If you use TDD, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**VIII. Other Information**

*Accessible Format:* Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Service Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: November 10, 2008.

**Tracy R. Justesen,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. E8–27191 Filed 11–14–08; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

**[Docket No. PP–305]**

## Record of Decision; Montana Alberta Tie Ltd.

**AGENCY:** Office of Electricity Delivery and Energy Reliability (OE), Department of Energy (DOE).

**ACTION:** Record of Decision (ROD).

**SUMMARY:** DOE announces its decision to issue a Presidential permit to Montana Alberta Tie Ltd. to construct, operate, maintain, and connect a new single-circuit 230,000-volt (230-kV) electric transmission line across the U.S.-Canada border near Cut Bank, Montana, along the preferred alternative identified in the EIS, with the environmental mitigation measures and electric reliability conditions noted below. The environmental impacts that would be associated with the line were analyzed in the *Environmental Impact Statement for the Montana Alberta Tie Ltd. (MATL) 230-kV Transmission Line* (DOE/EIS–0399, MATL EIS). The transmission line, known as the MATL Project, would originate at an existing NorthWestern Energy (NWE) 230-kV Switchyard at Great Falls, Montana, and extend north to a new substation to be constructed northeast of Lethbridge, Alberta, Canada. Approximately 130 miles of the 203-mile long transmission line would be constructed in the United States.

In reaching this decision, DOE considered the low environmental impacts in the United States from constructing, operating, maintaining, and connecting the proposed international transmission line, the absence of adverse impacts to the reliability of the U.S. electric power supply system, the absence of major issues of concern to the public, and the favorable recommendations of the Departments of State and Defense.

DOE has prepared this ROD in accordance with the regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508) for implementing the National Environmental Policy Act (NEPA), and DOE's NEPA Implementing Procedures (10 CFR Part 1021).

**ADDRESSES:** The Final EIS is available on the DOE NEPA Web site at *http://www.gc.energy.gov/NEPA/.* This ROD also will be available on the same DOE NEPA Web site and on the OE Web site at *http://www.oe.energy.gov/permits_pending.htm.* In addition, this ROD may be requested by contacting Mrs. Ellen Russell, Senior Project Manager, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, OE–20, 1000 Independence Avenue, SW., Washington, DC 20585, by telephone at 202–586–9624, by facsimile at 202–586–8008, or at *Ellen.Russell@hq.doe.gov.*

**FOR FURTHER INFORMATION CONTACT:** For further information about the MATL EIS, contact Ellen Russell as indicated in the **ADDRESSES** section above. For general information on the DOE NEPA process, contact Ms. Carol Borgstrom, Director, Office of NEPA Policy and Compliance, GC–20, 1000 Independence Avenue, SW., Washington, DC 20585, by telephone at 202–586–4600, or leave a message at 800–472–2756.

**SUPPLEMENTARY INFORMATION:** DOE and the State of Montana Department of Environmental Quality (DEQ) are the lead agencies in the preparation of the State of Montana Final EIS and DOE Federal Final EIS, entitled *Environmental Impact Statement for the Montana Alberta Tie Ltd. (MATL) 230-kV Transmission Line* (DOE/EIS–0399, MATL EIS). The Bureau of Land Management (BLM), U.S. Department of the Interior, is a cooperating agency.

**Background**

Executive Order (E.O.) 10485 (September 9, 1953), as amended by E.O. 12038 (February 7, 1978), requires that a Presidential permit be issued by DOE before electric transmission facilities may be constructed, operated, maintained, or connected at the U.S. international border.[1] DOE may issue or amend a permit if it determines that the permit is in the public interest and after obtaining favorable recommendations from the U.S. Departments of State and Defense. In determining whether issuance of a permit for a proposed action is in the public interest, DOE considers the environmental impacts of the proposed project pursuant to NEPA, determines the project's impact on electric reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and considers any other factors that DOE believes are relevant to the public interest.

