorization from the Forest Service.³²³ On May 7, 2010, the Forest Service issued a NOI to prepare an EIS, which was corrected on July 28, 2014 following changes to the proposal.³²⁴ The Forest Service published the NOA of the DEIS in 2014³²⁵ and the FEIS in June 2016.³²⁶ The Forest Service issued its ROD on November 30, 2016 authorizing a ROW for the project.³²⁷

It appears the project has not yet commenced construction; in 2020, the CEO of SEAPA said the economics of the project are not favorable and that funding for the project would likely have to come from the state.³²⁸

Timeline:

May 7, 2010	Forest Service NOI to prepare a DEIS
July 28, 2014	Forest Service corrected NOI to prepare a DEIS
2014	Forest Service NOA of DEIS
June 2016	Forest Service FEIS
November 30, 2016	Forest Service ROD

25. McClellanville Transmission Project

Main Takeaway

- The NEPA process was extensive; stalling after 14 years and still no movement 19 years later.

Summary

Central Electric Power Cooperative (“Central Electric”), an electric transmission cooperative that provides transmission to South Carolina’s 20 retail electric cooperatives, proposed a 15-20 mile, 115-kV transmission line through portions of coastal South Carolina.³²⁹ The project would provide electric service to the McClellanville community and surrounding areas.³³⁰ Central Electric sought financing from the RUS, and the RUS

322. Kake to Petersburg Forest Service NOI to prepare EIS, 75 Fed. Reg. 25195, 25196 (May 7, 2010), available at <https://www.federalregister.gov/documents/2010/05/07/2010-10702/kake-to-petersburg-transmission-line-intertie-project>.

323. Kake to Petersburg Forest Service Corrected NOI to prepare EIS, 79 Fed. Reg. 43707, 43708 (July 28, 2014), available at <https://www.federalregister.gov/documents/2014/07/28/2014-17669/tongass-national-forest-aaska-kake-to-petersburg-transmission-line-intertie>

324. Kake to Petersburg Forest Service NOI to prepare EIS; Kake to Petersburg Forest Service Corrected NOI to prepare EIS.

325. Kake to Petersburg Forest Service NOA of DEIS (2014), available at <https://www.govinfo.gov/app/details/GOVPUB-A13-PURL-gpo67407>.

326. Kake to Petersburg Forest Service FEIS (June 2016), available at https://dot.alaska.gov/sereg/projects/kake_acce55/assets/2016%20Kake%20Petersberg%20Trans%20Line%20EIS.pdf.

327. Kake to Petersburg Forest Service ROD at 19 (Nov. 2016), available at <https://www.govinfo.gov/content/pkg/GOVPUB-A13-PURL-gpo94171/pdf/GOVPUB-A13-PURL-gpo94171.pdf>.

328. “40 Million for a Road?,” Juneau Empire (Jan. 13, 2020), available at <https://www.juneauempire.com/news/40-million-for-a-road-some-kupreanof-island-residents-want-that-money-for-ferries/>. Note that the project was covered under FAST-41, which shows completion of federal permits, but the federal permitting dashboard for infrastructure projects states, without further explanation, that the Forest Service special permit was canceled; Kake to Petersburg Transmission Project page, available at <https://www.permits.performance.gov/permitting-project/fast-41-covered-projects/kake-petersburg-transmission-project>.

329. McClellanville RUS DEIS at 1-1, 1-2, 1-4 (Apr. 2014), available at https://www.rd.usda.gov/sites/default/files/UWP_SC50-SouthCentral_McClellanville_DEIS.pdf.

330. *Id.* at Attachment, McClellanville Power Supply Alternatives Evaluation Study (Sept. 2010) at 1.

served as the lead agency.³³¹ The Forest Service and Corps of Engineers served as cooperating agencies.³³²

As discussed in its September 17, 2010 NOI to prepare an EIS, the RUS initially determined in 2005 that it would prepare an EA, but based on comments received from agencies and the public, determined that an EIS would be required.³³³ They issued the DEIS in April 2014.³³⁴

On August 30, 2019, the RUS issued a supplemental DEIS.³³⁵ As explained in the Notice, updated engineering and other issues resulted in substantial changes to the proposed action, including the need to evaluate new transmission line corridors and to account for a new winter weather operating agreement between Dominion Energy South Carolina and Berkeley Electric Cooperative that addresses load concerns during the winter months.³³⁶ In October 2019, the RUS issued a notice of comment period extension on the supplemental DEIS.³³⁷ There does not appear to have been any action since that time, nor is there readily accessible information as to why there has been no action.

Timeline:

September 17, 2010	RUS NOI to prepare a DEIS
April 2014	RUS DEIS
August 30, 2019	RUS NOA of supplemental DEIS
October 2019	RUS notice of comment extension supplemental DEIS

26. Great Northern Transmission Line

Main Takeaways

- Extensive pre-application planning, evaluation, and stakeholder outreach can streamline the permitting process. By the time Great Northern submitted a route for state and federal approval, the proposal and border crossing point had been modified several times to accommodate stakeholders.
- Lines that do not cross multiple states have fewer issues.

Summary

On October 22, 2013, Minnesota Power (MP) filed an application with the Minnesota PUC for a certificate to construct a 220-mile, 500-kV transmission line to deliver hydropower from the Minnesota-Manitoba,

331. *Id.* at Attachment, McClellanville Biological Assessment at 1.

332. *Id.* at 1.

333. McClellanville RUS NOI to Prepare EIS, 75 Fed. Reg. 56979 (Sept. 17, 2010), available at https://www.rd.usda.gov/sites/default/files/UWP_SC50-SouthCentral_McClellanville_FR-NOI_EIS_Sept2010.pdf.

334. McClellanville RUS DEIS.

335. McClellanville RUS SDEIS (Aug. 30, 2019), available at https://www.rd.usda.gov/sites/default/files/UWP_SC50-SouthCentral_McClellanville_SDEIS_Aug2019.pdf.

336. *Id.* at 2-7.

337. McClellanville RUS Notice of Extension of Comment Period for EIS, 84 Fed. Reg. 56758 (Oct. 23, 2019), available at <https://www.federalregister.gov/documents/2019/10/23/2019-23065/central-electric-power-cooperative-inc-extension-of-comment-period-for-an-environmental-impact>.

Canada border to Grand Rapids, Minnesota.³³⁸ The project as proposed could transmit up to 750 MW of power.³³⁹

Starting in August 2012, and prior to filing state or federal applications, Minnesota Power implemented an outreach strategy to include agency and public comments and concerns early in the project routing process and prior to the regulatory processes.³⁴⁰ The feedback gathered from Minnesota Power's extensive public engagement culminated in the identification of two proposed routes: the "Blue" and alternate "Orange" routes.³⁴¹

On April 15, 2014, as amended on October 29, 2014, Minnesota Power submitted an application with the Department of Energy for a Presidential Permit.³⁴² In the same week it filed its April 15, 2014 application, Minnesota Power also applied to the Minnesota PUC for a Route Permit.³⁴³ Additionally, on October 22, 2013, Minnesota Power filed an application for a certificate with the Minnesota PUC.³⁴⁴ In its Presidential Permit application, Minnesota Power proposed the Orange and Blue Routes, as well as several segment options identified in the stakeholder process.³⁴⁵

On June 27, 2014, DOE issued a NOI to prepare an EIS.³⁴⁶ DOE and the Minnesota Department of Commerce—Energy Environmental Review and Analysis served as co-lead agencies.³⁴⁷ Cooperating agencies included the Army Corps of Engineers, FWS, Environmental Protection Agency (EPA), and Red Lake Band of Chippewa Indians.³⁴⁸

On October 29, 2014, Minnesota Power submitted an amendment to its Presidential Permit application proposing a new border crossing location.³⁴⁹ On June 26, 2015, DOE issued an NOA of the Draft EIS.³⁵⁰ In October 2015, the agencies issued the FEIS.³⁵¹

On December 3, 2015, the Department of Interior, on behalf of the FWS, submitted a comment letter that indicated that the Final EIS did not adequately address impacts to FWS lands or compensatory mitigation.³⁵²

338. Great Northern DOE NOI to Prepare EIS, 79 Fed. Reg. 36493, 36493-36494 (June 27, 2014), available at <https://www.federalregister.gov/documents/2014/06/27/2014-15070/notice-of-intent-to-prepare-an-environmental-impact-statement-and-to-conduct-public-scoping-meetings>.

339. Great Northern DOE NOA for Presidential Permit, 79 Fed. Reg. 27587 (May 14, 2014), available at <https://www.federalregister.gov/documents/2014/05/14/2014-11108/application-for-presidential-permit-great-northern-transmission-line>.

340. Minnesota Electric Transmission Planning website, available at https://www.minnelectrans.com/documents/2013_Biennial_Report/html/Ch_4_Public_Participation.htm.

341. *Id.*

342. Great Northern DOE Notice of Amended Application for Presidential Permit, 79 Fed. Reg. 68673 (Nov. 18, 2014), available at <https://www.federalregister.gov/documents/2014/11/18/2014-27259/amended-application-for-presidential-permit-great-northern-transmission-line>.

343. *Id.*

344. Great Northern DOE NOI to Prepare EIS at 36493-36494.

345. Great Northern DOE NOA for Presidential Permit.

346. Great Northern DOE NOI to Prepare EIS.

347. *Id.* at 36494.

348. Great Northern DOE ROD for Issuing a Presidential Permit, 81 Fed. Reg. 83825, 83826 (Nov. 22, 2016), available at <https://www.federalregister.gov/documents/2016/11/22/2016-28091/record-of-decision-for-issuing-a-presidential-permit-to-minnesota-power>.

