

October 28, 2013

Julie A. Smith  
Office of Electricity Delivery and Energy Reliability  
Mail Code: OE-20  
U.S. Department of Energy  
1000 Independence Avenue SW.  
Washington, DC 20585.

Submitted via electronic mail to: [juliea.smith@hq.doe.gov](mailto:juliea.smith@hq.doe.gov)

Subject: Improving Performance of Federal Permitting and Review of Infrastructure Projects.  
Request for Information

Dear Ms. Smith:

Idaho Power Company (IPC) is pleased to submit comments on the Department of Energy's (DOE) draft Integrated, Interagency Pre-Application (IIP) Process. IPC is an investor-owned utility with a service territory that covers a 24,000 square mile area in southern Idaho and eastern Oregon, with an estimated population of 1,000,000.

IPC is currently working with the Bureau of Land Management (BLM), U.S. Forest Service (USFS), and Oregon Department of Energy – Energy Facility Siting Council (ODOE – EFSC) to permit two large 500 kilovolt (kV) transmission line projects in Idaho, Oregon, and Wyoming. These projects – Gateway West (GW) and Boardman to Hemingway (B2H) – are two of the seven projects designated as high priority pilot projects by the Administration and are projects under the Interagency Rapid Response Team for Transmission (RRTT) purview.

Our experiences on GW and B2H, in addition to smaller transmission line projects in Idaho, are the basis for our comments and the source of specific examples provided below. We appreciate the opportunity to comment on the Request for Information (RFI) and ask the DOE to consider the following comments.

Our first set of comments address the overall ability of the IIP Process to meet the stated goals and concerns about the proposed process. Comments regarding specific requirements are then provided.

#### **ABILITY OF THE IIP PROCESS TO ACHIEVE GOALS**

One of the goals of the IIP Process is to reduce the time required to reach a decision while also ensuring compliance with environmental laws. Without changes to the proposed process, it is very unlikely that this goal will be met and it is more likely that the process will be significantly lengthened. The IIP Process needs to, at a minimum, address the following:

- Early integration and consistency of the IIP Process with the National Environmental Policy Act (NEPA) process including scoping and environmental studies;
- Inconsistent participation by Federal Entities
- Mechanisms for cost recovery for all Federal Entities;
- Impediments to successful federal permitting and review of infrastructure not addressed by the IIP (intra-agency processes);
- Lack of adherence to project schedules and a lack of consequences when a Federal Entity does not meet a schedule milestone; and
- Inability to make decisions or changing decisions.

Intra-agency Process. The BLM is the lead agency responsible for NEPA on the GW and B2H transmission line projects. IPC has been working with the BLM, USFS, other federal and state agencies, and local stakeholders for several years to obtain authorization for the GW and B2H projects. It has been our experience that intra-agency policies and procedures are just as problematic, if not more so, than inter-agency procedures and yet there has been no visible effort made to address these. Examples of issues that have persisted within the BLM include:

- The project schedule developed by the BLM Project Manager appears to have no bearing on staff actions and the Project Manager and staff are not held accountable for not meeting agreed upon milestones. In addition, tasks were repeatedly missed in the development of the projects schedules and identified late in the process causing additional delays in the project.
- Environmental review processes to support interim actions (e.g., geotechnical surveys, cultural resource surveys) are extreme and outside of accepted protocols (e.g., a multi-year NEPA process to approve geotechnical testing; refusal to accept use of GPS units to locate areas and requirement to use a surveyor to support a cultural resource survey).
- BLM's organizational response to large multi-state, multi-field office projects is insufficient and misaligned with the scope of the project.
  - The BLM organized the GW project team around nearly the lowest organizational structure it has – the district or field level. The BLM uses a consensus-based management framework to make decisions; it is slow and conservative in making decisions.
  - Resource specialists seem driven to make decisions based on how best to protect resources in their field office or by their personal value system, not by the national priority of the project or a consistent BLM standard. These BLM employees focus on their program's priorities and processes first and foremost rather than approaching the project at a higher level appropriate to the scale of the project.
  - The project manager has no authority, and does not appear to receive adequate support from the decision makers or Washington office to manage the project according to the project schedule and accepted NEPA processes.
  - There is not a clear or consistent decision making structure within the BLM to efficiently manage projects of this scope, size, and complexity.

- Decisions made at the project level can be overturned by staff in Washington D.C., creating frustration and delays at the project level.
- BLM staff are willing to collaborate with other agencies as long as BLM policies and processes are followed. There appears to be an unwillingness or lack of regulatory ability to develop project-specific criteria that will meet multiple agency requirements while only requiring one submittal from a Project Proponent.

Options to address intra-agency issues include designating DOE as lead agency responsible for NEPA; reorganizing or developing a dedicated national team with decision making authority to work solely on large transmission projects; and / or develop a project-specific MOU that clearly defines timelines, deliverables, and an authority structure to enforce the MOU.

