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April 4, 2016

Dr. Julie A. Smith, Ph.D.
Office of Electricity Delivery and Energy Reliability
U.S. Department of Energy
Mailstop OE-20, Room 8G-017
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Dr. Smith:

The Western Governors' Association (WGA) appreciates the opportunity to comment on the U.S. Department of Energy's (DOE) proposed rule, Coordination of Federal Authorizations for Electric Transmission Facilities (Proposed Rule), published February 2, 2016 (81 FR 5383).

STATEMENT OF INTEREST

The WGA represents the Governors of 19 western states and three U.S.-flag islands. The association is an instrument of the Governors for bipartisan policy development, information exchange and collective action on issues of critical importance to the western United States.

Western Governors recognize the importance of streamlining the siting and permitting process for electricity transmission lines and support the goal of completing the siting and permitting of lines within three years after submission of a completed application. As stated in WGA Policy Resolution 2013-09, *Energy and Transmission*, establishment of an energy distribution infrastructure system that facilitates the development of necessary infrastructure while maintaining wildlife, natural resource and environmental protection is a key energy policy priority for Western Governors.

These comments follow correspondence sent to DOE by Western Governors on October 31, 2013 (letter regarding Request for Information, Improving Performance of Federal Permitting and Review of Infrastructure Projects (78 FR 53436)).

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We wish to reiterate our shared view that:

- Participation in the Integrated, Interagency Pre-Application (IIP) Process should be mandatory for all federal agencies with transmission siting, review and approval responsibilities, but voluntary for project proponents; and
- Clarification from DOE is needed regarding how collected data will be used to streamline environmental reviews under the National Environmental Policy Act of 1969 (NEPA).

CONSULTATION WITH STATES

This issue highlights an ongoing concern of Western Governors regarding the nature and scope of consultation of federal agencies with states. As reflected in WGA Resolution 2014-09, *Respecting State Authority and Expertise*, "Western Governors support early, meaningful and substantial state involvement in the development, prioritization and implementation of federal environmental statutes, policies, rules, programs, reviews, budget proposals, budget processes and strategic planning."

Prior to publishing a proposed rule, DOE should consult with Governors and state regulators. Such consultation should occur early, prior to rule publication, and should involve substantive consultation with states during development of rules or decisions and a review by states of the proposed action before a formal rulemaking is launched and before proposals are transmitted to the White House Office of Management and Budget for finalization.

As part of early, meaningful consultation with Governors and state regulators, DOE should provide the following:

- **A detailed state consultation timeline and plan for obtaining individual state comments.**

Infrastructure development, particularly of linear facilities such as transmission lines, often occurs across federal, state and private lands. Early and substantive consultation between governing entities is vital to project success. If designed properly, the IIP Process has the potential to enhance collaboration and coordination among federal agencies, states and other transmission development stakeholders.

A review of DOE's proposal shows that, while some state concerns have been taken into account, there are additional steps the agency should take to ensure the IIP Process is as collaborative and beneficial as possible.

- **Project proponent participation should be voluntary; federal agency participation should be mandatory.**

Western Governors appreciate DOE's recognition, expressed in section 900.4(a) of the Proposed Rule and elsewhere, that project proponent participation in the IIP Process is optional. This is vital so that the process can maintain flexibility to fit a given electricity transmission project or geographic area. Project proponents should also retain the ability to opt out of participation in the IIP Process – or exit the IIP Process – without fear of reprisal.

Western Governors also appreciate DOE's recognition that participation of relevant federal agencies is mandatory. Once the IIP Process is initiated by a project proponent, participation in such process should be required of all federal agencies with responsibilities for transmission project siting, review and approval in the affected geographic area. These federal agencies should be required at minimum to participate in IIP initial meetings and IIP close-out meetings.

The Proposed Rule requires DOE to notify – and request participation of – all federal agencies in the IIP Process that have potential authorization or consultation responsibilities for a given project. This requirement should be expanded so that relevant federal agencies are required to participate in IIP initial meetings and IIP close-out meetings, as well as any additional meetings or activities deemed necessary by the project proponent, affected states or other stakeholders.

- **Streamlining the NEPA process.**

Western Governors reiterate their position that clarification is needed to specify how data provided by project proponents, or gained through IIP Process participation, will be used to streamline related NEPA processes. Comprehensive work facilitated and collected by DOE must inform the NEPA process, become a part of the administrative record used in NEPA scoping, and assure a reduction in the NEPA timeline.