349. Great Northern DOE Notice of Amended Application for Presidential Permit.

350. Great Northern DOE NOA for DEIS, 80 Fed. Reg. 36795 (June 26, 2015), available at <https://www.federalregister.gov/documents/2015/06/26/2015-15625/notice-of-availability-noa-for-the-draft-environmental-impact-statement-eis-and-announcement-of>.

351. Great Northern DOE FEIS (Oct. 2015), available at https://www.energy.gov/sites/default/files/2015/10/f27/EIS-0499_FEIS_Cover_Chapt5.pdf.

352. Great Northern DOE ROD for Issuing a Presidential Permit at 83827.

At that time, the Minnesota PUC had not issued a route permit for the project and it was not clear if FWS Interest Lands would be potentially impacted by the project.³⁵³

On June 30, 2015, the Minnesota PUC issued a certificate for the project.³⁵⁴ The Minnesota PUC approved the route in February 2016.³⁵⁵ Because the route crossed FWS land, a ROW permit was required.³⁵⁶ FWS prepared an EA for that action and issued a permit in January 2017.³⁵⁷

On November 22, 2016, DOE issued its ROD.³⁵⁸ Construction of the line was completed in February 2020.³⁵⁹

Timeline:

October 2013	Great Northern files for cert. of need with Minnesota PUC
April 2014	MP files Presidential Permit application with DOE
April 2014	MP route application with Minnesota PUC
October 2014	MP files amended application
June 27, 2014	DOE NOI to prepare EIS
June 26, 2015	DOE NOA of the DEIS
June 30, 2015	Minnesota PUC grants certificate
October 2015	DOE FEIS
February 2016	Minnesota PUC approves Route Permit
November 2016	DOE issues ROD and Presidential Permit
January 2017	FWS issues ROW permit
February 2020	Project completed

27. Champlain Hudson Power Express

Main Takeaway

- Working closely with affected communities and providing community benefits to address their concerns can help overcome project opposition.

Summary

Champlain Hudson Power Express (“Champlain”) proposed to construct an underground, 333-mile, 320-

353. *Id.*

354. Project website, available at <http://greatnortherntransmissionline.com/about.html>.

355. “Route Permit For 500-Kilovolt Power Line Approved,” CBS News (Feb. 26, 2016), available at <https://www.cbsnews.com/minnesota/news/route-permit-for-500-kilovolt-power-line-approved/>.

356. Great Northern DOE ROD for Issuing a Presidential Permit at 83827.

357. Project website; Great Northern DOE ROD for Issuing a Presidential Permit at 83827. It should be noted that DOE asserted that FWS’s concerns raised in the December 3, 2015 DOI/FWS comment letter were resolved pursuant to the execution of a July 26, 2016, “Memorandum of Understanding for Conservation Measures for the Great Northern Transmission Line Project” (source unavailable).

358. Great Northern DOE ROD for Issuing a Presidential Permit.

359. “Minnesota Power Energizes Great Northern Transmission Line to Move Company Closer to 50 Percent Renewable Energy by 2021,” Business Wire (June 11, 2020), available at <https://www.businesswire.com/news/home/20200611005106/en/Minnesota-Power-Energizes-Great-Northern-Transmission-Line-to-Move-Company-Closer-to-50-Percent-Renewable-Energy-by-2021#>.

kV transmission line to transmit power from Quebec, Canada to New York City.³⁶⁰ The project will start at the U.S.-Canada border and run the length of Lake Champlain and through parts of the Hudson River.³⁶¹

On January 25, 2010, Champlain filed an application with the DOE for a Presidential Permit to cross the U.S.-Canada border.³⁶² The DOE served as the lead federal agency, and cooperating agencies included the Corps of Engineers, EPA, and the New York State Departments of Environmental Conservation and Public Service.³⁶³

The DOE issued a NOI to prepare an EIS on June 18, 2010.³⁶⁴ On April 30, 2012, the DOE issued an Amended NOI modifying the scope of the EIS to reflect applicant-proposed revisions to the project.³⁶⁵ They issued the DEIS on September 1, 2013³⁶⁶ and published the FEIS in August 2014.³⁶⁷ The DOE issued its ROD on September 24, 2014.³⁶⁸

The DOE issued Presidential Permit No. PP-362 on October 6, 2014.³⁶⁹ On April 20, 2015, the Corps of Engineers issued a permit,³⁷⁰ and on April 18, 2013, New York PSC issued a certificate to construct and operate the project.³⁷¹ On July 21, 2020, the DOE issued Presidential Permit PP-481 transferring the facilities authorized in PP-362 to CHPE LLC.³⁷² On April 30, 2021, DOE issued Presidential Permit No. PP-481-1, amending the permit to incorporate proposed revisions to the project route and authorizing the increase in the project's capacity from 1,000 MW to 1,250 MW.³⁷³ On March 22, 2022, the DOE issued an amended Presidential Permit No. PP-481-2 to clarify the maximum non-simultaneous rate of transmission to account for anticipated line losses.³⁷⁴

360. "Champlain Hudson Power Express ("Champlain") Receives Presidential Permit," Blackstone (Oct. 7, 2014), available at <https://www.blackstone.com/news/press/champlain-hudson-power-express-receives-presidential-permit/>; Champlain DOE FEIS Volume I: Impact Analysis at S-14 (Aug. 2014), available at [http://chpexpresseis.org/docs/library/final-eis/easy/CHPE%20FEIS%20Vol%20I_Impact%20Analyses_Aug14%20\(1%20of%202\).pdf](http://chpexpresseis.org/docs/library/final-eis/easy/CHPE%20FEIS%20Vol%20I_Impact%20Analyses_Aug14%20(1%20of%202).pdf).

361. "Champlain Hudson Power Express Receives Presidential Permit."

362. Champlain DOE ROD for Issuing a Presidential Permit, 79 Fed. Reg. 59258 (Oct. 1, 2014), available at <https://www.energy.gov/nepa/articles/eis-0447-record-decision>.

363. *Id.* at 59259.

364. Champlain DOE NOI to prepare EIS, 75 Fed. Reg. 34720 (June 18, 2010), available at <https://www.federalregister.gov/documents/2010/06/18/2010-14760/notice-of-intent-to-prepare-an-environmental-impact-statement-and-to-conduct-public-scoping-meetings>.

365. Champlain DOE Amended NOI to Modify EIS Scope, 77 Fed. Reg. 25472 (Apr. 30, 2012), available at <https://www.federalregister.gov/documents/2012/04/30/2012-10304/amended-notice-of-intent-to-modify-the-scope-of-the-environmental-impact-statement-for-the-champlain>.

366. Champlain DOE DEIS Volume I: Impact Analysis (Sept. 2013), available at http://chpexpresseis.org/docs/library/environmental-impact-statement/easy/CHPE%20DEIS_Vol%20I_Part%20I.pdf.

367. Champlain DOE FEIS Volume I: Impact Analysis (Aug. 2014), available at [http://chpexpresseis.org/docs/library/final-eis/easy/CHPE%20FEIS%20Vol%20I_Impact%20Analyses_Aug14%20\(1%20of%202\).pdf](http://chpexpresseis.org/docs/library/final-eis/easy/CHPE%20FEIS%20Vol%20I_Impact%20Analyses_Aug14%20(1%20of%202).pdf).

368. Champlain DOE ROD for Issuing a Presidential Permit, OE Docket No. PP-362 (Sept. 24, 2014), available at http://www.chpexpresseis.org/docs/library/CHPE%20ROD%2009_24_2014.pdf.

369. Champlain DOE Presidential Permit, OE Docket No. PP-362 (Oct. 6, 2014), available at <https://www.energy.gov/sites/prod/files/2014/10/f18/PP-362%20CHPE%20FINAL.pdf>.

370. Champlain Corps of Engineers Permit (April 20, 2015), available at <https://chpexpress.com/wp-content/uploads/2022/07/CHPE-Army-Corps-Permit-with-modifications-1-5-rev.pdf>.

371. Champlain NYPSC Order Granting Certificate of Environmental Compatibility and Public Need (Apr. 18, 2013), available at <https://chpexpress.com/wp-content/uploads/2020/03/permit-PSC.pdf>.

372. Champlain DOE Presidential Permit PP-481 (July 21, 2020), available at https://www.energy.gov/sites/prod/files/2020/07/f76/PP-481_CHPE%20LLC.pdf.

373. Champlain DOE Presidential Permit PP-481-1 (Apr. 30, 2021), available at https://www.energy.gov/sites/default/files/2021-04/PP-481-1_CHPE%20LLC_Final.pdf.

374. Champlain DOE Presidential Permit PP-481-2, (Mar. 22, 2022), available at https://www.energy.gov/sites/default/files/2022-03/PP-481-2_CHPE%20LLC%20Final%20Signed.pdf.

Champlain started construction on November 30, 2022³⁷⁵ and expects the line to be fully operational in spring 2026.³⁷⁶

Champlain worked closely with affected communities throughout project development and provided extensive community benefits that both helped overcome opposition to the project, and garner community support.³⁷⁷

Timeline:

January 25, 2010	Champlain applies to DOE for Presidential Permit
June 18, 2010	DOE NOI to prepare a DEIS
April 18, 2013	New York PSC issues certificate
September 2013	DOE Draft EIS
August 2014	DOE Final EIS
September 24, 2014	DOE ROD
October 6, 2014	DOE Presidential Permit
April 2015	Corps of Engineers permit
April 30, 2021	DOE amended Presidential Permit
March 22, 2022	DOE amended Presidential Permit
November 30, 2022	Champlain begins construction
Spring 2026	Project expected to be operational

28. Ten West Link Transmission Line Project

Main Takeaways

- Meaningful stakeholder engagement can help avoid permitting delays.
- Coordination and collaboration facilitates the permitting process.

