



WEST-WIDE ENERGY CORRIDORS

– A new way forward

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SETTLEMENT OF PENDING LITIGATION

1. Key settlement provisions.

In June 2012, a landmark settlement was reached between federal agencies and a coalition of conservation organizations, including The Wilderness Society, as well as a western Colorado county¹ that had challenged West-wide Energy Corridors initially designated under Section 368 of the Energy Policy Act of 2005 to create a system of corridors for pipelines and powerlines across the West. Through the settlement, the designations will be reevaluated and revised to better: avoid environmentally sensitive areas, diminish proliferation of dispersed right-of-ways (ROWS), and facilitate development of renewable energy projects. This will be accomplished through four key provisions:

- 1) The Bureau of Land Management (BLM), US Forest Service (FS), and Department of Energy (DOE) will enter into a Memorandum of Understanding (MOU) that will guide the agencies' review of corridors and mitigation measures through an interagency work group that will review corridors and mitigation measures, and their recommendations on needed revisions, deletions and additions (Settlement Agreement Section II.A.1).
- 2) BLM, FS and DOE will follow specified corridor siting principles when reviewing corridors and developing recommendations for revisions, deletions and additions, including evaluating areas that have a high concentration of corridors, considering access for renewable energy, and looking at options to remove environmental impacts, with opportunities for stakeholder participation (Settlement Agreement Section II.A.1.c.).
- 3) BLM and FS will issue guidance on use and development of corridors, including identifying "corridors of concern" and known conflicts in those corridors, as well as emphasizing the need for environmental analysis of any proposed projects in a corridor pursuant to the National Environmental Policy Act (NEPA) (Settlement Agreement Section II.A.2). BLM will also correct its existing guidance, in Instruction Memorandum 2010-169, regarding siting and construction of electric transmission infrastructure in energy corridors (Settlement Agreement, Section II.A.5).
- 4) BLM and FS will incorporate and increase emphasis on environmental considerations into agency training on processing applications to site pipelines and electrical transmission lines.

¹ Plaintiffs are: The Wilderness Society, BARK, Center for Biological Diversity, Defenders of Wildlife, Great Old Broads for Wilderness, Klamath-Siskiyou Wildlands Center, National Parks Conservation Association, National Trust for Historic Preservation, Natural Resources Defense Council, Oregon Natural Desert Association, Sierra Club, Southern Utah Wilderness Alliance, Western Resource Advocates, Western Watersheds Project, and County of San Miguel, Colorado.

2. Reasons for the litigation:

The original corridor designations did not focus on or facilitate access to renewable energy development. Further, because of failures to consider the actual impacts of the corridors and to engage the public and state and local governments, the currently-designated West-wide Energy Corridors would adversely affect National Park Service areas, National Monuments, National Wildlife Refuges, habitat for threatened and endangered species, and proposed wilderness, among other special places and values, and miss opportunities to minimize impacts and designate preferable locations. The settlement reached between the parties will greatly decrease potential impacts to these places.

3. Why the settlement makes sense:

New, environmentally responsible transmission is needed to achieve the goals of the Department of the Interior and the direction of the Energy Policy Act of 2005 for rapid, responsible development of the West's renewable energy resources. Further, energy corridors should be designated to limit impacts to wildlands and wildlife habitat from pipelines and powerlines. The West-wide Energy Corridors, currently designated for oil, gas, and hydrogen pipelines and powerlines on federal lands, should be a powerful tool in achieving those goals. Unfortunately, the designated corridors moved us backward, not forward, in our efforts to create a smart western grid that will help lead us to a cleaner, safer energy future. The corridors can become a part of the solution, but fixing the errors of the previous designations and creating the right path forward is critical to making them a useful tool. The settlement sets a framework for designating energy corridors that can improve management of public lands by ensuring that:

- access to clean, renewable energy, in cooperation with state, regional and local efforts, is provided;
- new pipelines or powerlines are actually needed (i.e., energy needs cannot be met by increased efficiency, conservation, distributed generation or other means);
- special or sensitive public lands are avoided altogether;
- risks and opportunities on federal and other affected lands are realistically and thoroughly assessed, so that risks can then be avoided or minimized and opportunities for better transmission are not missed; and
- once appropriate locations are identified, projects on federal lands are presumptively limited to those corridors.

BACKGROUND

1. Statutory Direction: Section 368 of the Energy Policy Act of 2005 requires the Secretaries of Agriculture, Commerce, Defense, Energy and Interior, in consultation with the Federal Energy Regulatory Commission (FERC), other governments, industries, and other interested parties, to designate energy corridors on federal lands. The agencies are required to complete any environmental reviews and incorporate the corridors into existing land use plans as part of the designation process. Section 368 also requires that the agencies establish procedures to ensure that additional corridors are designated promptly and to expedite applications for construction of pipelines and facilities within the designated corridors. As required, corridors were first designated in the 11 Western States.² A process to designate corridors in the remaining states has also commenced.

2. Corridor Definition: For purposes of this process, “energy corridors” are areas on public lands in which

² Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

oil, gas and hydrogen pipelines and electricity transmission and distribution facilities will be housed. The exact location of these facilities in the corridors will not be finally determined until specific projects are approved. The width of most corridors will be 3500 feet – approximately 2/3 mile – although some may be narrower and many of the proposed corridors are larger – up to 5 miles wide. In essence, these are areas that are deemed suitable for industrialization to accommodate pipelines and power lines.