Provisions contained in sections 900.4(j) through (l) of the Proposed Rule express that participation in the IIP Process yields no certainty for the project proponent with regard to NEPA. While section 900.4(l)(vi) establishes that DOE shall prepare and include a final IIP Resources Report in the IIP Process Administrative File, the Proposed Rule does not require that such documentation be used in NEPA scoping or facilitate a reduction in the NEPA timeline. Consistent, transparent and predictable process discipline needs to be applied so that NEPA timeline reductions can be reliably achieved.

Dr. Julie A. Smith, Ph.D.

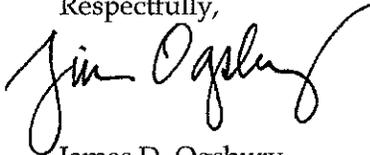
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SUMMARY

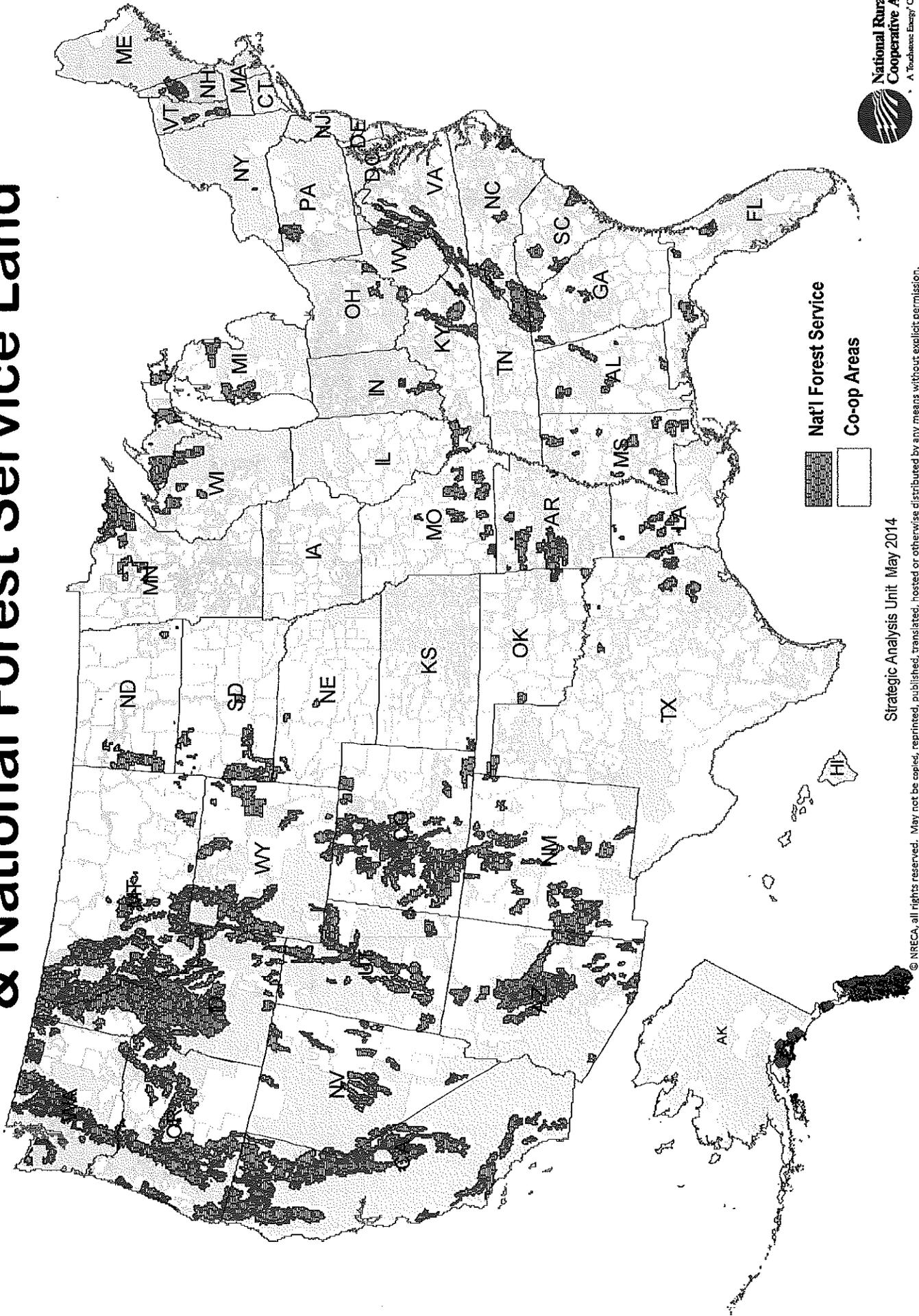
Western Governors appreciate that DOE has made project proponent participation voluntary and minimal federal agency participation mandatory in the Proposed Rule. Federal agency participation, however, should be mandatory throughout the IIP Process, and this should be stated in the final rule. Additionally, Western Governors remain concerned that the Proposed Rule contains no assured NEPA process benefit for project proponents or states and that project proponents, states and other stakeholders are afforded no opportunity to provide input regarding NEPA lead agency selection, or opportunity for comment to DOE after lead agency selection.