Summary

DCR Transmission (DCRT) proposed the Ten West Link Transmission Line Project, a 125-mile, 500-kV transmission line from Tonopah, Arizona to Blythe, California.³⁷⁸ The project is designed to transmit 3,200 MW of electricity and provide interconnection capability for new renewable projects in the region.³⁷⁹ The proposed route would cross 83 miles of federal land, including lands managed by the BLM, Bureau of Rec-

375. "Governor Hochul Announces Start of Construction on 339-Mile Champlain Hudson Power Express Transmission Line to Bring Clean Energy to New York City," Governor Kathy Hochul Official Website (Nov. 30, 2022), available at <https://www.governor.ny.gov/news/governor-hochul-announces-start-construction-339-mile-champlain-hudson-power-express>.

376. Project website, available at <https://chpexpress.com/#>.

377. "How a \$6B transmission project made it in New York," E&E News (Mar. 3, 2023), available at <https://www.eenews.net/articles/how-a-6b-transmission-project-made-it-in-new-york/>; CHPE Press Release (Nov. 1, 2022), available at <https://chpexpress.com/news/champlain-hudson-power-express-announces-financial-close/>.

378. Power Technology, available at <https://www.power-technology.com/projects/ten-west-link-transmission-line-project-usa/?cf-view>.

379. Ten West BLM Scoping Report at 4 (June 21, 2016), available at https://eplanning.blm.gov/public_projects/nepa/59013/77409/86065/Ten_West_Link_scoping_report.pdf.

lamation, and the FWS-managed Kofa National Wildlife Refuge (NWR).³⁸⁰

On September 14, 2015, DCRT filed a ROW application with the BLM.³⁸¹ On March 23, 2016, the BLM, as lead agency, issued a NOI to prepare an EIS.³⁸² On September 22, 2016, the project was listed on the FAST-41 dashboard, which provided a coordinated and transparent environmental review and authorization process involving a number of stakeholders including the BLM, cooperating agencies, tribal leadership, and local communities.³⁸³ In response to scoping comments that raised a number of concerns, most notably the route across the Kofa NWR,³⁸⁴ the August 2018 DEIS identified a preferred alternative that resolved a number of stakeholder concerns, including avoiding the Kofa NWR.³⁸⁵ The BLM and cooperating agencies issued a FEIS in September 2019.³⁸⁶

As discussed in the BLM’s November 2019 ROD, the Selected Alternative was developed to emphasize the use of BLM utility corridors while minimizing impacts to biological, cultural, recreational, and other resources and public uses, including avoiding the Kofa NWR and areas of dense cultural resources near the Mule Mountains in California, and residential and other development near Quartzsite, Arizona, and Blythe, California.³⁸⁷ The alternative also minimizes impacts to the Colorado River Indian Tribes (CRIT) Reservation and private agricultural land in California.³⁸⁸

The ACC approved the Arizona portion of the project on March 31, 2020.³⁸⁹ The CPUC issued a certificate on November 5, 2021.³⁹⁰ DCRT commenced construction of the project on January 19, 2023.³⁹¹

Timeline:

September 14, 2015	DCRT files ROW with BLM
March 23, 2016	BLM NOI to prepare a DEIS
September 22, 2016	Project listed on FAST-41 dashboard
August 2018	BLM NOA of DEIS

380. Ten West Link BLM DEIS at Abstract (Aug. 2018), available at https://eplanning.blm.gov/public_projects/nepa/59013/156052/191072/Ten_West_Link_DEIS_.pdf.

381. Ten West Webpage on Permitting Dashboard, Federal Infrastructure Projects, available at <https://www.permits.performance.gov/permitting-project/fast-41-covered-projects/ten-west-link>.

382. Ten West Link BLM NOI to prepare an EIS, 81 Fed. Reg. 15556 (Mar. 23, 2016), available at <https://www.federalregister.gov/documents/2016/03/23/2016-06626/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-proposed-ten-west-link>.

383. Ten West Webpage on Permitting Dashboard; “Ten West Link Transmission Line Project Breaks Ground,” Permitting Dashboard, Federal Infrastructure Projects (Jan. 20, 2023), available at <https://www.permits.performance.gov/fpisc-content/ten-west-link-transmission-line-project-breaks-ground>.

384. Ten West Link BLM Scoping Report at 11.

385. Ten West Link BLM DEIS at 4-49.

386. Ten West Link BLM FEIS (Sept. 2019), available at https://eplanning.blm.gov/public_projects/nepa/59013/20003312/250003944/Final_EIS_Ten_West_Link.pdf.

387. Ten West Link BLM ROD at 3 (Nov. 2019), available at https://eplanning.blm.gov/public_projects/nepa/59013/20008845/250010401/Record_of_Decision.pdf.

388. *Id.*

389. Ten West Link Arizona Corporation Commission Order Approving Certificate of Environmental Compatibility, Docket No. L-21088A-19-0309-00185 (Mar. 31, 2020), available at <https://docket.images.azcc.gov/0000201314.pdf?i=1704036930639>.

390. Ten West Link CPUC Decision Granting Certificate of Public Convenience and Necessity (Nov. 5, 2021), available at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M420/K858/420858355.PDF>.

391. “Ten West Link Commemorates Start of Construction on Transmission Line Connecting California and the Desert Southwest,” Ten West Press Release (Jan. 20, 2023), available at https://tenwestlink.com/wp-content/uploads/2023/04/011923_DCRT-News-Release_FINAL.pdf.

September 2019	BLM NOA of FEIS
November 2019	BLM ROD
March 31, 2020	ACC approves AZ Certificate
November 5, 2021	CPUC Certificate of PCN
January 19, 2023	Construction commences

29. Gateway West Transmission

Main Takeaway

- Large scale projects crossing multiple states, federal lands, and private lands present more challenges and take more time to permit.

Summary

Idaho Power and PacifiCorp, d/b/a Rocky Mountain Power (“applicants”), proposed the Gateway West project comprising ten transmission line segments originating in Wyoming and terminating at the Hemingway substation in Idaho, totalling approximately 1,103 miles of new 230-kV and 500-kV lines.³⁹² Gateway West is part of PacifiCorp’s Energy Gateway Transmission Expansion Project.³⁹³ On May 7, 2007, as revised in October 2007, August 2008, May 2009, January 2010, February 2012, and August 2013, PacifiCorp applied to the BLM for a ROW on BLM-administered lands.³⁹⁴

In May 2008, the BLM issued a NOI to prepare an EIS.³⁹⁵ The BLM served as the lead federal agency, and cooperating agencies included a number of federal, state, and local agencies.³⁹⁶ In April 2013, BLM issued the FEIS,³⁹⁷ and on November 12, 2013, issued its ROD, which explained that the BLM decided to pursue a phased decision for the project by authorizing Segments 1 through 7 and Segment 10 but deferring the decision for Segments 8 and 9 due to a “lack of complementary siting preferences among federal, state, and local authorizing entities in Idaho.”³⁹⁸

In August 2014, the applicants submitted a revised ROW application for segments 8 and 9.³⁹⁹ On September 19, 2014, BLM issued a NOI to prepare a supplemental EIS.⁴⁰⁰ In October 2016, the BLM published a final

392. Gateway West BLM DEIS at ES-1 (July 2011), available at https://eplanning.blm.gov/public_projects/nepa/65164/78836/90552/05-TOC-acronymlist.pdf.

393. Project website, available at <https://www.pacificorp.com/transmission/transmission-projects/energy-gateway.html>.

394. Gateway West BLM NOA of ROD, 78 Fed. Reg. 68467 (Nov. 14, 2013), available at <https://www.federalregister.gov/documents/2013/11/14/2013-27261/notice-of-availability-of-the-record-of-decision-for-the-gateway-west-230345500-kv-transmission-line>.

395. Gateway West BLM NOI to Prepare an EIS, 78 Fed Reg 28425 (May 16, 2008), available at <https://casetext.com/federal-register/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-gateway-west-230500-kv-transmission-line-project-in-idaho-and-wyoming-and-possible-land-use-plan-amendments>.

396. *Id.*

397. Gateway West BLM FEIS (Apr. 2013), available at https://eplanning.blm.gov/public_projects/nepa/65164/78833/90518/001-CoverAbstr.pdf.

398. Gateway West BLM ROD at 3 (Nov. 12, 2013), available at https://eplanning.blm.gov/public_projects/nepa/65164/78824/90495/02-RODwoutAppendices.pdf.

399. Gateway West NOI to prepare a Supplemental EIS and possible Land Use Plan Amendments for Segments 8 and 9, 79 Fed. Reg. 56399 (Sept. 9, 2014), available at <https://www.federalregister.gov/documents/2014/09/19/2014-22408/notice-of-intent-to-prepare-a-supplemental-environmental-impact-statement-and-possible-land-use-plan>.

400. *Id.*

supplemental EIS for segments 8 and 9.⁴⁰¹

The BLM issued its ROD for Segments 8 and 9 in January 2017.⁴⁰² The State of Idaho, Owyhee County, Idaho, and three environmental organizations appealed the BLM's ROW decision to the Interior Board of Land Appeals (IBLA), and the Governor of Idaho requested that the BLM reconsider the January 19, 2017 decision and select an alternative with fewer impacts to State and county resources and communities.⁴⁰³ On April 18, 2017, the case was remanded to BLM.⁴⁰⁴

On May 5, 2017, Congress passed the Morley Nelson Snake River Birds of Prey National Conservation Area Boundary Modification Act, directing the BLM to issue a ROW to segments 8 and 9 through the Morley Nelson Snake River Birds of Prey National Conservation Area, which represented the portion of an (unselected) alternative from the supplemental EIS.⁴⁰⁵

On August 28, 2017, the BLM issued a NOI to prepare an EA that would rely on the 2013 EIS and the 2016 final supplemental EIS.⁴⁰⁶ The final EA and Finding of No New Significant Impact (FONNSI) were issued on January 5, 2018.⁴⁰⁷ On April 26, 2018, the BLM issued a Notice of Availability for the decision authorizing the ROW for segments 8 and 9.⁴⁰⁸ One section of Gateway West is energized, and the others are in various stages of construction.⁴⁰⁹

Timeline:

May 7, 2007	Applicants file for BLM ROW
October 2007	Applicants revise BLM ROW application
May 16, 2008	BLM NOI to prepare EIS
August 2008	Applicants revise BLM ROW application
May 2009	Applicants revise BLM ROW application
January 2010	Applicants revise BLM ROW application
July 2011	BLM DEIS
April 2013	BLM FEIS

401. Gateway West BLM final Supplemental EIS and Proposed Land Use Plan Amendments for Segments 8 and 9 (Oct. 2016), available at https://eplanning.blm.gov/public_projects/nepa/39829/84776/101489/Main_Text_Gateway_West_Final_SEIS.pdf.