MATL, a private Canadian corporation owned by Tonbridge Power, is proposing to construct and operate an international 230-kV, alternating current merchant (*i.e.*, private) transmission line that would originate at the existing NWE 230-kV Switchyard at Great Falls, Montana, and extend north to a new substation to be constructed northeast of Lethbridge, Alberta, Canada. The line would cross the U.S.-Canada international border north of Cut Bank, Montana. Approximately 130 miles of the 203-mile long transmission line are proposed to be constructed in the United States. The proposed line would be constructed and owned by MATL. It would be part of the Western Interconnection (western grid)[2]. A

[1] The authority to administer the International Electricity Regulatory Program through the regulation of electricity exports and the issuance of Presidential permits has been delegated to the Assistant Secretary for Electricity Delivery and Energy Reliability in Redelegation Order No. 00–002.10C issued on May 29, 2008.

[2] There are three distinct power grids or ''interconnections'' within the United States: the Eastern Interconnection, the Western Interconnection, and the Electric Reliability Council of Texas. The three interconnections are electrically independent from each other except for a few low capacity direct current transmission lines that loosely link them. Within each interconnection, electricity is produced the instant it is used, and

phase shifting transformer would be installed at the substation near Lethbridge to control the direction of power flows on the line.

Before constructing and operating the proposed transmission line, MATL must obtain a Presidential permit from DOE (10 CFR 205.320, et seq.) and a Certificate of Compliance (certificate) from DEQ under the Montana Major Facility Siting Act (MFSA)(75–20–101, et seq., Montana Code Annotated). In October 2005, MATL applied to DOE for a Presidential permit and to DEQ for a certificate.

**NEPA Review**

Because of the similarities in NEPA and the Montana Environmental Policy Act (MEPA) requirements, DOE and DEQ (the ''agencies'') cooperated in the preparation of a single environmental review document that would satisfy both Federal and State requirements. Initially, DOE considered an environmental assessment (EA) to be the appropriate level of review under NEPA while DEQ considered the appropriate level of review under MEPA to be an EIS. DOE issued a Notice of Intent to Prepare an Environmental Assessment and to Conduct Public Scoping Meetings and Notice of Floodplain and Wetlands Involvement in the **Federal Register** on November 18, 2005 (70 FR 69962). Three scoping meetings were held in December 2005, and in March 2007 the agencies published a document titled *Draft Environmental Impact Statement for the Montana Alberta Tie Ltd. (MATL) 230-kV Transmission Line* that served as a Draft EIS for DEQ and an EA for DOE. Comments received on that document during the 55-day public comment period indicated that additional analysis was required to address land use and potential effects on farming caused by the MATL line and also to account for changes to State tax law that took place in Montana's April 2007 special legislative session. Based on this new information, DOE determined that an EIS was now required to properly assess the environmental impacts.

On June 7, 2007, DOE published a Notice of Intent to Prepare an EIS and to Conduct Scoping in the **Federal Register** (72 FR 31569) and invited additional comments for a 30-day period. On July 27, 2007, MATL submitted to BLM an Application for Transportation and Utility Systems and Facilities on Federal Land. On September 6, 2007, DOE invited BLM to participate as a cooperating agency in the preparation of the EIS in order to address BLM's authority to consider whether to approve MATL's request for a right-of-way grant to cross Federal lands managed by BLM and the proposed project's relationship to relevant BLM land use plans. On October 12, 2007, BLM agreed to be a cooperating agency.

On February 15, 2008, the U.S. Environmental Protection Agency (EPA) published a Notice of Availability of the Draft EIS in the **Federal Register** (73 FR 8869), which began a 45-day public comment period that ended on March 31, 2008. During the comment period, the agencies hosted three public hearings during which the public was invited to submit both oral and written comments. The agencies also accepted written comments from the public throughout the comment period.

