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Sent: Thursday, March 19, 2015 4:06 PM
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Cc: Doug Young
Subject: Boardman to Hemingway Transmission Line Project Draft Environmental Impact Statement - USFWS Comments
Attachments: B2H DEIS comments 3-19-15_TS15-397 final.pdf

Please see the attached comments from the U.S. Fish and Wildlife Service.



United States Department of the Interior



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Memorandum

To: Don Gonzalez, District Manager, Bureau of Land Management, Vale District
Vale, Oregon

From: *for* State Supervisor, Oregon Fish and Wildlife Office
Portland, Oregon

Subject: Comments on the Bureau of Land Management's Draft Environmental Impact Statement, Boardman to Hemingway Transmission Line Project

The U.S. Fish and Wildlife Service (Service) appreciates the opportunity to review and provide comments on the Bureau of Land Management's (BLM's) Draft Environmental Impact Statement (DEIS) for the proposed Boardman to Hemingway Transmission Line Project (Project). The Service has been actively involved with the BLM in all previous Project planning stages and has recently been a collaborative participant in the development of the DEIS.

The following Service comments continue to identify our concerns and recommendations associated with Project's direct and indirect effects on greater sage-grouse, migratory birds, and Washington ground squirrel. These Service comments are provided in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), as amended; the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*), as amended; the Endangered Species Act (ESA, 16 U.S.C. 1531 *et seq.*), as amended; the Migratory Bird Treaty Act (16 U.S.C. 703-712); the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c), as amended; and the Federal Power Act (16 U.S.C. 791-828c *et seq.*), as amended. During the BLM's development of the Final Environmental Impact Statement (FEIS), we will continue to provide assistance in addressing the Project's impacts and offsets via our Cooperating Agency status.

GREATER SAGE-GROUSE

The greater sage-grouse is a candidate for listing under the ESA, and occupies habitats that will be crossed by the Project's transmission line and access roads. New transmission project developments, placed in or near sage-grouse habitats, will exist on the landscape for decades or longer and continually accrue significant direct and indirect impacts to sage-grouse and their habitats. These new and long-term, negative impacts can exacerbate other existing impacts and

cause increased downward pressures on affected sage-grouse populations. Therefore, unless a new transmission line project's siting, construction, restoration, operations, maintenance, and compensatory mitigation result in a net conservation benefit to the species, a new transmission line project's new, long-term impacts may contribute to the need to list sage-grouse under the ESA.

To consistently evaluate new transmission project developments, such as the Project actions proposed in the DEIS, and provide conservation recommendations to address adverse project impacts to sage-grouse, the Service employs the recommendations and guiding concepts provided in the Conservation Opportunities Team Report (COT Report) (FWS 2013) and the Sage-grouse Range-wide Mitigation Framework (Mitigation Framework) (FWS 2014). The Service reviewed the DEIS in the context of the COT Report and Mitigation Framework and offers the following general sage-grouse comments to the BLM. The Service will continue to assist the BLM and others in addressing these Project recommendations, to ensure the FEIS describes a Project action that is as consistent as feasible with the COT Report and Mitigation Framework, and results in a net conservation benefit to sage-grouse.

Priority Sage-grouse Habitat

The COT Report stresses avoidance of new direct and indirect effects in Priority Areas of Conservation (PAC) habitats and other important sage-grouse habitats outside of PAC habitats. Additionally, Oregon's sage-grouse conservation plan does not currently accommodate new direct or indirect impacts to Category 1 habitats (Oregon's Category 1 habitats closely correspond to PAC habitats). The DEIS's Agency Preferred Alternative was based on long-term and difficult trade-offs between numerous competing resources (e.g., wildlife, visuals, land ownership, agriculture), but is commendable in avoiding much of Oregon's PAC habitat occurring along this linear project. However, according to the DEIS, the new transmission line and/or access roads will be sited in and/or adjacent to PACs in at least two Project segments in Oregon. Therefore, based on information in the DEIS, the Agency Preferred Alternative is not fully consistent with the COT Report's avoidance recommendations for PAC habitats, resulting in thousands of acres of new direct and indirect effects to sage-grouse PAC habitats. The Service recommends the FEIS evaluate additional opportunities to avoid any new impacts in PAC habitats, including rerouting Project features to locations outside of PAC habitats.