402. Gateway West BLM ROD Segments 8 and 9 (Jan. 2017), available at https://eplanning.blm.gov/public_projects/nepa/39829/95570/115576/GWW_Segments_8_and_9_FINAL_ROD_without_appendices.pdf.

403. "BLM re-opens comment on authorization of Gateway West transmission line," BLM Press Release (Aug. 28, 2017), available at <https://www.blm.gov/press-release/blm-re-opens-comment-authorization-gateway-west-transmission-line>; Gateway West Segments 8 & 9 Permitting Dashboard, Federal Infrastructure Projects, available at permits.performance.gov/permitting-project/fast-41-covered-projects/gateway-west-segments-8-9.

404. Gateway West BLM NOA of ROD Segments 8 and 9, 83 Fed. Reg. 18342 (Apr. 26, 2018), available at <https://www.federalregister.gov/documents/2018/04/26/2018-08808/notice-of-availability-of-decision-record-for-the-gateway-west-transmission-line-project-and>.

405. Gateway West Segments 8 & 9 Permitting Dashboard; Gateway West BLM NOI to prepare an EA to Reconsider ROD Approving Segments 8 and 9, 82 Fed. Reg. 40797 (Aug. 28, 2017), available at <https://www.federalregister.gov/documents/2017/08/28/2017-18181/notice-of-intent-to-prepare-an-environmental-assessment-to-reconsider-the-january-19-2017-record-of>.

406. Gateway West BLM NOI to prepare an EA to Reconsider ROD Approving Segments 8 and 9 at 40798.

407. Gateway West BLM EA and FONNSI for Segments 8 & 9 (Jan. 5, 2018), available at https://eplanning.blm.gov/public_projects/nepa/92974/130145/158278/2_GWW_EA_FINAL_JAN2018.pdf.

408. Gateway West BLM NOA of ROD Segments 8 and 9, 83 Fed. Reg. 18342 (Apr. 26, 2018), available at <https://www.federalregister.gov/documents/2018/04/26/2018-08808/notice-of-availability-of-decision-record-for-the-gateway-west-transmission-line-project-and>.

409. Gateway West Project Website, available at <https://www.pacificorp.com/transmission/transmission-projects/energy-gateway/gateway-west.html>.

August 2013	Applicants revise BLM ROW application
November 14, 2013	BLM ROD approving segments 1-7, deferring 8 & 9 review
August 2014	Applicants file ROW application for segments 8 & 9
September 19, 2014	BLM NOI to prepare supplemental EIS
October 7, 2016	BLM NOA of supplemental EIS
January 19, 2017	BLM supplemental EIS ROD
April 18, 2017	IBLA rescinds and remands supplemental EIS ROD
May 5, 2017	BLM directed to issue specific ROW for segments 8 & 9
August 28, 2017	BLM NOI to prepare an EA
January 5, 2018	BLM final EA and FONSI
March 30, 2018	BLM ROD/ROW for segments 8 & 9
2020-to date	Some segments operational, others in construction

30. Cardinal-Hickory Creek Transmission Line Project

Main Takeaways

- An efficient NEPA and permitting process was held up by state and federal litigation.
- Although partially built, the project is awaiting FWS determination to cross Refuge land.

Summary

Dairyland Power Cooperative, American Transmission Company LLC, and ITC Midwest LLC (“utilities”) proposed a 125-mile, 345-kV transmission line between Dane County, Wisconsin and Dubuque County, Iowa.⁴¹⁰ Dairyland Power Cooperative requested RUS financing for its portion of the project.⁴¹¹ The RUS served as the lead agency and the FWS and Corps of Engineers as cooperating agencies.⁴¹² The FWS evaluated the utilities’ request for a ROW easement and a Special Use Permit to cross the Upper Mississippi River National Wildlife and Fish Refuge (“Refuge”).⁴¹³ On October 18, 2016, the RUS published a NOI to prepare an EIS.⁴¹⁴ The RUS issued the DEIS in December 2018,⁴¹⁵ and the FEIS in October 2019.⁴¹⁶ On January 16, 2020, the RUS, FWS, and the Corps signed the ROD.⁴¹⁷

In September 2020, the FWS determined that permitting the line to cross through the Refuge would be compatible with the Refuge Act and granted a ROW permit.⁴¹⁸ Several environmental groups sued, arguing

410. Cardinal-Hickory Creek RUS NOI to prepare EIS, 81 Fed. Reg. 71696 (Oct. 18, 2016), available at <https://www.rd.usda.gov/sites/default/files/UWP-NOI.pdf>.

411. *Id.*

412. *Id.* at 71697.

413. Cardinal-Hickory Creek RUS ROD at 4 (Jan. 16, 2020), available at https://www.rd.usda.gov/sites/default/files/CHC_ROD_Final_508.pdf.

414. Cardinal-Hickory Creek RUS NOI to prepare EIS.

415. Cardinal-Hickory Creek RUS DEIS (Dec. 2018), available at https://www.rd.usda.gov/sites/default/files/CHC_DEIS_Vol_I_Web_508_111918.pdf.

416. Cardinal-Hickory Creek RUS FEIS Volume 1 Chapters 1-2 (Oct. 2019), available at https://www.rd.usda.gov/files/Vol_I_FEIS_Ch_1-2_508.pdf.

417. Cardinal-Hickory Creek RUS ROD.

418. *Driftless Area Land Conservancy v. Rural Utils. Serv.*, 74 F.4th 489, 2 (7th Cir. 2023), available at <https://www.govinfo.gov/content/pkg/USCOURTS-ca7-22-01347/pdf/USCOURTS-ca7-22-01347-0.pdf>.

that the permit violated the Refuge Act and NEPA.⁴¹⁹ While litigation was pending, the utilities applied for an amended permit and also asked the FWS to consider a land exchange as an alternative to the permit.⁴²⁰ During this review, in an August 27, 2021 letter, the FWS revoked the compatibility determination and the ROW permit across the Refuge after determining that issuance was based on an erroneous interpretation of existing easements.⁴²¹ The letter also promised to consider the proposed land exchange.⁴²²

After protracted litigation regarding the EIS and the FWS permit issuances, on July 19, 2023, the U.S. Court of Appeals for the 7th Circuit removed a preliminary injunction that barred developers from building a section of the project across the Refuge, noting that the issue was “premature” because the FWS had not made a final decision on whether the power line could cross the Upper Mississippi National Fish and Wildlife Refuge, nor on the proposed land swap in exchange for approval to cross the refuge.⁴²³

RUS issued the draft Supplemental EA in September 2023.⁴²⁴ In October 2023, the RUS issued a final supplemental EA that will be used to inform the FWS on the impacts from a land exchange across the Refuge.⁴²⁵

The eastern half of the project was energized on December 7, 2023.⁴²⁶ Project construction in Iowa and Wisconsin is nearly complete.⁴²⁷

Timeline:

October 18, 2016	RUS NOI to prepare DEIS
December 2018	RUS DEIS
October 2019	RUS FEIS
January 16, 2020	RUS/Corps/FWS ROD
September 2020	FWS approves ROW
August 27, 2021	FWS rescinds Refuge permit/compatibility determination
July 19, 2023	Seventh Circuit removes preliminary injunction
September 2023	RUS draft supplemental EA
October 2023	RUS final supplemental EA
December 7, 2023	Eastern half of project operational

419. *Id.*

420. *Id.*

421. *Id.*

422. *Id.*

423. *Id.* at 5-6.

424. Cardinal-Hickory Creek RUS draft Supplemental EA (Sept. 2023), available at <https://www.rd.usda.gov/media/file/download/cardinal-hickory-chc-sea-508.pdf>.

425. Cardinal-Hickory Creek RUS final Supplemental EA (Oct. 2023), available at <https://www.rd.usda.gov/media/file/download/chc-final-sea-508.pdf>.

426. “Eastern Half of Cardinal-Hickory Creek Transmission Line Energized,” Cardinal Hickory Creek, Cardinal-Hickory Creek Press Release (Dec. 11, 2023), available at <https://www.cardinal-hickorycreek.com/joint-news-release-eastern-half-of-cardinal-hickory-creek-transmission-line-energized/>.

427. “Dairyland and co-owners, ATC and ITC Midwest, are pleased by Seventh Circuit decision in the Cardinal-Hickory Creek federal National Environmental Policy Act (NEPA) case,” Dairyland Power Website (undated), available at <https://www.dairylandpower.com/positive-ruling-cardinal-hickory-creek-project>.

31. Mona to Oquirrh Transmission Corridor Project

Main Takeaway

- A shorter line within one state results in a more efficient permitting process. This process took just more than six years from the ROW application to project operation.