All comments received on the Draft EIS were considered in the preparation of the Final EIS. The agencies issued the Final EIS for the MATL 230-kV transmission line in September 2008. A notice of availability of the Final EIS was published by EPA in the **Federal Register** on October 3, 2008 (73 FR 57619).

**Alternatives Considered**

The EIS evaluated the international transmission line as proposed by MATL, the No Action alternative, and two additional action alternatives, plus several Local Routing Options and minor variations to the Local Routing Options.

The No Action alternative was designated Alternative 1. Under this alternative DOE would not grant a Presidential permit and DEQ would not grant a certificate and, therefore, the proposed MATL international transmission line would not be constructed. This alternative reflects the status quo and serves as a benchmark against which MATL's proposal and other action alternatives are evaluated. Since under the No Action alternative MATL's proposed transmission line would not be built, implementation of the No Action alternative would not cause impacts to the environment that the construction and operation of the proposed transmission line would. Therefore, the No Action alternative is the environmentally preferable alternative.

The transmission line project as proposed by the applicant was designated Alternative 2. Under this alternative MATL would construct and operate a 230-kV transmission line in a 129.9-mile-long corridor between Great Falls, Montana, and the U.S.-Canada border, connecting across that border to the portion of the line to be constructed in Alberta, Canada. The interconnection of the line north of Great Falls would require NWE to enlarge its existing 230-kV Great Falls Switchyard to accommodate the new line and other potential future lines. The MATL line would extend from the expanded Great Falls Switchyard to a new substation that MATL would construct on agricultural land approximately 10 miles south of Cut Bank, Montana. From that point the line would continue north to the U.S.-Canada border at the western edge of the Red Creek Oil Field. The proposed line would occupy a 105-foot-wide right-of-way within a 500-foot-wide area that was analyzed in the EIS. The typical span between support structures would be about 800 feet, but could range from 500 feet to 1,600 feet depending upon the topography. Metal monopole support structures would be used on about 56 miles of the line where it would cross cropland and Conservation Reserve Program (CRP) land diagonally. On the remaining 74 miles wooden H-frame structures would be used.

Alternative 3 was developed by MATL in response to a siting criterion under MFSA that gives consideration to paralleling existing utility corridors. Under this alternative a 121.6-mile-long transmission line would be built in a corridor that would generally parallel an existing 115-kV transmission line along the entire route from the 230-kV Great Falls Switchyard to a new substation near Cut Bank. From this substation Alternative 3 would continue north, crossing the border approximately 4 miles west of the border crossing for Alternative 2. Alternative 3 would be similar in most other respects to Alternative 2, but it would use only H-frame structures for the entire length of the line.

Alternative 4 was developed by the agencies to address public concerns raised during the EIS process. It was designed to reduce transmission line interference with farming activities and reduce the proximity to residences. This alternative would be the longest of the three action alternatives at 139.6 miles. The alignment would use portions of the Alternative 2 alignment from north of Conrad to the Montana-Alberta border, but in other areas it would maximize the use of range and pasture land in order to avoid cultivated land. Where cultivated land would be crossed, the line would generally be located along field or strip boundaries. Alternative 4 would be similar in most other respects to Alternative 2, except that monopole structures would be used on all 88.9 miles where the line would

flows over virtually all transmission lines from generators to customer loads.

cross cropland and CRP land, not just where such lands would be crossed on the diagonal as in Alternative 2.

Several Local Routing Options and minor variations, which could be applied to Alternative 2 and in some instances to Alternative 4, were developed by the agencies to address landowner concerns related to costs, impacts to farming, impacts to other land uses, and proximity to residences. The Local Routing Options and minor variations were also analyzed in the EIS.