Minimization Measures

Where Project features cannot avoid new impacts to PAC habitats and other high quality sage-grouse habitats, the COT Report recommends applying protective minimization measures within PAC habitats and other high quality sage-grouse habitats. The FEIS should discuss any additional minimization measures that could be applied to reduce Project impacts to PAC habitats. These minimization measures in PAC habitats could include undergrounding discrete, limited distances of transmission line; co-locating the Project with existing transmission lines at narrowest allowable centerline-to-centerline separation distance; use of monopole tower structures to reduce risk of collision and avian predation; and providing key Best Management Practices (BMPs) during construction and long-term maintenance activities, such as fire prevention and response, invasive plant management, and spatial and temporal buffers for sensitive sage-grouse habitats. The FEIS should describe how new Project minimization measures (undergrounding, co-location, monopole design, high priority BMPs) will be applied

consistently across all land ownerships. The FEIS should clearly define the BLM's long-term oversight responsibilities for long-term application, maintenance, and monitoring of minimization actions, especially minimization actions associated with sage-grouse habitats on non-Federal lands.

Assessing Impacts

After exhausting and documenting all additional Project efforts to avoid and minimize new impacts to PACs and other important sage-grouse habitats, the FEIS should robustly assess any new Project direct and indirect impacts to sage-grouse habitats. The COT Report recommends assessing and quantifying a project's direct and indirect impacts to sage-grouse using a scientifically defensible approach. Examples of a scientifically defensible approach include the State of Oregon's sage-grouse conservation plan's (Plan), and associated mitigation framework's sage-grouse impact assessment guidance, and recent scientific literature on sage-grouse indirect effects associated with transmission line projects. The Service notes that the DEIS correctly applied the Plan's sage-grouse impact assessment guidance for determining new Project access road and transmission line impacts to Low Density sage-grouse habitat, but failed to incorporate recent scientific literature on indirect effects of transmission line projects to sage-grouse. Because Oregon's Plan stresses avoidance of new impacts to Category 1 sage-grouse habitat, the Plan and associated mitigation framework does not identify analytical methods for assessing direct or indirect impacts of transmission line and access roads to Category 1 and other priority habitats. Unfortunately, the DEIS incorrectly applied the Plan's Low Density habitat impact analytical methods to elevated-priority Category 1 habitats. However, we understand the BLM has begun discussions of the need for developing a methodology for calculating impacts to these priority sage-grouse habitats. The FEIS therefore should apply a new, enhanced analysis methodology for calculating any residual direct and indirect effects that will occur to Category 1 and other priority habitats that accrue from the Project's features and activities.

Compensatory Mitigation

The Project's proposed Habitat Mitigation Plan (HMP) was not included in the DEIS. The Service's previous review of the HMP indicated it was inadequate to offset the Project direct and indirect impacts to sage-grouse, as it lacked full consideration of indirect effects, proposed minimal mitigation ratios, did not provide enhanced mitigation for Category 1 and PAC habitat impacts, and did not guarantee that proposed mitigation actions would be consistent with basic mitigation standards related to additionality, durability, and effectiveness. The DEIS addressed these HMP shortcomings by identifying a Sage-grouse Mitigation Blueprint (Blueprint) and associated Project Mitigation Framework (PMF) that collectively describe how the BLM expects the Project will assess and offset significant residual adverse impacts to sage-grouse due to the construction, operation, and maintenance of the Project. The Blueprint and PMF provide guidance for impact assessment methodologies, mitigation Principles and Standards, and mitigation amounts, actions, and selection criteria. The DEIS indicated that the Project would use these two sage-grouse mitigation documents to guide its development of a new sage-grouse HMP, and the BLM would use the Blueprint and PMF documents to review and evaluate the adequacy of that updated HMP. The DEIS also indicated that the BLM would use these two documents, over the long term, to monitor and evaluate the Project's consistency with this mitigation guidance. Unfortunately the DEIS was unclear how the BLM will ensure the

Project's sage-grouse HMP will be enforceable and consistent, across all land ownerships, over the life of project effects.