Summary

PacifiCorps, d/b/a Rocky Mountain Power, proposed a 69-mile, 500-kV transmission line from the Mona Substation near Mona, Utah, to a new Mona Annex Substation, that would continue on to a new Limber Substation, and two 345kV lines from the Limber Substation comprising 31 miles to the existing Oquirrh Substation in West Jordan, Utah, and a 45-mile line to the existing Terminal Substation in Salt Lake City, Utah.⁴²⁸

The line is part of PacifiCorps' Energy Gateway Transmission Expansion Project.⁴²⁹ Between issuance of the draft and FEIS, they revised the project from a 3,000 MW transfer capacity to a 1,500 MW design configuration.⁴³⁰

Portions of the project would cross lands administered by two BLM Field Offices.⁴³¹ In January 2007, Rocky Mountain filed a ROW application with the BLM, which acted as the lead agency, and with the Utah Governor's Public Lands Policy Coordination Office, which represented all Utah state agencies, serving as a cooperating agency.⁴³² The BLM published the NOI to prepare an EIS on October 16, 2007.⁴³³ The BLM published the NOA of the DEIS on May 15, 2009⁴³⁴ and issued the FEIS in April 2010.⁴³⁵ The BLM published the NOA of the ROD on February 10, 2011, authorizing a ROW on BLM-administered lands.⁴³⁶

On June 16, 2010, the Utah PSC approved the project.⁴³⁷ The project was placed in service in May 2013.⁴³⁸

Timeline:

January 2007	PacifiCorp applies for BLM ROW
October 16, 2007	BLM NOI to prepare DEIS
May 15, 2009	BLM NOA of DEIS

428. Project website, available at <https://www.pacificorp.com/transmission/transmission-projects/energy-gateway/gateway-central.html>.

429. Project website.

430. Mona-Oquirrh BLM FEIS Volume II at A-1 (Apr. 2010), available at <https://pscdocs.utah.gov/electric/10docs/1003539/66598ExUUUApp.pdf>.

431. Mona-Oquirrh BLM FEIS Volume I at S-1.

432. Mona-Oquirrh BLM FEIS Volume I at 1-1.

433. Mona-Oquirrh BLM NOI to prepare EIS, 72 Fed. Reg. 58681 (Oct. 16, 2007), available at <https://casetext.com/federal-register/notice-of-intent-to-prepare-an-environmental-impact-statement-to-analyze-pacificorps-mona-to-oquirrh-double-circuit-500345-kilovolt-kv-transmission-line-ut-82829-and-amend-the-pony-express-resource-management-plan-for-the-salt-lake-field-office-utah>.

434. Mona-Oquirrh BLM NOA of DEIS, 74 Fed. Reg. 22960 (May 15, 2009), available at <https://www.federalregister.gov/documents/2009/05/15/E9-11297/notice-of-availability-of-draft-environmental-impact-statement-for-the-mona-to-oquirrh-transmission>.

435. Mona-Oquirrh BLM FEIS.

436. Mona-Oquirrh BLM NOA for ROD, 76 Fed. Reg. 7581 (Feb. 10, 2011), available at <https://www.govinfo.gov/app/details/FR-2011-02-10/2011-2993>.

437. Mona-Oquirrh Application for Certificate of Public Convenience and Necessity (June 16, 2010), available at <https://pscdocs.utah.gov/electric/17docs/1703540/302760RMPCrossEx2RepTransMay3120186-12-2018.pdf>.

438. Project website, available at <https://www.pacificorp.com/transmission/transmission-projects/energy-gateway/gateway-central.html>.

April 2010	BLM FEIS
June 16, 2010	Utah PSC approval
February 10, 2011	BLM NOA of ROD/ROW
May 2013	Project in-service

32. Sunrise PowerLink Transmission Project

Main Takeaway

- Early stakeholder engagement can facilitate a more efficient permitting process.

Summary

San Diego Gas & Electric Company (SDG&E) proposed to construct a new 500-kV transmission line from the existing Imperial Valley Substation to a new Central Substation to be located in San Diego County.⁴³⁹ Between the proposed new Central East Substation and SDG&E's existing Peñasquitos Substation (in the City of San Diego), SDG&E would construct a new 59-mile 230 kV double-circuit and single-circuit transmission line, portions of which would be underground.⁴⁴⁰ The transmission lines would total approximately 150 miles.⁴⁴¹

To assist in the development of the proposed route, SDG&E initiated a comprehensive public outreach program starting in 2005, designed to include the public and project stakeholders early in the route selection process.⁴⁴² On November 2, 2005, SDG&E filed a ROW application with the BLM,⁴⁴³ and on December 14, 2005, SDG&E filed an application for a Certificate of Public Convenience and Necessity with the CPUC.⁴⁴⁴ On August 31, 2006, the BLM issued a NOI to prepare a joint EIS/EIR with the CPUC.⁴⁴⁵ Several federal agencies served as cooperating agencies, including the Forest Service.⁴⁴⁶ On January 11, 2008, the BLM issued an NOA of the DEIS/EIR.⁴⁴⁷ Based on new information involving changes to the “connected actions” analyzed in the DEIS/EIR and route revisions proposed by SDG&E in comments on the DEIS/EIR, the

439. Sunrise PowerLink BLM and CPUC FEIR/FEIS at ES-13 (Oct. 2008), available at <https://www.sandiegocounty.gov/content/dam/sdc/pds/ceqa/JVR/AdminRecord/IBR/319%20CPUC%20and%20BLM%202008%20Final-Environmental-Impact-Report%20Sunrise%20Power%20Link-October-2008.pdf>.

440. *Id.*

441. *Id.*

442. Sunrise PowerLink CPUC Application for Certificate of Public Convenience and Necessity at I-2 to I-5 (Dec. 14, 2005), available at https://www.sdge.com/sites/default/files/A_05_12_014_public_report_0.pdf.

443. Sunrise PowerLink CPUC/BLM FEIS/EIR at ES-1 (Oct. 2008), available at <https://www.sandiegocounty.gov/content/dam/sdc/pds/ceqa/JVR/AdminRecord/IBR/319%20CPUC%20and%20BLM%202008%20Final-Environmental-Impact-Report%20Sunrise%20Power%20Link-October-2008.pdf>.

444. *Id.*

445. Sunrise PowerLink BLM NOI to prepare Joint EIS/EIR, 71 Fed. Reg. 51848 (Aug. 31, 2006), available at <https://www.federalregister.gov/documents/2006/08/31/E6-14502/notice-of-intent-to-prepare-a-joint-environmental-impact-statement-report-and-proposed-land-use-plan>.

446. Sunrise PowerLink BLM ROD at 2 (Jan. 20, 2009), available at <https://ia.cpuc.ca.gov/Environment/Info/aspensunrise/rod.pdf>.

447. Sunrise PowerLink BLM NOA of DEIS/DEIR, 73 Fed. Reg. 2062 (Jan. 11, 2008), available at <https://www.federalregister.gov/documents/2008/01/11/E8-280/notice-of-availability-of-draft-environmental-impact-statement-environmental-impact-report-eiseir-and>.

BLM and the CPUC issued a Recirculated Draft EIR/Supplemental DEIS on July 11, 2008.⁴⁴⁸

The BLM issued its FEIS/EIR in October 2008.⁴⁴⁹ On December 8, 2008, the CPUC issued a decision approving a certificate for the project.⁴⁵⁰ On January 20, 2009, the BLM issued its ROD.⁴⁵¹ Both the CPUC and the BLM selected a route that crosses the Cleveland National Forest.⁴⁵² In January 2009, SDG&E applied to the Forest Service for a Special Use Permit.⁴⁵³ On December 10, 2010, the Forest Service issued the permit.⁴⁵⁴ Mainline construction started in November 2010 and the project was energized in June 2012.⁴⁵⁵

Timeline:

November 2, 2005	SDG&E applies for BLM ROW
December 14, 2005	SDG&E applies for CPUC Certificate of PCN
August 31, 2006	BLM NOI to prepare a DEIS
January 11, 2008	BLM NOA of DEIS/EIR
July 11, 2008	BLM NOA SDEIS/EIR
October 2008	BLM FEIS/EIR
December 8, 2008	CPUC Certificate
January 2009	SDG&E applies to Forest Service for Special Use Permit
January 20, 2009	BLM ROD
July 9, 2010	Forest Service ROD
November 2010	Mainline project construction begins
December 10, 2010	Forest Service grants Special Use Permit
June 2012	Project energized

33. Devers-Palo Verde No. 2 Transmission Line

Main Takeaways

- One state can stop or significantly delay a project if it finds insufficient benefits to the state.
- Failing to resolve key issues before an application is filed can add unnecessary challenges to project design.

448. Sunrise PowerLink BLM NOA of Recirculated DEIR/Supplemental DEIS, 73 Fed. Reg. 39982, 39983 (July 11, 2008), available at <https://www.federalregister.gov/documents/2008/07/11/E8-15943/notice-of-availability-of-the-recirculated-draft-environmental-impact-reports-supplemental-draft>; Sunrise PowerLink Recirculated DEIR/Supplemental DEIS Introduction at 1-1 to 1-6 (July 2008), available at https://ia.cpuc.ca.gov/Environment/info/asp/sunrise/rdeir/rdeir/1_intro.pdf.

449. Sunrise PowerLink CPUC/BLM FEIS/EIR.

450. Sunrise PowerLink CPUC Decision Granting Certificate of Public Convenience and Necessity (Dec. 24, 2008), available at <https://ia.cpuc.ca.gov/Environment/info/asp/sunrise/D08-12-058.pdf>.

451. Sunrise PowerLink BLM ROD.

452. Sunrise PowerLink Forest Service ROD at 1 (July 9, 2010), available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5320675.pdf.

453. *Id.*

454. Sunrise PowerLink Forest Service Special Use Permit (Dec. 10, 2010), available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5320668.pdf.