3. Controversy: The failure to look at environmental consequences, lack of access to renewables, limits on effective scrutiny, and insufficient protections for public lands in the corridor designations have led to congressional action, in addition to widespread public concern. A bi-partisan letter (sponsored by Rep. Raul Grijalva (D-AZ) and Rep. Sue Kelly (R-NY)) was sent to the Secretaries in December 2006, urging a more cautious approach. Legislation was proposed in 2007 to revise Section 368 to add a study of energy needs and opportunities for increasing access to renewable energy, as well as to avoid special places and minimize damage to the public lands. In April 2008, two House subcommittees held a joint hearing on the flaws of the West-wide Energy Corridor process. A number of governors of the affected states submitted formal “consistency reviews” highlighting their concerns with the Final PEIS and its failures to address their formal policies.

Quick Facts about the West-wide Energy Corridors

- Corridors cover 6,000 miles over almost 3 million acres.
- Areas within designated corridors are deemed appropriate for pipelines and powerlines.
- More than 160 land use plans were amended to permit use of the energy corridors;
- Applications for construction of pipelines, powerlines and related facilities are expedited – including environmental reviews, which will be “tiered” back to the general NEPA analysis done in the PEIS and thus will be limited.
- Large-scale buildup within these corridors becomes more likely – the Draft PEIS contemplates that about 9 individual 500-kv transmission lines, as many as 35 liquid petroleum pipelines or up to 29 natural gas pipelines could be supported within a 3,500-foot-wide corridor.

SAMPLE CORRIDORS OF CONCERN ADDRESSED IN THE SETTLEMENT

New Mexico.

A corridor runs through Sevilleta National Wildlife Refuge, which is home to a vast array of important and endangered species, including desert bighorn sheep and bald eagles, as well as Gunnison prairie dogs. While the proposed corridor includes an existing right-of-way and follows a highway, large-scale use of the corridor will necessarily interfere with the protection of the wildlife in the Refuge, which is why conservation groups have advocated for corridors not to be placed in wildlife refuges. The corridor also passes through the Rio Grande corridor (one of the most stressed rivers in the country), habitat for the endangered Pecos sunflower and two State Wildlife Refuges, which are not even acknowledged. While the width of the corridor is limited to 1,500-feet through Sevilleta National Wildlife Refuge, but this is not a uniform approach to corridors through wildlife habitat or even for the remainder of this corridor, which will still damage other resources.

Nevada

Two corridors pass through or adjacent to the Desert National Wildlife Refuge, which is home to desert bighorn sheep, as are the three Wilderness Areas (Delamar Mountains, Arrow Canyon and Meadow Valley) bordering the corridor to the east of the Refuge, so that construction in the corridor will likely impact all of these populations. The Refuge also provides habitat to the threatened desert tortoise, so the corridor is likely to harm its habitat, as well. Cumulative impacts from the corridor must be considered in conjunction with the intensive development already occurring on all of the other land around the existing highway and corridor to the east of the Refuge.

Idaho

A corridor runs for 16 miles through the Snake River-Birds of Prey National Conservation Area, which was established to protect one of the densest known raptor populations in North America including the habitat of the raptor prey base as well as the nesting and hunting habitat of raptors within the conservation area. There are no requirements for any corridors in National Conservation Areas to comply with the management priorities set out in the legislation establishing them.

Arizona

A mile-wide corridor bisects one of the largest rock art concentrations in the state of Arizona, involving hundreds of petroglyphs. The area contains a large Hohokam village site and prehistoric trails used by both the Hohokam and Patayan peoples, increasing its importance, and has been found by the Arizona State Historic Preservation Office to have high potential for listing on the National Register of Historic Places. The site is entirely on private lands that lie immediately south of the designated corridor. While existing pipeline and transmission lines have, with careful assessment, managed to avoid direct impacts to the resources, further concentration of facilities make continued avoidance unlikely, especially since the agencies have refused to analyze the risk to non-federal lands that are just yards away.

Another corridor crosses into the proposed Tumacacori Highlands Wilderness introduced by Representative Grijalva.

Utah

A 3,500-foot corridor is designated for 20 miles through the Grand Staircase-Escalante National Monument. The corridor does not follow an existing road and is in an area frequented by hikers, backpackers, hunters, and horseback riders for a remote and primitive experience. The corridor runs past the Buckskin Mountain area and crosses the Paria River, which has been declared by the BLM as suitable for inclusion into the Wild and Scenic Rivers System based on its outstandingly remarkable scenic,

recreational, wildlife, geological, historic, and riparian values. From the intersection point with the corridor, the Paria flows immediately through the Paria Canyon/Vermillion Cliffs Wilderness Area and on down to the Colorado River. How this river will be impacted has not been evaluated in the PEIS.

A corridor that is 5 miles wide is designated along the border of Arches National Park, where development would impact the experience of the park. Running through some of the most spectacular scenic vistas in Southern Utah, this corridor will actually run through the canyon bordering the park. Neither impacts to this important area adjacent to the park nor the need for such pipelines and/or transmission lines have been assessed.

California

A corridor crosses through the Whiskeytown-Shasta-Trinity National Recreation Area, which is co-managed by the National Park Service and Forest Service.

Oregon

A corridor traverses three Wild and Scenic River segments in the Mt. Hood National Forest, as well as the popular Pacific Crest Trail. Most of this corridor does not track any locally designated rights-of-way, construction of transmission lines, pipelines, and related facilities. Construction in the corridor will destroy mature and old-growth forest stands that were set aside years ago to protect the threatened northern spotted owl. The corridor also crosses streams, creeks, and rivers that provide critical habitat for protected populations of salmon and provide clean drinking water for communities downriver. Most of these impacts were not disclosed, let alone evaluated, in the designation process.