Mandatory Attendance. If all Federal Entities are not required to attend all IIP meetings, then the effectiveness of the meetings will be substantially decreased and the likelihood that changes or additional requests will be made in the NEPA process increases. Moreover, all Federal Entities should identify a key contact person and this person should consistently attend all meetings. GW and B2H are currently projects subject to the RRTT. Participation by Federal Entities in the monthly calls is sporadic and only a few agencies have participated on a regular basis. Agency staff on the calls are frequently unaware of project-specific issues relative to their agency and their input on the call is of limited value. When the representative does not have the required information to provide substantive feedback, promised follow-up often does not occur. Without mandatory, consistent participation, it is likely that the RRTT experience will be repeated in the IIP process.

Project Schedule. The DOE and all other Federal Entities participating in the IIP Process must agree to a project schedule and commit to that schedule. In pursuing authorization for GW and B2H we have experienced numerous schedule changes due to changes in the nature and scope of the project; Federal Entities reviewing and commenting on the schedule multiple times; lack of understanding of what a task involves; identifying all tasks required; changes in staff and resulting changes in project requirements; changes in alternatives; and changes in data requirements. While some changes are difficult to anticipate, all agencies must be required to develop and agree to a comprehensive schedule and proposed schedule changes must be explained and agreed to in writing by the Project Proponent. There needs to be a mechanism and / or review process where all parties review and agree to schedule changes.

Federal Entities must also look at ways to increase efficiencies within their agency to reduce the timeframe necessary to move the project forward. IPC has yet to experience a schedule reduction; every schedule change results in a delayed timeline. Furthermore, there has not been a one-to-one relationship in delays; a one week delay by the Project Proponent in producing a deliverable has often resulted in weeks or months of delay by the Federal Entity.

Project Decisions. IPC supports the intent of the IIP Process and sees value in collection and review of the data as proposed. However, if decisions that are made in the IIP Process are not binding or carried forward in NEPA, then there is a high probability that the process will be re-

implemented through NEPA. Having all required Federal Entities participate in the IIP Process should help minimize the potential that regulatory requirements or resource issues are not addressed and would support moving into the NEPA process without having to redo initial routing and development of alternatives. New alternatives and / or routes should only be introduced in the NEPA process if they respond to a previously unidentified stakeholder concerns or resource issue.

In addition to alternatives, the IIP Process should identify data gaps; data sources, methods, and timelines to gather the data; and data analysis. This should be a binding agreement that carries through the NEPA process. Only if new resources or issues are identified through the NEPA process should additional data or analysis be required. IPC has experienced continual changes in data requirements, requests, and levels of analysis on both GW and B2H. This has resulted in considerable schedule delays. While some of the requests are due to project changes, others are due to changes in agency staff or agency staff finally reviewing data after multiple requests. To be effective in meeting the stated goals, the IIP Process should include a process and time frame that allows for the identification of issues and data needs and then, unless there are project changes, no more requests will be entertained. This would need to be carried through the NEPA process to ensure continuity and meeting the IIP goals.

Integration with NEPA. The IIP Process must integrate with NEPA and this needs to be detailed in the process. For example, public meetings as part of the IIP Process should also be used as scoping meetings for NEPA. This would provide more comprehensive feedback into the development of alternatives (thereby reducing the likelihood of adding additional alternatives later in the process); identification of data gaps; and minimization of the number of meetings the public must attend. A key lesson learned on B2H is the public gets frustrated with multiple meetings that seem to have the same purpose and they do not want to have to submit the same comments multiple times.

If the IIP Process is not binding and is not integrated with NEPA, it does not appear that it will simplify later coordination or reduce overall time necessary for a decision. It appears that it will just shift some of the time to a new process and not result in an actual reduction—it will likely add time to the overall process.

#### **PROPOSED IIP PROCESS – SPECIFIC COMMENTS**

Cost Recovery. The IIP Proposal states that participation in the meetings “...depends on agency resources or the authority to recover costs from Project Proponents.” To be successful the IIP Process must require participation at all meetings and develop and implement a cost recovery process or provide funds for all agencies so they may participate. If Federal Entities are “excused” from participation because they do not have cost recovery in place or a mechanism to implement cost recovery, then Project Proponents will only get partial requirements and may have to redo work at a later period.

IPC has experienced delays on projects in the past because agencies would not work on the project without cost recovery in place, but they would also not provide a cost recovery estimate.

The IIP Process must establish a process and definitive timelines for cost recovery or the process will not move forward in a productive manner. Also, not all Federal Entities that should participate in the IIP Process have a mechanism for cost recovery; this should be addressed prior to implementation of the IIP Process. The DOE should consider taking the lead and develop and manage one cost recovery agreement for all federal entities. This would ensure consistent practices and that all federal entities could participate as necessary.

Lead Agency. The DOE is proposed as the lead agency for coordinating the IIP Process. IPC is not clear how decisions made by the DOE during the IIP will be preserved when the lead agency changes as the NEPA process starts. The IIP Process should identify the Federal Entity that will be the NEPA lead at the start of the IIP Process and not at the Final Meeting. The lead agency can then carry IIP decisions directly into their NEPA process.