The preferred alternative identified by the agencies in the Final EIS consists of portions of Alternatives 2 and 4 and some Local Routing Options as described in detail in Section 2.7 of the EIS. It begins at the Great Falls Switchyard and follows Alternative 4 for 27.3 miles. From that point to Milepost 103.1, the preferred alternative primarily follows Alternative 2, but includes the Diamond Valley South, Teton River, Southeast of Conrad, Northwest of Conrad, Belgian Hill, Bullhead Coulee South, Bullhead Coulee North, and South of Cut Bank Local Routing Options. The preferred alternative crosses Federal land managed by BLM between Milepost 93.4 and Milepost 94.0. North of Milepost 103.1 the preferred alternative coincides with Alternatives 2 and 4 to join with the border crossing approved by Canada. The total length of the preferred alternative is 133.5 miles and would contain about 83.6 miles of monopoles and 49.9 miles of H-frame structures.

**Analysis of Environmental Impacts**

The EIS analysis found that no natural resources would experience a significant impact from implementation of any action alternative. Potential impacts in the 500-foot wide analysis area and cumulative impacts would be similar for all three action alternatives.

The No Action alternative would not change any of the resource conditions in the region, but it would forgo the expected socioeconomic benefits of the proposed transmission line, as there would be no additional employment from construction and operation of the transmission line, and no increase in county or State tax revenue. There would be no additional impacts or compensation to farmers for use of their land. There would be no additional transmission capacity available for integrating new or existing power generators.

All of the action alternatives would result in some loss of and interference with crop production. Alternative 3 would have the most impacts to crop production because it would include the most diagonal crossing of crop lands and because H-frame structures would be used on all cropland crossings. Alternative 3 would add to impacts associated with farming around transmission support structures because this alternative would closely parallel an existing 115-kV transmission line between Great Falls and Cut Bank. Alternative 4 would have less impact on crop production than the other action alternatives because it would include the least diagonal crossing of cropland and CRP land and would use monopoles wherever it would cross such land.

Under all action alternatives, the proposed line would comply with the requirements of the National Electric Safety Code. On cultivated and CRP lands expected heights of the tallest farming equipment (*i.e.*, 20 feet), including antenna heights, would be used to determine the minimum ground clearance of 27.2 feet for the safe operation of such equipment under the line.

Construction activities under all of the action alternatives could result in increased soil erosion and release of sediment to streams, lakes, and wetlands, although best management practices would reduce or avoid potential impacts. Alternative 4 was found to have the highest potential for soil erosion and sediment discharge to surface waters because the 500-foot-wide analysis corridor associated with this alternative would intersect the largest area of potentially unstable soils and the most streams. The analysis corridor associated with Alternative 2 would intersect the smallest area of unstable soils and the fewest wetlands, while the analysis area for Alternative 3 would intersect the fewest streams but the largest area of wetlands and the largest number of lakes. Other than the placement of one structure in Black Horse Lake under Alternative 2, transmission line structures would not be placed in wetlands. However, the agencies' preferred alternative avoids this impact by routing the transmission line away from Black Horse Lake.

All action alternatives would produce some localized short-term emissions of particulate matter during construction. In addition, all action alternatives would emit very small amounts of greenhouse gases, principally from vehicle and equipment operations during construction. These construction-related greenhouse gas emissions were estimated and found to be negligible.

Under all action alternatives, some bird mortality could result from collisions with transmission lines even after mitigating measures are applied; potential impacts would be somewhat less under Alternative 4 than the other alternatives because Alternative 4 would not be located as close to the Benton Lake National Wildlife Refuge. Under all action alternatives portions of the transmission line would cross some potential habitat for special status species. Although no adverse effects to special status species are expected from any of the action alternatives, Alternative 2 would cross more potential habitat for special status species than Alternatives 3 and 4. No designated critical habitat would be crossed by any of the alternatives. In compliance with section 7 of the Endangered Species Act (ESA), DOE conducted a Biological Assessment and consulted with the U.S. Fish and Wildlife Service (FWS). On September 16, 2006, the FWS concurred with DOE's determination that the proposed line may affect, but will not adversely affect, any species listed as threatened or endangered under the ESA.