455. CPUC website, available at https://ia.cpuc.ca.gov/Environment/info/asp/sunrise/sunrise.htm#constprog_mm.

Summary

On April 11, 2005, Southern California Edison (SCE) filed an application with the CPUC for the Devers-Palo Verde No. 2 (DPV2) Transmission Line, proposing 278 miles of transmission line, with approximately 176 miles in California and 102 miles in Arizona, and an upgraded 48.2 miles of SCE's existing 230-kV lines between the Devers Substation west to San Bernardino, CA (the 48.2 mile segment referred to as "West of Devers").⁴⁵⁶ Approximately 4.4 miles of the 48.2 mile segment would cross tribal lands owned by the Morongo Band of Mission Indians, for which SCE leases the ROWs.⁴⁵⁷ The leases were to expire in 2010 and 2019, and at the time of the application SCE was negotiating with the Morongo Band for renewal in order to accommodate the proposed West of Devers upgrade.⁴⁵⁸

As proposed, the project would cross BLM land in both California and Arizona, and a small portion would cross Forest Service land in California.⁴⁵⁹ On December 7, 2005, the BLM, acting as lead federal agency, issued a NOI to jointly prepare an EIS/EIR with the CPUC.⁴⁶⁰ The May 2006 DEIS/EIR eliminated the West of Devers segment because SCE and the Morongo Band had not reached a ROW agreement.⁴⁶¹ Instead, the review analyzed a new alternative upgrade, which involved a second 41.6-mile, 500-kV line next to the existing Devers-Valley 500-kV #1 line.⁴⁶² The BLM and CPUC completed the FEIR/EIS in late October 2006.⁴⁶³ The BLM delayed issuing its ROD pending approval of the Arizona portion by the ACC.⁴⁶⁴

On January 25, 2007, the CPUC approved the DPV2 Project.⁴⁶⁵ On June 7, 2007, the ACC denied approval for the Arizona portion of the line.⁴⁶⁶ The ACC's primary rationale was that Arizona would bear many project impacts with minimal (if any) benefits.⁴⁶⁷ On May 14, 2008, as twice supplemented in September 2008, SCE filed with the CPUC a Petition for Modification (PFM) to permit SCE to commence construction of only the California portion of DPV2 as reviewed in the FEIS/EIR, in light of the renewable resource potential in the vicinity of the terminus of the project near Blythe, California.⁴⁶⁸ If Arizona did not approve the section of the project in Arizona, SCE stated, DPV2 could be used to deliver renewable resources from anticipated projects in Blythe to California load centers.⁴⁶⁹ In February 2009, the CPUC prepared an addendum to the 2006 final

456. Devers-Palo Verde CPUC Application, <https://ia.cpuc.ca.gov/environment/info/aspden/dpv2/pea/application.pdf>; DPV2 BLM and CPUC DEIS/DEIR at B-1 to B-2, B-21 (May 2006), available at https://ia.cpuc.ca.gov/environment/info/aspden/dpv2/deir/b_project_description.pdf.

457. DPV2 BLM and CPUC DEIS/DEIR at B-21.

458. *Id.*

459. *Id.*; DPV2 BLM and CPUC DEIS/DEIR Executive Summary at ES-21 (May 2006), available at https://eplanning.blm.gov/public_projects/nepa/66556/81394/94961/Devers-Palo_executive_summary.pdf.

460. DPV2 BLM NOI to prepare EIS/EIR, 70 Fed. Reg. 72845 (Dec. 7, 2005), available at <https://www.federalregister.gov/documents/2005/12/07/E5-6975/notice-of-intent-to-prepare-an-environmental-impact-statement-eisenvironmental-impact-report-eir-for>.

461. West of Devers Upgrade Project BLM and CPUC DEIS/DEIR at A-2 (Aug. 2015), available at https://ia.cpuc.ca.gov/environment/info/aspden/westofdevers/deir/a_introduction.pdf.

462. DPV2 BLM and CPUC DEIS/DEIR at ES-28, ES-34, ES-57 (May 2006), available at https://eplanning.blm.gov/public_projects/nepa/66556/81394/94961/Devers-Palo_executive_summary.pdf.

463. DPV2 BLM and CPUC NOA of FEIS/FEIR (Oct. 24, 2006), available at <https://ia.cpuc.ca.gov/environment/info/aspden/dpv2/fnoa.pdf>.

464. DPV2 BLM NOA of ROD, 76 Fed. Reg. 42725, 42726 (July 19, 2011), available at <https://www.govinfo.gov/content/pkg/FR-2011-07-19/pdf/2011-18186.pdf>.

465. DPV2 CPUC Addendum to FEIR at 2 (Feb. 2009) available at <https://docs.cpuc.ca.gov/Published/Graphics/110364.pdf>.

466. DPV2 Arizona Corporation Commission Decision No. 69638 at 1, Docket No. L00000A-06-0295-00130 (June 6, 2007), available at <https://images.edocket.azcc.gov/docketpdf/0000073735.pdf>.

467. *Id.* at 6-8.

468. DPV2 CPUC Addendum to FEIR at 2-3.

469. *Id.*

EIR to analyze the impacts of the modifications, and on November 20, 2009, the CPUC authorized the PFM.⁴⁷⁰

In July 2011, the BLM and the Forest Service issued a joint ROD approving a combination of the proposed project and alternatives analyzed in the final EIR/EIS, including a transmission line on an alignment which begins at the Colorado River Station located near Blythe, California, and extends to the Devers Substation in Palm Springs, spanning 115 miles, a portion of which continues from the Devers Substation to the Valley Substation in Riverside County, spanning 41.6 miles.⁴⁷¹

Project construction was completed by September 2013.⁴⁷²

Timeline

April 11, 2005	SCE applies to CPUC
December 2005	BLM NOI to prepare EIS/EIR jointly with CPUC
May 2006	BLM DEIS/EIR issued
October 2006	BLM FEIS/EIR issued
January 25, 2007	CPUC approves DPV2
June 7, 2007	ACC denies approval
May 2008-September 2008	SCE files Petition for Modification to build only in CA
February 2009	CPUC prepares addendum to 2006 final EIR
November 9, 2009	CPUC authorizes Petition for Modification
July 2011	BLM and Forest Service ROD
September 2013	Project construction completed

34. Northern Pass Transmission Line Project

Main Takeaway

- A state can kill a project even after the project has received key federal permits and has a power supply agreement.

Summary

As approved, the Northern Pass Transmission Line Project, proposed by Northern Pass Transmission LLC, is a 192-mile transmission line to transmit electricity from Canada across the U.S.-Canada border through northern New Hampshire.⁴⁷³ The line, portions of which would be underground, would include a 300-kV HVDC line from the U.S.-Canada border to a converter station to be constructed in Franklin, New Hampshire, and from Franklin, a 345-kV line extending to an existing substation in Deerfield, NH.⁴⁷⁴

470. DPV2 CPUC/BLM CEQA Addendum to FEIS/FEA at 3-4 (Oct. 2012), available at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M036/K346/36346286.pdf>.

471. DPV2 BLM ROD at 10 (July 2011), available at https://ia.cpuc.ca.gov/environment/info/aspn/dpv2/record_of_decision_071911.pdf.

472. Project website, available at <https://ia.cpuc.ca.gov/environment/info/aspn/dpv2/dpv2.htm>.

473. Northern Pass DOE ROD for Issuing a Presidential Permit, 82 Fed. Reg. 55595 (Nov. 22, 2017), available at <https://www.federalregister.gov/documents/2017/11/22/2017-25254/record-of-decision-for-issuing-a-presidential-permit-to-northern-pass-transmission-llc-for-the>.

474. Northern Pass DOE Presidential Permit, OE Docket No. PP-371 at 1 (Nov. 16, 2017), available at <https://www.energy.gov/oe/articles/pp-371-northern-pass-transmission-llc>.

On October 14, 2010, Northern Pass applied to the DOE for a Presidential Permit to construct the line across the U.S.-Canada border.⁴⁷⁵ Northern Pass amended its application in July 2013 and August 2015.⁴⁷⁶ The DOE served as the lead agency and the Forest Service, Corps of Engineers, and the New Hampshire Office of Energy and Planning as cooperating agencies.⁴⁷⁷ On February 11, 2011 the DOE released an initial NOI to prepare EIS.⁴⁷⁸ They published the DEIS in July 2015.⁴⁷⁹ On September 30, 2015, following an amended application from Northern Pass to address comments on the draft to increase the amount of the transmission line that would be buried, the DOE determined a supplemental EIS would be needed.⁴⁸⁰ They issued the supplemental EIS in November 2015⁴⁸¹ and the FEIS in August 2017.⁴⁸² On November 16, 2017, the DOE concurrently issued a ROD⁴⁸³ and a Presidential Permit.⁴⁸⁴ The Forest Service issued its draft ROD in September 2017.⁴⁸⁵

In January 2018, Massachusetts, through its Clean Energy Request for Proposals, selected Northern Pass to deliver hydropower to the state through the line.⁴⁸⁶

In 2015, Northern Pass filed an application for a Certificate of Site and Facility with the New Hampshire Site Evaluation Committee.⁴⁸⁷ On March 30, 2018, the New Hampshire Site Evaluation Committee rejected the project,⁴⁸⁸ and on July 18, 2019, the New Hampshire Supreme Court affirmed the decision.⁴⁸⁹ The project was canceled in July 2019.⁴⁹⁰

Timeline:

October 14, 2010	Northern Pass applies for Presidential Permit
February 11, 2011	DOE NOI to prepare EIS
July 2013	Northern Pass amends Presidential Permit application
July 2015	DOE DEIS
August 2015	Northern Pass amends Presidential Permit application

475. Northern Pass DOE ROD for Issuing a Presidential Permit at 55595.

476. *Id.* at 55595-55596.

477. *Id.* at 55597.

478. Northern Pass DOE NOI to prepare EIS, 76 Fed. Reg. 7828 (Feb. 11, 2011), available at <https://www.federalregister.gov/documents/2011/02/11/2011-3147/notice-of-intent-to-prepare-an-environmental-impact-statement-and-conduct-public-scoping-meetings>.