Interim Meetings. The proposed process states that Federal Entities "...will be expected to attend all IIP Process meetings." To be effective, "will be expected" should be changed to "shall be required".

The proposed process also allows for Federal Entities to opt out of the process if they determine that their role is not significant. IPC supports this, but with the requirement that unless there are significant project changes, the agency cannot raise issues later in the process. Essentially, they have waived their right to raise issues. Moreover, agencies that are participating in the process must raise all issues in these meetings. This would require agencies to review all material and their regulations thoroughly at the start of the IIP Process; this would support and help meet the stated goals.

Initial Meeting. The proposed process states that a Project Proponent must supply end points and any intermediate substation locations, but not any study corridors or proposed routes. The process then describes a wide variety of information the Project Proponent must provide including constraints, existing land uses, habitats, etc. It is not clear how the Project Proponent can identify and provide these data without defining a study area (not to be confused with a study corridor). The IIP Process should allow the applicant to define a reasonable study area to limit the amount of data collection and geographic extent of alternatives. Without a boundary, the proponent could end up spending large amounts of time and resources collecting and presenting unnecessary data.

The proposed process states that Federal Entities will identify a variety of information including constraints, opportunities, regulations, data sources, etc. (II.E.3 – 5). Since the Project Proponent will gather data to prepare for the Initial Meeting, it would be useful if the Federal Entities provided the information identified in II.E. 3 – 5 prior to the Initial Meeting.

The proposal also requires Federal Entities to identify studies likely needed to complete the project. Federal Entities should be required to provide rationale for additional data requests including what data are available, identification of the specific data gap, and how the data will be used in the IIP Process and NEPA process. Federal Entities should not be allowed to continue

requesting additional data unless there are project changes. Moreover, the DOE should review data requests to make sure they are relevant to the project and regulations and are not a data grab. Federal Entities and the Project Proponent should reach agreement on study areas, methods, and data analysis during the IIP Process and this should be carried through the NEPA process. Projects are too often delayed because of inconsistent, changing, and additional data requests.

In addition to identifying if a contractor will be required for preparation of the NEPA document, the Federal Entities should identify the specific process and timeframe for selecting a contractor. This would include identifying specific individuals that will be responsible for developing the Request for Proposal (RFP), reviewing proposals, contracting, and the Project Proponent's role and responsibilities. The Agreement should be documented in a Memorandum of Understanding (MOU) that also addresses how changes in work scope and schedule will be addressed throughout the NEPA process.

The proposed process states that the Project Proponent "...may be required to fund the development and maintenance of one or more Web sites to share project information." The proposed process needs to make clear the purpose of a Web site; in other words, who will have access and what type of information will be placed on the site. IPC also opposes the use of multiple web sites. One web site that will be used by all Federal Entities, the Project Proponent, and other state and local entities (if applicable) should be developed. This would eliminate the risk that conflicting information is placed on multiple sites, minimize the number of sites that need to be updated, and provide one location for stakeholders to access project information. IPC has successfully done this with the B2H project<sup>1</sup>.

Public Outreach. In order to be effective, Federal Entities must also participate in public outreach efforts. Federal Entity staff should attend public meetings and be able to respond to questions regarding their processes, requirements, and regulatory authority. Because Federal Entity participation is critical to the success of public outreach, Federal Entities should be involved in the development of the public outreach plan.

Tribal Coordination Plan. The proposed process requires the Project Proponent to develop and implement a tribal consultation plan. The DOE and NEPA lead agency should be the lead responsible for the development and implementation of this plan as part of the government-to-government consultation with the tribes. Experience on GW and B2H has been that the tribes will not share the information identified in the proposed process with the Project Proponent.

Field Surveys. It appears that the proposed process assumes that the Project Proponent will conduct field studies to collect biological and cultural resource data sometime between or in preparation for the Study Corridor, Routing, and Final meetings. Because the proposed process is not binding and will not develop alternatives for the NEPA process, it is unreasonable to require a Project Proponent to conduct field surveys on routes that may not be pursued or included in the NEPA process. Field surveys are costly and involve numerous steps that can add

---

<sup>1</sup> The B2H web site is available at: <http://www.boardmantohemingway.com/default.aspx>.

significant time to the process. There are very few areas where existing data are not available and suitable for the screening level analysis that is proposed. If the IIP Process were changed and integrated with NEPA, such that the series of meetings resulted in the development of NEPA alternatives, then field surveys could be appropriate.

#### **CONCLUSIONS**

IPC supports the intent of the proposed IIP process, but does not believe that it will meet the stated goals unless there are significant changes. Changes should include the following:

- Address intra-agency issues and develop a structure that supports strong project management and decision making;
- Federal Entity participation is mandatory throughout the process;
- Decisions and schedules are binding; and
- Integrate the process with NEPA.

Without these changes, the IIP Process is not likely to result in improvements; rather, it will just shift time and effort from the NEPA process to another process. It also has the potential to increase time and effort because, as proposed, none of the decisions are binding. A Project Proponent may have to redo development of study corridors and routes as a result of the NEPA process.

Sincerely,



Vern Porter  
Vice President of Engineering and Operations