The Service finds the Blueprint and PMF to be closely consistent with the Service's Range-wide Sage-grouse Mitigation Framework, and therefore supports use of these two documents in developing, evaluating, implementing, monitoring, and overseeing the Project's final sage-grouse HMP. The FEIS should use these two mitigation guidance documents to evaluate the adequacy of any updated sage-grouse HMP, and the FEIS should describe any additional HMP measures necessary to achieve full adequacy. The FEIS also should describe how the BLM will use these two documents to monitor, assess, and assure the adequacy of implementation of the final sage-grouse HMP over the Project's long-term Operations and Maintenance (O&M) phase, across all land ownerships. The FEIS also should identify measures that the BLM will take if unexpected deviations occur from the approved HMP.

State Sage-grouse Plan Update

The Service notes that the State of Oregon's ongoing SageCon process will likely define a new, Statewide sage-grouse conservation strategy that will include guidance for limiting new project impacts in Oregon's PAC habitats. If available in a timely fashion, any new Oregon sage-grouse conservation strategy should be considered and incorporated, as appropriate, into the FEIS.

MIGRATORY BIRDS

The DEIS often relied on Idaho Power Company's (IPC's) Avian Protection Plan (APP) standards for discussing the Project's siting, design, construction, maintenance, and monitoring. However, IPC's APP is generally written to discuss how IPC will manage their existing (not new) transmission infrastructure. The new Project will cross multiple, important migratory bird habitats, and will accrue significant adverse effects during construction and long-term O&M phases (e.g., permanent removal of more than 800 acres of forested habitat, plus additional danger trees removed outside of right-of-way, over the life of the Project), and therefore necessitates a Project-specific Migratory Bird Conservation Plan (Conservation Plan).

As noted in a July 23, 2013, letter to IPC, the BLM indicated it will comply with Executive Order (EO) 13186 and the MOU between the Service and the BLM for implementing EO 13186, and indicated to IPC that the company should provide an adequate assessment of migratory bird habitat loss and fragmentation due to Project impacts. The July 23, 2013, letter also indicated that the company should develop a unique Conservation Plan for the new Project, to be completed between the DEIS and FEIS, and include compensatory mitigation for the Project's direct and indirect impacts to various migratory bird habitats. Unfortunately, the DEIS did not discuss the July 23, 2013, BLM letter and its Conservation Plan-related guidance, and did not repeat the BLM's previous formal guidance that IPC should develop a Conservation Plan for inclusion in the FEIS. To the Service's knowledge, IPC has not started work on a Conservation Plan for the Project.

The Service has previously provided to IPC and the BLM an outline for an adequate Conservation Plan, with recommendations to address Project siting, design, impact assessments, monitoring, adaptive management, and compensatory mitigation. The BLM's PMF should be updated to incorporate this Service guidance for development of an adequate Conservation Plan. The FEIS should include the final Project Conservation Plan, and determine if it is adequate to

address the Project's unique impacts to migratory birds and their habitats, over the Project's life and across all land ownerships. The FEIS also should include information on how the BLM will ensure the implementation of the Conservation Plan, over the Project's life and across all land ownerships.