479. Northern Pass DOE DEIS (July 2015), available at <https://www.energy.gov/sites/default/files/2015/07/f24/EIS-0463-DEIS-Summary-2015.pdf>.

480. Northern Pass DOE NOI to prepare Supplement to the DEIS, 80 Fed. Reg. 58725 (Sept. 30, 2015), available at <https://www.federalregister.gov/documents/2015/09/30/2015-24772/notice-of-intent-to-prepare-a-supplement-to-the-draft-northern-pass-transmission-line-project>.

481. Northern Pass DOE Supplement to the DEIS (Nov. 2015), available at <https://www.energy.gov/sites/default/files/2015/11/f27/EIS-0463-S1-DEIS-2015.pdf>.

482. Northern Pass DOE FEIS (Aug. 2017), available at <https://www.energy.gov/sites/default/files/2017/08/f35/EIS-0463-FEIS-Summary.pdf>.

483. Northern Pass DOE ROD for Issuing a Presidential Permit.

484. Northern Pass DOE Presidential Permit.

485. Northern Pass Forest Service Draft ROD (Sept. 2017), available at <https://www.forestservice.org/document/draft-national-forest-decision-northern-pass.pdf>.

486. "Mass. Taps Eversource's Northern Pass for Hydropower Project," Associated Press (Jan. 25, 2018), available at <https://www.wbur.org/news/2018/01/25/hydropower-massachusetts-eversource>.

487. Northern Pass Supreme Court of New Hampshire Appeal at 4 (July 19, 2019), available at <https://cases.justia.com/new-hampshire/supreme-court/2019-2018-0468.pdf?ts=1563541492>.

488. *Id.* at 6.

489. *Id.* at 3.

490. "Eversource abandons Northern Pass project after defeat in NH Supreme Court," Associated Press (July 26, 2019), available at <https://www.wmur.com/article/eversource-northern-pass-project-update/28519439>.

September 30, 2015	NOI to prepare supplemental EIS
October 2015	Application to NH Site Evaluation Committee
November 2015	DOE supplemental EIS
August 2017	DOE FEIS
September 2017	Forest Service draft ROD
November 2017	DOE ROD and Presidential Permit
January 2018	Massachusetts selects project to supply electricity
March 30, 2018	NH Site Evaluation Committee rejects project
July 18, 2019	NH Supreme Court upholds rejection
July 24, 2019	Project canceled

35. Potomac-Appalachian Transmission Highline

Main Takeaways

- Delay can result in project cancellation. Four years after PJM identified the need for the project, changes in the economy precluded the need for the project.
- The three state permitting agencies rejected applications before the NEPA process started.

Summary

PJM proposed the 765-kV transmission Potomac-Appalachian Transmission Highline (PATH) project to alleviate numerous projected reliability criteria violations identified in its Regional Transmission Expansion Plan.⁴⁹¹ It would require approvals from the three states it crossed: West Virginia, Virginia and Maryland.⁴⁹²

In May 2009, the developers submitted ROW applications for those portions of the project that would cross the NPS and Forest Service lands.⁴⁹³ On June 17, 2010, the NPS issued a NOI to prepare an EIS.⁴⁹⁴

In 2009, the Maryland Public Service Commission (PSC) rejected PATH's application for regulatory approval as improperly filed.⁴⁹⁵ It appears that the Virginia State Corporation Commission (SCC) and the West Virginia PSC also dismissed the applications they received, but available sources are inconclusive about the state approval proceedings due to the elapsed time since then and the unavailability of internet sources at that time.⁴⁹⁶

491. Potomac-Appalachian Transmission Highline (PATH) National Park Service and Forest Service NOI to prepare EIS, 75 Fed. Reg. 34477, 34478 (June 17, 2010), available at <https://www.federalregister.gov/documents/2010/06/17/2010-14581/potomac-appalachian-transmission-highline-path-environmental-impact-statement-harpers-ferry-national>.

492. *Id.* at 34477-334478.

493. *Id.*

494. *Id.*

495. Maryland PSC 2009 Annual Report at fn. 26 (undated), available at <https://www.psc.state.md.us/wp-content/uploads/2009-Annual-Report.pdf>.

496. Report to the Commission on Electric Utility Regulation of the Virginia General Assembly at 10, Virginia State Corporation Commission (Sept. 1, 2009), available at <https://rga.lis.virginia.gov/Published/2009/RD193/PDF>; Eto, Joseph H., *Building Electric Transmission Lines: A Review of Recent Transmission Projects*, Lawrence Berkeley National Laboratory, at 20 (September 2016), available at <https://eta-publications.lbl.gov/sites/default/files/lbnl-1006330.pdf> (providing a timeline but citing generally to the state agencies' websites, which do not contain archives going back as far as these proceedings); Project Wikipedia page, available at https://en.wikipedia.org/wiki/Potomac-Appalachian_Transmission_Highline (providing a timeline but citing broken links); Stop PATH WV, available at <https://www.stoppathwv.com/index.html> (containing a detailed timeline without sources).

On February 28, 2011, PJM requested that FirstEnergy and the AEP suspend the project, stating that “recent dramatic swings in economic forecasts and evolving public policies (particularly with respect to renewable energy) are adding greater uncertainty to our planning studies.”⁴⁹⁷ Thereafter, AEP and FirstEnergy with

drew the three applications in Virginia, Maryland and West Virginia.⁴⁹⁸ In 2012, PJM removed the project from future plans.⁴⁹⁹

Timeline:

May 2009	Applicants file for NPS ROW
c. 2009	Applicants file for approvals in WV, VA, and MD
c. September 2009	MD PSC rejects application as improperly filed
c. October 2009	VA SCC files to dismiss application as inadequate
c. October 2009	WV PSC files to dismiss application
June 17, 2010	NPS NOI to prepare EIS
February 28, 2011	PJM requests applicants suspend project
2012	PJM removed project from future plans

36. San Luis Transmission Project

Main Takeaways

- Early screening, planning, and scoping processes can facilitate shorter review timelines. The NEPA process took only two and a half years, and was facilitated by WAPA screening potential alternatives through a vigorous planning and scoping process.
- Project was ultimately canceled because it was unable to get financing

Summary

WAPA is statutorily required to facilitate delivery of power to federally authorized projects including a set of facilities owned by Reclamation called the San Luis Unit (SLU), a part of the Central Valley Project.⁵⁰⁰ In response to Reclamation’s transmission request to WAPA to interconnect several key SLU facilities to WAPA’s Central Valley transmission system, WAPA, in partnership with Duke-American Transmission Company (DATC), considered several transmission options, including, as ultimately selected, the San Luis Project comprising 95 miles of new transmission lines, a 65-mile, 500-kV line; a 20-mile, 230-kV line; a 3-mile, 230-kV line; and a seven-mile, 70-kV line.⁵⁰¹ WAPA would construct, own, maintain and operate the lines, which would be located mostly adjacent (whenever practicable) to existing transmission lines in Alameda,

497. “AEP Seeks to Withdraw Applications for PATH Project,” PR Newswire (Feb. 28, 2011), available at <https://www.prnewswire.com/news-releases/aep-seeks-to-withdraw-applications-for-path-project-117073768.html>.

498. *Id.*

499. “PJM to Cancel High Voltage Transmission Line,” Power Magazine (Jul. 19, 2012), available at <https://www.powermag.com/pjm-to-cancel-high-voltage-transmission-line/>; see also Eto, Building Electric Transmission Lines: A Review of Recent Transmission Projects at 21.

500. San Luis Transmission Project (SLTP) WAPA NOI to prepare EIS, 78 Fed. Reg. 70035 (Nov. 22, 2013), available at <https://www.federalregister.gov/documents/2013/11/22/2013-28043/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-san-luis-transmission-projec>.

501. SLTP WAPA ROD, 81 Fed. Reg. 28065, 28065-28066 (May 9, 2016), available at <https://www.govinfo.gov/content/pkg/FR-2016-05-09/pdf/2016-10802.pdf>.

San Joaquin, Stanislaus, and Merced Counties in California.⁵⁰²

WAPA issued a NOI to prepare an EIS, which noted a joint EIS/EIR would be prepared, on November 22, 2013.⁵⁰³ WAPA served as the lead federal agency and the San Luis and Delta-Mendota Water Authority as the lead California agency.⁵⁰⁴ Reclamation served as a cooperating agency.⁵⁰⁵ In February 2015, WAPA prepared an updated Alternatives Screening Report, which presented all potential alternatives identified during the planning and scoping process and the reason the agency retained or eliminated each potential alternative from further consideration.⁵⁰⁶

The agencies issued the DEIS/EIR in July 2015⁵⁰⁷ and the FEIS/EIR in March 2016.⁵⁰⁸ The ROD was published on May 9, 2016.⁵⁰⁹ On January 31, 2018, WAPA, San Luis & Delta-Mendota Water Authority, Reclamation, and DATC agreed to parameters for negotiating and developing a contract to construct the project.⁵¹⁰

In October 2022, WAPA announced that it “will not be moving forward with executing the agreements necessary to implement the [SLTP]. The SLTP Proponent(s) were not able to achieve financing, and therefore, WAPA has cancelled work on the SLTP. The SLTP has been removed from WAPA’s OASIS queue.”⁵¹¹

Timeline:

November 22, 2013	WAPA NOI to prepare an EIS
February 2015	WAPA Updated Alternatives Screening Report
July 2015	WAPA DEIS/EIR
March 2016	WAPA FEIS/EIR
May 9, 2016	WAPA ROD
January 31, 2018	Agreement to negotiate construction terms and conditions
October 7, 2022	WAPA cancels project

37. Plains and Eastern Clean Line

Main Takeaway

- Political and public opposition, rather than regulatory process, can kill a project.

502. SLTP WAPA NOI to prepare EIS.

503. *Id.* at 70035.