Respectfully,

A handwritten signature in black ink, appearing to read "Jim Ogsbury". The signature is written in a cursive, flowing style with a large initial "J" and "O".

James D. Ogsbury
Executive Director

Electric Cooperatives & National Forest Service

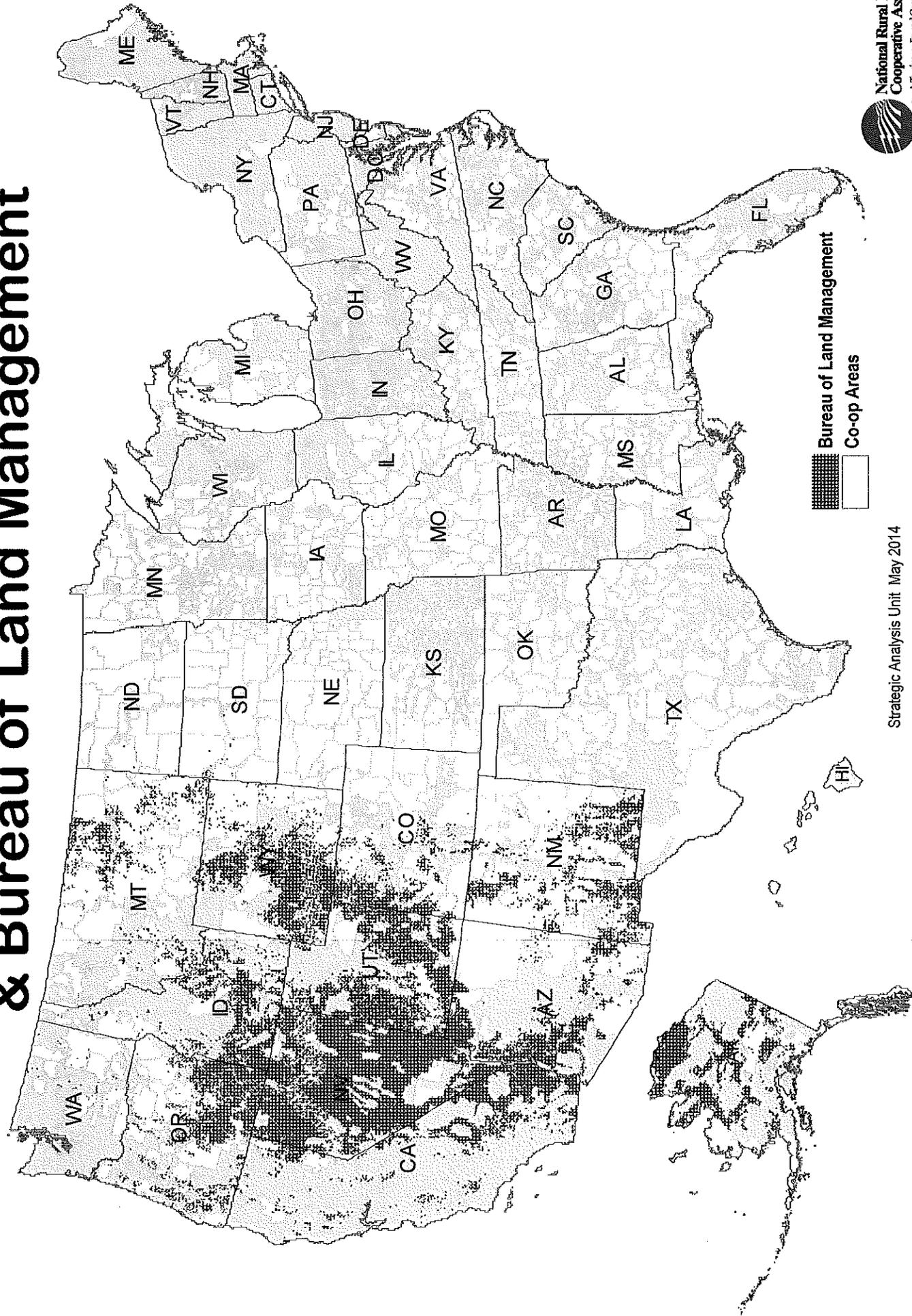


Strategic Analysis Unit May 2014

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Electric Cooperatives & Bureau of Land Management



Strategic Analysis Unit May 2014

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