Under any of the action alternatives, transmission line construction could disturb archaeological or historical resources. To avoid or reduce impacts to such resources, MATL would be required to implement project-specific cultural resource protection measures (*e.g.*, using monitors when working in the vicinity of archeological sites, placing poles so as to avoid impacts to cultural resource sites, prohibiting development of access roads through cultural resource sites). Impacts to Traditional Cultural Properties (TCPs) would be minimized by avoiding disturbance to TCPs and potential locations identified by knowledgeable Tribal members.

Short-term, localized construction noise would occur under any of the action alternatives. In general, operation of the transmission line would not add substantially to existing background noise levels, but noise from rain or wind on the transmission line could cause noise levels to exceed a State of Montana standard in one subdivided area near a short segment (0.16 mile) of the Alternative 4 alignment. However, the agencies' preferred alternative does not include this portion of Alternative 4.

All action alternatives would provide socioeconomic benefits in the short term due to construction-related employment. In the long term there would be increased opportunities to import or export electric power, and the presence of the transmission line could help make it possible to build new generation facilities. State and local governments would receive additional tax revenue from the line. Under all action alternatives, farmers would incur additional costs due to the need to farm

around transmission line structures placed on their properties. MATL would compensate landowners with one-time easement payments for the right-of-way, annual per-pole payments, and annual flat fees for the additional costs of farming caused by the transmission line. Some agricultural landowners would also receive a State property tax exemption for property affected by the transmission line.

Under all action alternatives, nearby residents and motorists using travel corridors would be exposed to views of a transmission line. Alternative 3 would expose the largest number of nearby residences and the longest length of travel corridors to near-field views within ½ mile of the proposed line. Alternative 4 would have the lowest overall visibility to nearby residences and travel corridors, but Alternatives 2 and 4 would be similar with respect to the number of residences within ¼ mile.

The Notice of Intent that initiated the DOE NEPA review process (70 FR 69962; November 18, 2005) also initiated a floodplain and wetlands assessment in accordance with DOE regulations in 10 CFR Part 1022. The notice stated that DOE would issue a floodplain statement of findings at the conclusion of that assessment. The EIS considered potential impacts to floodplains and found that there would be no floodplain involvement under any of the action alternatives. Under all action alternatives, the line would cross floodplains of the Teton, Dry Fork Marias, and Marias river crossings, but there would be no placement of transmission line structures or other construction in any 100-year floodplain. Because no part of the action would be located in a floodplain, a floodplain statement of findings is not required.

**Cumulative Impacts**

Past and present facilities and activities that are potential sources of cumulative environmental impacts in the project vicinity include at least 17 pipelines and 8 transmission lines that transect the area; farming (irrigated and non-irrigated), grazing, weed management, hunting, and general recreation; growth of cities and towns, residential areas, and industrial and commercial areas; and development of Federal and State highways and county roads, railroads and railroad rights-of-way, communication facilities, military installations, conservation easements, airports, and national trails.

Reasonably foreseeable future actions that could occur in the Project study area (*i.e.*, an area that includes alternatives and areas where roads may be built or improved) include the development of wind farms, reconstruction and relocation of an existing electricity transmission line, two fossil-fueled power plants (250-megawatt (MW) coal-fired and 275-MW gas-fired) proposed to be built near Great Falls, additional irrigation systems on area farmland, and the potential for MATL to upgrade the capacity of the proposed line from 300 MW to 400 MW in each direction. Transmission rights on the proposed line have been sold to companies that are prospective developers of wind farms, but the transmission capacity could be sold and used for electricity generated by other means. For the purpose of assessing potential cumulative impacts in the EIS, it was conservatively estimated that the proposed transmission line would provide sufficient transmission capacity for 400 to 533 new wind turbines.