504. *Id.*

505. *Id.*

506. SLTP WAPA Alternatives Screening Report (updated Feb. 2015), available at https://www.energy.gov/sites/prod/files/2016/03/f30/EIS-0496_SLTP_Final_EIS-EIR_3_Appendices_A-B_0.pdf.

507. SLTP WAPA & San Luis Delta-Mendota Water Authority DEIS (July 2015), available at https://www.energy.gov/sites/default/files/2015/08/f25/EIS-0496_San_Louis_DEIS__Main_2015-07.pdf.

508. SLTP WAPA & San Luis Delta-Mendota Water Authority FEIS (Mar. 2016), available at https://www.energy.gov/sites/default/files/2016/03/f30/EIS-0496_SLTP_Final_EIS-EIR_1_Cover-Chapter3_0.pdf.

509. SLTP WAPA ROD.

510. See SLTP WAPA website, available at <https://www.wapa.gov/about-wapa/regions/sn/san-luis-transmission-project/>.

511. *Id.*

Summary

In May 2010, Clean Line Energy filed an application with the Arkansas PSC for a certificate to operate the Plains and Eastern Clean Line as a public utility.⁵¹² The proposed project, as modified in 2015, included a 600-kV direct current electric transmission system with the capacity to deliver up to 4,000 MW primarily from renewable energy generation facilities in Oklahoma to load-serving entities in the Mid-South and Southeast.⁵¹³ The line would traverse Oklahoma, Arkansas, and Tennessee, approximately 705 miles.⁵¹⁴

In June 2010, the DOE issued a Request for Proposals for New or Upgraded Transmission Line Projects Under Section 1222 of the Energy Policy Act of 2005.⁵¹⁵ Section 1222 authorizes the DOE to partner with private entities to develop transmission facilities, which circumvents state-level regulatory requirements and provides for Federal eminent domain authority.⁵¹⁶ In July 2010, as modified in August 2011, Clean Line submitted a proposal to DOE for Plains and Eastern, and at DOE's request, submitted an updated application in January 2015.⁵¹⁷

In January 2011, Arkansas PSC rejected Clean Line's application to operate as a public utility "based on information about its current business plan and present lack of plans to serve customers in Arkansas."⁵¹⁸ Accordingly, as a merchant transmission developer, Clean Line could neither own nor operate transmission facilities within Arkansas nor exercise eminent domain.⁵¹⁹

In October 2011, the Oklahoma Corporation Commission approved public utility status for the Plains and Eastern Clean Line.⁵²⁰ Also in October 2011, the Tennessee Valley Authority (TVA) signed a Memorandum of Understanding with Clean Line Energy to consider purchasing Plain Line transmission capacity and wind to serve its load.⁵²¹ In January 2015, the Tennessee Regulatory Authority granted Plains and Eastern a certificate and the authority to operate as a wholesale transmission-only public utility in Tennessee.⁵²²

On December 21, 2012, the DOE, as lead agency, issued a NOI to prepare an EIS.⁵²³ DOE and cooperating agencies including the BIA, Natural Resources Conservation Service, TVA, Corps of Engineers, EPA, and

512. Arkansas PSC Order No. 9, Docket No. 10-041-u at 1 (Jan. 11, 2011), available at http://www.apscservices.info/pdf/10/10-041-u_41_1.pdf.

513. Plains and Eastern Clean Line DOE ROD, 81 Fed. Reg. 18602, 18603 (Mar. 31, 2016), available at <https://www.energy.gov/sites/default/files/2016/03/f30/Clean%20Line%20ROD%20-%20FR03312016.pdf>.

514. *Id.* at 18602.

515. DOE Request for Proposals for New or Upgraded Transmission Line Projects Under Section 1222 of the Energy Policy Act of 2005, 75 Fed. Reg. 32940 (June 10, 2010), available at <https://www.federalregister.gov/documents/2010/06/10/2010-13943/request-for-proposals-for-new-or-upgraded-transmission-line-projects-under-section-1222-of-the>.

516. See *Downwind LLC et al v. US DOE et al*, 3:16-cv-207-DPM (E.D. Ark. 2017), available at <https://info.bracewell.com/37/753/uploads/2017-12-21-downwind-v-doe-order.pdf>. On December 21, 2017, the District Court for the Eastern District of Arkansas dismissed a challenge by landowners, finding that states do not have veto power over whether a transmission line approved by DOE pursuant to its Section 1222 authority could be built; thus Arkansas PSC authorization was not required for the Project to go forward.

517. Plains and Eastern Clean Line DOE ROD at 18603.

518. Arkansas PSC Order No. 9 at 11.

519. *Id.*

520. Oklahoma Corporation Commission Order No. 590530, Cause No. PUD 201000075 at 15 (Oct. 28, 2011), available at <https://imaging.occ.ok.gov/ap/orders/0300d92c.pdf>.

521. "Clean Line signs agreement with Tennessee Valley Authority," *The Oklahoman* (Oct. 26, 2011), available at <https://www.oklahoman.com/story/news/nation-world/2011/10/26/clean-line-signs-agreement-with-tennessee-valley-authority/61124009007/>.

522. "Tennessee clears transmission line to deliver Oklahoma wind to Southeast," *Utility Dive* (Jan. 14, 2015), available at <https://www.utilitydive.com/news/tennessee-clears-transmission-line-to-deliver-oklahoma-wind-to-southeast/352798/>.

523. Plains and Eastern Clean Line DOE NOI to Prepare EIS, 77 Fed. Reg. 75623 (Dec. 21, 2012), available at <https://www.federalregister.gov/documents/2012/12/21/2012-30833/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-plains-and-eastern-clean-line>.

FWS issued the DEIS on December 17, 2014.⁵²⁴ In October 2015, the DOE issued a FEIS.⁵²⁵ In March 2016, the DOE issued an ROD and concluded it would participate in the development of the project.⁵²⁶ On March 25, 2016, Clean Line Energy and DOE signed a participation agreement for the development of the project.⁵²⁷

Shortly after the change in federal administration in January 2017, members of the Arkansas congressional delegation wrote to the Secretary of Energy requesting a review of the section 1222 permit.⁵²⁸ In addition, despite previous support from TVA,⁵²⁹ members of the Tennessee congressional delegation opposed the project; in June 2017, Tennessee Senator Lamar Alexander publicly called on TVA not to purchase power from Clean Line.⁵³⁰ In December 2017, TVA backed out of the MOU with Clean Line.⁵³¹

On December 22, 2017, Clean Line sold the Oklahoma portion of the project to NextEra Energy.⁵³² In March 2018, the DOE and Clean Line terminated the Participation Agreement.⁵³³

Timeline:

May 2010	Clean Line applies to Arkansas PSC
June 2010	DOE Request for Proposals under EPCAct section 1222
July 2010	Clean Line submits proposal to DOE
January 2011	Arkansas PSC rejects application
August 2011	Clean Line provides additional information to DOE
October 2011	Oklahoma approves public utility status
October 2011	TVA and Clean Line MOU
December 2012	DOE NOI to prepare EIS
December 2014	DOE DEIS issued
January 2015	TN approves application
January 2015	Plains and Eastern files updated application with DOE
October 2015	DOE FEIS
March 25, 2016	DOE signs Participation Agreement with Clean Line
December 2017	TVA backs out of 2011 MOA
December 2017	NextEra acquires Oklahoma assets
March 2018	DOE and Clean Line announce termination of PA

524. Plains and Eastern Clean Line DOE DEIS, 79 Fed. Reg. 75132 (Dec. 17, 2014), available at <https://www.federalregister.gov/documents/2014/12/17/2014-29524/plains-and-eastern-clean-line-transmission-project-draft-environmental-impact-statement>.

525. Plains and Eastern Clean Line DOE FEIS at S-23 (Oct. 2015), available at https://www.energy.gov/sites/default/files/2015/11/f27/EIS-0486_FEIS_Summary_0.pdf.

526. Plains and Eastern Clean Line DOE ROD at 18602.

527. Plains and Eastern Clean Line DOE Participation Agreement (Mar. 25, 2016), available at [https://www.energy.gov/sites/prod/files/2016/03/f30/Clean%20Line%20-%20Participation%20Agreement%20-%20EXECUTED%20VERSION%20\(dated%20March%202025....pdf](https://www.energy.gov/sites/prod/files/2016/03/f30/Clean%20Line%20-%20Participation%20Agreement%20-%20EXECUTED%20VERSION%20(dated%20March%202025....pdf).

528. "Press Release: Arkansas Delegation Urges Secretary Perry to Review Clean Line Project," Steve Womack Official Website (Mar. 7, 2017), available at <https://womack.house.gov/news/documentsingle.aspx?DocumentID=398764>.

529. "Controversial \$2.5 billion Clean Line project stalled; will evaluate options, officials say," Talk Business and Politics (Jan. 3, 2018), available at <https://talkbusiness.net/2018/01/controversial-2-5-billion-clean-line-project-stalled-will-evaluate-options-officials-say/>.

530. "Winds of Change: How massive energy project would fit into the local power structure," Memphis Daily News (June 3, 2017), available at <https://www.memphisdailynews.com/news/2017/jun/3/winds-of-change/>.

531. "Controversial \$2.5 billion Clean Line project stalled; will evaluate options, officials say."

532. "Clean Line Energy sells Okla. portion of 700-mile line to NextEra," S&P Global (Dec. 22, 2017), available at <https://www.spglobal.com/marketintelligence/en/news-insights/trending/5bd0zrwxsqz0mjyfg2>.

533. Plains and Eastern Clean Line DOE Termination and Release Agreement (Mar. 23, 2018), available at <https://www.energy.gov/sites/prod/files/2018/03/f49/Clean%20Line%20Termination%20and%20Release%20Agreement%20FINAL%20Redacted.pdf>.