WASHINGTON GROUND SQUIRREL

The DEIS discussed the Project's direct and indirect effects on Washington ground squirrel, and correctly anticipated that these Project impacts will occur in currently occupied as well as suitable Washington ground squirrel habitat that may become occupied over the life of the Project. However, the DEIS did not fully assess or quantify the Project's indirect effects in currently occupied or suitable habitat. Additionally, while the DEIS indicated that compensatory mitigation would be necessary to offset the Project's indirect and direct effects in suitable Washington ground squirrel habitat, the DEIS did not identify the type and amount of compensatory mitigation necessary to offset these Project impacts. The FEIS should therefore define an analytical method for assessing indirect effects to occupied and suitable habitat, and include a compensatory mitigation plan to address all Project impacts to currently occupied and suitable Washington ground squirrel habitat, over the Project's life and across all land ownerships.

CONSISTENCY ACROSS ALL LAND OWNERSHIPS

The Project will have significant impacts on non-Federal lands, which comprise approximately two-thirds of the total Project miles. The DEIS did not clearly describe if Project actions such as design, BMPs, and compensatory mitigation were consistent between Federal and non-Federal lands, and how the BLM would ensure the Project's actions were implemented, over the Project's life, on all land ownerships. Any differing design, BMPs, and mitigations applied to different land ownerships, and any differing BLM oversight based on land ownership, will likely cause significant differences in Project impacts to occur among different landownerships.

The FEIS should explain if the Project's actions and BLM oversight will be consistently applied across all land ownerships. If Project actions and BLM oversight differ among land ownerships, the FEIS should describe these differing Project actions and BLM oversight, and provide separate impact analyses for Federal and non-Federal land impacts. The FEIS also should discuss how the BLM will manage its right-of-way authorization in future, across all land ownerships, to address any deviations from the FEIS' descriptions and commitments associated with Project actions and oversight.

PROJECT MITIGATION FRAMEWORK

The DEIS included a PMF to guide the assessment of impacts and development of adequate mitigation actions for impacted biological resources. The PMF anticipates the Project will develop compensatory mitigation plans for impacted biological resources; these mitigation plans will be consistent with the Mitigation Framework's Principles and Standards, and the PMF will be used in the FEIS to assess Project HMP adequacy. The Service supports the guidance in the PMF and anticipates it will assist in adequate impact assessment and compensatory mitigation planning. The Service also supports the DEIS statements that the BLM will use the PMF in the FEIS to assess adequacy of the Project's updated HMP, and will ensure the durability of these compensatory mitigation actions, across all land ownerships, via the BLM's Project right-of-way authorization.

The Service notes that DEIS Appendix D Table 2 does not identify compensatory mitigation for impacts to migratory bird habitats. Mitigation for migratory bird habitat impacts should be included in any updated PMF. Additionally, it is unclear if the reference in Table 2 to Washington ground squirrel mitigation was based on analysis and mitigation for impacts to Washington ground squirrel suitable habitat, as defined and discussed in Chapter 3 of the DEIS. The updated PMF should therefore indicate that these migratory bird and suitable Washington ground squirrel habitats should be addressed in the final Project HMP.

Finally, the DEIS indicates that compensatory mitigation is expected only for resources that experience “High” residual impacts. The Service recommends that any adverse residual impact to wildlife resources, from any Project phase and on any land ownership, should be subject to compensatory mitigation that is consistent with guidance in the PMF.

SUMMARY

We appreciate the opportunity to provide comments on the DEIS. The DEIS provides an important review of this complex project. These Service comments, and the DEIS, identify significant work that needs to be accomplished prior to completion of the FEIS. The Service looks forward to continuing our partnership with the BLM, between now and the FEIS publication, in support of critical energy infrastructure development while ensuring conservation of important wildlife values.

Please contact Doug Young, Energy Program Manager, at 503-231-6179 if you have any questions on the Service’s comments.

cc:

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K. Powell, FWS, Boise
G. Miller, FWS, La Grande

LITERATURE CITED

U.S. Fish and Wildlife Service. 2013. Greater Sage-grouse Conservation Opportunities Team: Final Report. U.S. Fish and Wildlife Service, Denver, CO.

U.S. Fish and Wildlife Service. 2014. Greater Sage-grouse Range-wide Mitigation Framework. U.S. Fish and Wildlife Service, Denver, CO.