Construction activities associated with reasonably foreseeable future actions, including new or expanded wind farms, would depend on the type, location, and design of development. Potential effects of this construction on soils, surface waters, air quality, wetlands, vegetation, wildlife, and cultural resources would be similar in kind to the potential impacts of building the proposed transmission line, but could differ in magnitude depending on the action. Operation of proposed coal- and gas-fired power plants would increase the emission of air pollutants, but ambient air pollutant concentrations resulting from these and other ongoing and reasonably foreseeable activities would continue to be well below applicable State and Federal ambient air quality standards. Generation of electricity by potential wind farms could contribute to reducing emissions of greenhouse gases by avoiding the need to generate equal amounts of electricity from fossil fuels, while the proposed coal- and gas-fired power plants near Great Falls could contribute greenhouse gases with global warming potential equivalent to more than 4 million tons/year of carbon dioxide, equal to about 10 percent of Montana's total emissions of greenhouse gases in 2005. Wind turbines, meteorological towers and associated guy wires, and overhead distribution lines would be a potential collision hazard to birds and bats. Operation of wind turbines potentially built by developers with contracted capacity on the proposed MATL transmission line is estimated to result in approximately 720 to 960 bird fatalities and 30 to 7,100 bat fatalities per year. Operation of wind turbines would result in noise; noise levels would depend on the observer's location. Wind farms would be highly visible in the landscape because turbines would be introduced into rural landscapes with few other comparable structures.

**Comments Received on the Final EIS**

After publication of the Final EIS, DOE received a telephone comment from a member of the public and a written comment from the U.S. EPA. The telephone commenter expressed the belief that his prior comments had been censored and offered three assertions in support of his claim: (1) An attachment to a written comment he submitted on the Draft EIS had been excluded from the Final EIS; (2) a written document submitted by the commenter during a hearing on the Draft EIS had also been excluded from the Final EIS; and (3) he had been prevented from speaking at a hearing held in March 2007 to receive comments on the State Draft EIS and the Federal EA.

With respect to the first claim, the attachment to the commenter's written comment was a letter sent to the commenter from a law firm representing MATL and discussed the acquisition of an easement across the commenter's property. DOE included the attachment in the administrative record but not in the comment response section of the Final EIS because the attachment contained no information or comments related to the Draft EIS. With regard to the second assertion, the document submitted by the commenter during the hearing on the Draft EIS in March 2008 contained a list of talking points circulated by a group that encouraged its members to present oral comments in support of the MATL project. Each of the talking points contained in the document submitted by the telephone commenter was in fact discussed by numerous individuals during the hearings on the Draft EIS. These talking points and comments were contained in the transcripts of the hearings and included in the comment response section of the Final EIS along with the agencies' responses.

Concerning the third assertion, DOE generally does not conduct public hearings on an EA before it is approved, although DOE provides it to the State, and often to the public, before approval. Therefore, DOE did not participate in the hearings held by DEQ in March 2007 on the State Draft EIS and the Federal EA. Nonetheless, in light of the commenter's claim, DOE reviewed the audio transcripts of those hearings and determined that the commenter presented uncensored oral comments at the hearing held in Conrad on March 27,

2007, and attended the hearing in Cut Bank on March 28, 2007. Based on the review of the record, DOE has found no evidence of censorship on the part of the presiding officer and no attempt to prevent the commenter or anyone else from making a statement or presenting a comment at any of the public hearings held in this proceeding.

The EPA Region 8 submitted written comments dated October 21, 2008, on the Final EIS acknowledging the agencies' responses to EPA's comments on the Draft EIS. In addition EPA stated its appreciation for information added to the Final EIS, including bird migration corridor maps and evaluation of potential avian impacts from the proposed transmission line. EPA did not oppose implementation of the MATL project and noted that the EIS "* * * shows that complex considerations were involved in evaluation of alternative routing options, and significant effort was put into evaluating and comparing the many project trade-offs, and that many mitigation measures for environmental protection are included."

**Decision**

DOE has decided to issue Presidential Permit PP–305 authorizing MATL to construct, operate, maintain, and connect a 230-kV electric transmission line across the U.S.-Canada border along the preferred alternative identified and analyzed in the EIS, with the environmental mitigation measures and electric reliability conditions noted below.

**Mitigation**

Avoidance of potential environmental impacts was a consideration in identification and selection of the preferred alternative. The routing of this alternative avoids some wildlife habitat areas potentially affected by Alternative 2, and the routing and design of the alternative are intended to minimize adverse impacts to cultivated agricultural land uses. DOE's Presidential permit will contain a condition that requires MATL to implement all project-specific environmental protection measures it proposed in its MFSA application, as described in the EIS, and also the environmental specifications incorporated by reference in the Certificate of Compliance issued by DEQ on October 22, 2008. The permit condition will specify that, where there is a conflict between the MATL-proposed measures and the environmental specifications developed by DEQ, the more environmentally protective provision will apply. With the implementation of the preferred alternative and the inclusion of the mitigation measures that will be made a condition of the Presidential permit, DOE has employed all practicable means to avoid or minimize environmental harm. The DEQ Certificate of Compliance, the MATL-proposed protection measures, and the DEQ-developed environmental specifications can be found on the DEQ Web site at *http://deq.mt.gov/MFS/MATL.asp.*

**Basis for Decision**

In reaching this decision, DOE considered the low environmental impacts in the United States from constructing, operating, maintaining, and connecting the proposed international transmission line, the absence of adverse impacts to the reliability of the U.S. electric power supply system, the absence of major issues of concern to the public, and the favorable recommendations of the Departments of State and Defense.

DOE has determined that the potential environmental impacts from the DOE preferred alternative, with implementation of the stipulated mitigation measures, are expected to be small, as discussed above, and overall less than the expected impacts from any of the other action alternatives. DOE's decision is also consistent with the Certificate of Compliance issued by DEQ on October 22, 2008, which authorized construction of the MATL project along the route identified as the preferred alternative and analyzed in the EIS, and represents a balance between avoidance of impacts to farmland, cost to farmers, avoidance of residences, public acceptance, and the use of public lands.

DOE did not select the No Action alternative because it would forgo the expected benefits of the proposed transmission line to the economy of Montana and because it would not be consistent with the finding of the Montana DEQ that there is a need for the transmission capacity that would be provided by the MATL project.

DOE has determined that granting a Presidential permit to MATL for construction of an international transmission line along the route identified as the preferred alternative in the EIS is consistent with the public interest based on the consideration of environmental impacts, the lack of adverse impacts on the reliability of the U.S. electric power supply system, the absence of major issues of concern to the public, and the favorable recommendations of the Departments of State and Defense. In reaching the finding on electric system reliability, DOE considered the information contained in the *System Impact Study* commissioned by NWE, dated September 26, 2006, and the *Phase 2 Study Report* accepted by the Project Review Group of the Western Electricity Coordinating Council (WECC) [3], dated July 24, 2007, both of which were submitted to DOE by MATL in support of its application for a Presidential permit.

The results of the *System Impact Study* indicate that the proposed international transmission line can be interconnected to the NWE system at the Great Falls substation and operated without violating industry-established reliability criteria provided that MATL mitigates potential overloads on two autotransformers identified in the contingency analysis and operates its shunt capacitor facilities in such a way as to avoid high voltages during all electric system operating conditions. The Presidential permit to be issued to MATL will contain a condition requiring it to comply with these interconnection requirements.

The results of the WECC *Phase 2 Study Report* indicate that the proposed MATL line can be installed and operated without having an adverse impact on the reliability of the U.S. electric power system provided that MATL implements the mitigation plan described in that report. MATL has committed to implementing this mitigation plan which includes development and implementation of a remedial action scheme and related operating procedures and nomograms.[4] The Presidential permit to be issued to MATL will contain a condition requiring MATL to develop and implement the mitigation and adhere to all other operating requirements that may be prescribed by WECC and/or NWE.

For the foregoing reasons, DOE has decided to issue Presidential Permit PP–305 to MATL authorizing the construction, operation, maintenance, and connection of a 230-kV transmission line across the U.S.-

[3] The Western Electricity Coordinating Council is one of 8 regional electric reliability councils within the United States. It is responsible for coordinating and promoting electric reliability in all or part of the 14 western states, the Canadian Provinces of British Columbia and Alberta, and the northern portion of Baja California, Mexico.

[4] Remedial action schemes and nomograms are operating procedures that establish limits on the amount of electric power that may be transmitted over a particular transmission line or produced by a generating station under varying electric system conditions of load and equipment availability. These operating procedures establish a means of avoiding or mitigating any reliability problems that are expected to exist under various system contingencies.

Canada border along the preferred alternative identified and analyzed in the EIS, with the environmental mitigation measures and electric reliability conditions noted above.

Dated: November 12, 2008.

**Kevin M. Kolevar,**

*Assistant Secretary, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. E8–27187 Filed 11–14–08; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Bonneville Power Administration

### 2008 Columbia Basin Fish Accords Memorandum of Agreement with the Shoshone-Bannock Tribes

**AGENCY:** Bonneville Power Administration (BPA), Department of Energy (DOE).

**ACTION:** Notice of availability of Record of Decision (ROD).

**SUMMARY:** This notice announces the availability of the ROD for the 2008 Columbia Basin Fish Accords Memorandum of Agreement (MOA) with the Shoshone-Bannock Tribes consistent with and tiered to the Fish and Wildlife Implementation Plan Environmental Impact Statement (DOE/EIS–0312, April 2003) and ROD (October 31, 2003). BPA has decided to enter into a MOA with the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation in Idaho and two Federal agencies (the U.S. Army Corps of Engineers and the U.S. Bureau of Reclamation) to provide for 10-year mutual commitments to implement projects for the benefit of fish and wildlife within the Columbia River Basin. BPA believes the agreement will benefit fish and wildlife in the region by providing additional actions, greater clarity regarding biological benefits, and secure funding. The agreement also provides substantial benefits for wildlife and fish populations, both anadromous and resident fish, within the Basin and within Idaho. The agreement will also help BPA meet its treaty and trust responsibilities to the tribes.

**ADDRESSES:** Copies of the ROD may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. The ROD is also available on the BPA Web site, *http://www.bpa.gov/corporate/pubs/rods/2008/.*

**FOR FURTHER INFORMATION CONTACT:** Sandra Ackley, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon, 97208–3621; toll-free telephone number 1–800–282–3713; fax number 503–230–5699; or e-mail *sjackley@bpa.gov.*

Issued in Portland, Oregon, on November 6, 2008.

**Stephen J. Wright,**

*Administrator and Chief Executive Officer.*

[FR Doc. E8–27186 Filed 11–14–08; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL09–8–000]**

### Lavand & Lodge, LLC Complainant v. ISO New England, Inc. Respondent; Notice of Complaint

November 10, 2008.

Take notice that on November 3, 2008, Lavand & Lodge, LLC (Complainant) filed, pursuant to sections 206 and 212 of the Rules and Practice and Procedure, 18 CFR 385.206 and 385.212, a formal complaint against ISO New England, Inc. (Respondent) alleging that the Respondent breached its obligation relative to certain settlement constructs.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. Eastern Time on November 28, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8–27173 Filed 11–14–08; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. TX09–1–000]**

### Powerex Corp.; Notice of Filing

November 10, 2008.

Take notice that on November 5, 2008, Powerex Corp. (Powerex) filed an application for an Order, requesting that the Commission require Nevada Power Company (Nevada Power) to provide transmission serve to Powerex, pursuant to section 211 of the Federal Power Act and section 5.2 of Nevada Power's Open Access Transmission Tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed