

Director's Protest Resolution Report

**Gateway West Segments
8 & 9
Proposed Resource
Management Plan
Amendments
and
Final Environmental
Assessment
(PRMPAs/EA)**

March 30, 2018



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Reader's Guide

How do I read the Report?

The Director's Protest Resolution Report is divided into sections, each with a topic heading, excerpts from individual protest letters, a summary statement (as necessary), and the Bureau of Land Management's (BLM) response to the summary statement.

Report Snapshot

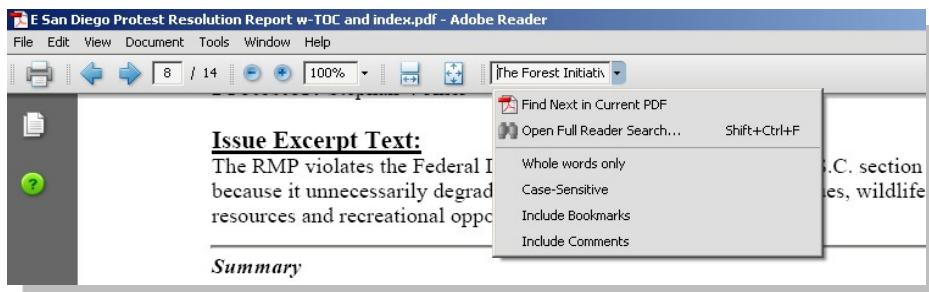
The diagram shows a report layout with several sections and callouts:

- Topic heading:** *Issue Topics and Responses*
- Submission number:** NEPA
- Issue Number:** PP-ID-GATEWAY-18-01
- Organization:** The Forest Initiative
- Protesting organization:** (Callout pointing to the organization name)
- Protester:** John Smith
- Protester's name:** (Callout pointing to the protester's name)
- Issue Excerpt Text:** Rather than analyze these potential impacts, as required by NEPA, the BLM postpones analysis of renewable energy development projects to a future case-by-case analysis. (Callout: Direct quote taken from the submission)
- Summary:** The BLM inadequately analyzes NEPA for renewable energy projects in the PRMP/FEIS. (Callout: General statement summarizing the issue excerpts (optional).)
- Response:** BLM's response to the summary statement or issue excerpt if there is no summary. (Callout: BLM's response to the summary statement or issue excerpt if there is no summary.)

Specific renewable energy projects are implementation-level decisions rather than RMP-level decisions. Upon receipt of an application for a renewable energy project, the BLM would require a site-specific NEPA analysis of the proposal before actions could be approved (FEIS Section 2.5.2, p. 2-137). Project specific impacts would be analyzed at that time (including impacts to surrounding properties), along with the identification of possible alternatives and mitigation measures.

How do I find my Protest Issues and Responses?

1. Find your submission number on the protesting party index which is organized in the order protest letters were received by the BLM.
2. In Adobe Reader search the report for your name, organization or submission number (do not include the protest issue number). Key word or topic searches may also be useful.



List of Most Commonly Used Acronyms

APLIC	Avian Power Line Interaction Committee	IB	Information Bulletin
BA	Biological Assessment	IM	Instruction Memorandum
BLM	Bureau of Land Management	MOU	Memorandum of Understanding
BO	Biological Opinion	NEPA	National Environmental Policy Act of 1969
CEQ	Council on Environmental Quality	NHPA	National Historic Preservation Act
CFR	Code of Federal Regulations	NHT	National Historic Trail
CWA	Clean Water Act	NOA	Notice of Availability
DEIS	Draft Environmental Impact Statement	NOI	Notice of Intent
DM	Departmental Manual (Department of the Interior)	NRHP	National Register of Historic Places
DOI	Department of the Interior	MBTA	Migratory Bird Treaty Act of 1918
EA	Environmental Assessment	PRMPA	Proposed Resource Management Plan Amendment
EIS	Environmental Impact Statement	RMZ	Recreation Management Zone
EO	Executive Order	ROD	Record of Decision
EPA	Environmental Protection Agency	ROW	Right-of-Way
ESA	Endangered Species Act	SDNM	Sonoran Desert National Monument
FEIS	Final Environmental Impact Statement	SHPO	State Historic Preservation Office
FLPMA	Federal Land Policy and Management Act of 1976	SRBOPA	Snake River Birds of Prey National Conservation Area
FO	Field Office (BLM)	THPO	Tribal Historic Preservation Officer
HPMP	Historic Properties Management Plan	TMC	Trail Management Corridor

Protesting Party Index

Protester	Organization	Submission Number	Determination
Katie Fite	Wildlands Defense	PP-ID-GATEWAY-18-01	Denied – Issues and Comments

Issue Topics and Responses

Issue Number: PP-ID-GATEWAY-18-01

Organization: Wildlands Defense

Protester: Ms. Katie Fite

NEPA – Range of Alternatives

Issue Excerpt Text:

While the Legislation constrained the location in the [Snake River Birds of Prey National Conservation Area] SRBOPA, other areas are not constrained, and BLM should consider alternatives that:

- co-locate this line with existing lines to the maximum extent possible combined with upgrading existing line segments to a Double Circuit new transmission;
- locate this line along the I-84 corridor to the maximum extent possible; and
- a combination of co-location and paralleling the I-84 corridor, and burying significant portions of line segments.

These alternatives and variations on them – including combinations - must be thoroughly analyzed in a Supplemental EIS.

Summary:

The Gateway West Proposed Resource Management Plan Amendments and Environmental Assessment (PRMPAs/EA) Range of Alternatives is inadequate because there is no consideration of co-locating lines in existing corridors, such as the I-84 corridor. Analysis of alternatives should occur in a Supplemental Environmental Impact Statement (SEIS).

Response:

The BLM considers a reasonable range of alternatives as identified in the Environmental Assessment (EA) for the Gateway West project in compliance with NEPA. NEPA requires an agency to rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, to briefly discuss the reasons for their having been eliminated (40 CFR 1502.14(a)). For example, an alternative may be eliminated from detailed study if it is: determined not to meet the agency's purpose and need for federal action; determined to be unreasonable given the BLM mandates, policies, and programs; substantially similar in design to an alternative that is analyzed; speculative or remote; or technically or economically infeasible (BLM Handbook H-1790-1, Section 6.6.3, p. 52). When a very large number of alternatives potentially exists, the BLM may only analyze a reasonable number to cover the full spectrum of alternatives (BLM Handbook H-1790-1, Section 6.6.1 (quoting Question 1b, CEQ, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, March 23, 1981)).

As noted in the Gateway West PRMPAs/EA Section 1.2, p. 3: “The analysis in this EA addresses only the portions of the Project related to Segments 8 and 9. Tiering (40 CFR 1508.28) uses the analysis in broader EIS documents to narrow the range of alternatives and concentrate on the issues not already addressed. This EA incorporates by reference and tiers to the analysis found in the 2013 Final EIS and 2016 Final SEIS regarding Project-wide impacts. It also incorporates by reference the 2017 Modification Act in its entirety.” The BLM provides a detailed explanation in the Gateway West EA regarding the alternatives that are reasonable based on the Modification Act, and the direction in the Act that required BLM to issue a Right-of-Way (ROW) grant for portions of Segments 8 and 9 (PRMPAs/EA Section 2.0, pp. 5-7). The EA also clearly states BLM’s incorporation by reference to the analyses regarding consideration of alternatives relevant to Segments 8 and 9 from the 2013 Final EIS and 2016 Final SEIS, including describing the elimination of alternatives. This analysis is adequate, reflecting the BLM’s satisfaction of NEPA’s requirement to consider a reasonable range of alternatives that would meet the BLM’s purpose and need for federal action.

With regard to co-locating the line along the I-84 corridor, Response to Comment 2-18 in the PRMPAs/EA, Appendix H, p. H-11 notes: “Routes that followed I-84 to the extent possible were considered; see I-85 North Route and I-84 North Variation Route in Section 2.5.3.1 of the SEIS.”

NEPA – Supplemental EIS

Issue Excerpt Text:

All of the emissions associated with the generation of the energy the line will be used to transport, the Gateway and inter-connected B2H project materials production and transportation, fuel involved in construction and operation, loss of vegetation and microbotic crusts and their ability to absorb carbon dioxide and other climate change gases, and loss of the lands' natural resilience and its ability to buffer the adverse effects of climate change naturally, and any other emissions and/or losses of climate change gas absorption capability, and loss or impairment of natural processes that serve to sequester carbon or otherwise moderate climate change, must be fully assessed in a SEIS. All greenhouse gases generated and emissions must be accounted for, and assessed in a SEIS, prior to adopting the Proposed Land Use Plan amendments. See for example, sodium hexafluoride <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>.

Summary:

The BLM violates NEPA in the Gateway West PRMPAs/EA by not analyzing levels of greenhouse gases from activities associated with the project in a Supplemental EIS.

Response:

In Section 3.3.20, p. 21 of the Gateway West PRMPAs/EA, the air quality section of the Final EIS (Section 3.20.2) and Final SEIS (Section 3.20.2) addresses the potential impacts of the various alternatives would have on air quality during construction, operation, and decommissioning activities. For both construction and operations, the Final EIS and Final SEIS summarize emissions of criteria pollutants (nitrogen oxide [NO_x], carbon monoxide, sulfur oxide, volatile organic compounds, and particulate matter with diameters less than 10 and less than 2.5 microns [PM₁₀/PM_{2.5}]), and greenhouse gases (carbon dioxide, methane, and NO_x) for the route alternatives and takes a hard look at the direct and indirect effects (Final SEIS, pp. 3.20-1 -17). As noted in the Gateway West PRMPAs/EA, the effects from the Proposed Action are the same as what was disclosed in the Final EIS and Final SEIS, and therefore additional analysis is not necessary (PRMPAs/EA, p. 21). The protest provides no reasonable basis to refute the effects analysis in the 2016 Final SEIS as outdated, nor does the protest state how the selection of the plan amendments defined in Alternative 1 in the Final SEIS would require additional climate analysis beyond what was completed in the 2016 NEPA document.

NEPA – Mitigation

Issue Excerpt Text:

We Protest the failure to consider numerous ways in which mitigation and protection requirements can be strengthened – ranging from new and more resource-protective Land Use Plan amendments to require protection of species from adverse environmental effects (to make up for the Gateway amendments tearing down public land protections or stronger Trail protections in still undisturbed areas), providing species with more guaranteed acres of restored habitat, and many other actions.

We Protest the lack of a hard look at, and implementation of, effective avian minimization and mitigation actions and controls – and the lack of essential baseline data on avian flight areas, migration corridors, etc. The most basic of studies and analysis necessary to understand the line’s adverse footprint on avian migration corridors or high use areas has been ignored by Idaho Power throughout this decade long process. Minimization and mitigation have been ignored. Marking the line throughout the length in important avian use areas has been abjectly ignored. This is serious concern given the project’s proximity to the Snake River and its slashing through the SRBOPA area. Raptors, waterfowl, migratory songbirds including sensitive species are left highly vulnerable to injury and death from collisions with this line.

For SRBOPA, raptors, upland, upland habitat/veg, cultural, national historic trails, and recreation are listed. The project will affect different raptor species in many different ways. For example, effects on burrowing owl vs. effects on red tail hawks. The effects will vary depending on quality and quantity of seasonal habitat in the area of the line proximity of vital seasonal use areas, presence or absence of nesting pairs of birds in proximity, etc. Outside the SRBOPA, in areas where sage-grouse are a concern, the avoidance/”protections”/mitigation actions and analyses have likewise been minimal and self-serving. We Protest the failure to minimize impacts to, and analyze effects on, these resources.

BLM has failed to properly study and mitigate all of these adverse direct, indirect and cumulative effects on migratory birds, bats and other volant species and their local and regional habitats and populations. It has failed to consider a suitable range of alternatives to protect these species. Plan Amendments cannot be considered until this is done.

Summary:

The Gateway West PRMPAs/EA violates NEPA in respect to mitigation because:

- it fails to consider stronger mitigation and protection requirements;
- baseline data on avian flight areas and migration corridors is inadequate; therefore, multiple bird species are vulnerable to collision with the line;
- impacts on raptors and sage grouse were not minimized or analyzed;
- direct, indirect, and cumulative adverse effects on migratory birds, bats, and other volant species populations and habitats were not adequately studied or mitigated; and
- the range of alternatives is not suitable to protect these species.

Response:

The BLM identifies measures to mitigate the impacts of the project, including impacts on avian species and Greater Sage-Grouse consistent with NEPA's requirements. With respect to those impacts in the NCA, the Morley Nelson Snake River Birds of Prey NCA Boundary Modification Act, 2017, requires the proponent to "mitigate for the impacts related to the transmission lines in accordance with the Compensatory Mitigation and Enhancement framework described in the Final SEIS" (Gateway West PRMPAs/EA, p. 1-2). BLM, thus, is required to impose mitigation measures as directed by the Modification Act and as outlined in the Compensatory Mitigation and Enhancement framework.

With respect to those impacts outside of the NCA, the BLM incorporates by reference the extensive mitigation measures analyzed in the Final EIS and Final SEIS into Section 3.1 of the EA, stating "the following Project-wide mitigation plans apply to the Proposed Action: The Greater Sage-Grouse Habitat Mitigation Plan (Appendix J in the 2013 Final EIS, also see Section 3.11 of the Final SEIS); the Migratory Bird Habitat Mitigation Plan (Appendix D to the 2013 ROD, also see Sections 3.10 and 3.11 of the Final SEIS); the Historic Properties Treatment Plan (Appendix C-1 to the 2013 Final EIS); the Programmatic Agreement Regarding Compliance with the National Historic Preservation Act (Appendix E to the 2013 ROD; also see Sections 3.1 and 3.3 of the Final SEIS); and the Framework for Compensatory Mitigation for and Monitoring of Unavoidable Impacts to Waters of the U.S (Appendix C-2 in the 2013 Final EIS)." The Final SEIS also identifies other measures such as design features and applicant committed environmental protection measures aimed at addressing effects, which would serve as conditions of any decision to approve a right-of-way grant. For example, the Final SEIS requires the project to be designed and constructed in compliance with Avian Power Line Interaction Committee (APLIC) standards (APLIC 2006, 2012) in order to reduce impacts to avian species (Final SEIS, p. 3.10-32). These measures provide for adequate mitigation of the environmental impacts associated with the alternatives, including Alternative 1 in the EA, and satisfy BLM's obligations under NEPA to ensure consideration of mitigation measures. The BLM will consider these mitigation measures when making a decision regarding Segments 8 and 9 of the Gateway West transmission line.

Additionally, the BLM adequately analyzes the direct and indirect effects on general wildlife species and their habitats from construction, operations, and decommissioning activities addressed in the Final EIS (Section 3.10.2) and Final SEIS (Section 3.10.2). As stated in the EA, direct impacts to habitat and to species living in the immediate area of construction would occur at the actual location disturbance during construction, which includes the clearing of vegetation and other activities at construction areas for each transmission structure, access roads, laydown yards, fly yards, and wire pulling/splicing areas (Final SEIS 3.6.2.2, "Effects Common to All Routes Construction and Operations"). Indirect impacts would extend beyond the location of construction and operations activities and include noise and edge effects (Final EIS, Section 3.23). These impacts included direct mortality and/or disturbance of individuals, loss or degradation of habitats (e.g., vegetation removal, habitat fragmentation, weeds, fire, reduced vegetation cover, and changes to stream temperatures or sedimentation levels), as well as indirect effects (e.g., alterations to predation rates, effects on migratory corridors, effects prey-base health or populations, creating increased access for recreationalists and hunter) (EA, p.17-18, Section 3.17.1.2, "Issues Related to Land Use and Recreation"). As indicated in the PRMPAs/EA, no additional effects would occur from the Proposed Action and no RMP amendments would be required in addition to the ones

identified in the Final EIS and Final SEIS (Refer to. EA section 2.4 Land Management Plan Amendments).

The Final EIS and Final SEIS indicate impacts including direct mortality and/or disturbance of individuals, loss or degradation of habitats (e.g., habitat fragmentation, weeds, fire, reduced vegetation cover, and changes to stream temperatures or sedimentation levels), as well as indirect effects (e.g., alterations to predation rates, effects to migratory corridors, effects to prey-base health or populations, creating increased access for recreationalists and hunter) (Final SEIS, Section 3.10.2.2, p. 3.10-20 Final SEIS, Section 3.10.2, p. 3.10-5).

In terms of Greater Sage-Grouse mitigation, the EA incorporates by reference the mitigation proposal in the Final EIS and Final SEIS, requiring the Proponents to develop a mitigation proposal that fully compensates for all direct and indirect impacts to sage-grouse in a “Comprehensive Gateway West Sage-Grouse Habitat Mitigation Plan” (PRMPAs/EA, p. 8; Final EIS, Appendix J; and Final SEIS, Section 3.11). The Final SEIS identifies the standard conservation management for Greater Sage-Grouse on pages 3.11-38 - 42. These mitigation measures would follow the process set forth in the Greater Sage-Grouse Habitat Mitigation Plan. The final Comprehensive Gateway West Sage-Grouse Habitat Mitigation Plan (which will apply project wide to all Gateway West segments) will be based upon guidance from the efforts developed for EGS by the BLM, USFWS, and Rocky Mountain Power’s consultants with further review by state, federal, and other agencies with sage-grouse expertise. It will be adapted for Idaho and Wyoming-specific circumstances and ultimately adopted for the Gateway West Transmission Project. With respect to the BLM, the final Comprehensive Gateway West Sage-Grouse Habitat Mitigation Plan will be presented to the BLM’s Authorized Officer to review and recommend modifications for or approve the plan, based on the totality of the information and analysis provided, prior to issuing a Notice to Proceed (Final SEIS, pp. 3.11-41 and 42).

NEPA – Impacts Analysis – General

Issue Excerpt Text:

We Protest that the Table's Vegetation distances are much too narrow- 250 ft. line, 13 ft. road. Weeds, dust, herbicide drift, etc. all will extend much further. Sensitive plant distances are appallingly meager – 0.5 mi. and .25 mi. Yet weeds and soil erosion can cause adverse effects permanently much further distant – from smothering microbiotic crusts to herbicide drift on windblown soils –as occurred in the BLM's infamous Oust incident in eastern Idaho. Plateau, the chemical now in vogue as an Oust replacement, often kills off native vegetation. For invasive plants, roads are listed as NA, ignoring the body of scientific literature that demonstrates roads are weed corridors. For “general” fish and wildlife, road distances are a mere .5 miles. Yet roads are conduits for weed invasion. They fragment wildlife habitats, and increase human disturbance. The bared area may be used travel corridors for mammalian predators and fragment habitats and populations. The same concerns apply to sensitive species, where distances are minimal. There is also increased human disturbance along roads – and in areas of the SRBOPA and the southern Idaho area in general use is also likely to include target shooting, varmint hunting, and other activities that may harm species of concern. We Protest the failure to minimize impacts to, and analyze effects on, these and other resources in Table 3.1.

Summary:

The BLM failed to minimize impacts to and analyze the effects on natural resources, including vegetation, both sensitive and invasive plant species, wildlife migration corridors and human disturbance due to recreation, in the Gateway West PRMPAs/EA.

Response:

In the Gateway West PRMPAs/EA, the BLM complied with NEPA's requirement to analyze the environmental consequences/impacts to natural resources, including vegetation, both sensitive and invasive plant species, wildlife migration corridors and human disturbance due to recreation. NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of all projects and resource management plans, including the Gateway West PRMPAs/EA.

The level of detail of NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of impact caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM is not required to speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action. A land use planning-level decision is broad in scope, and for this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from on-the-ground changes. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

Vegetation

Section 3.3.6 of the Gateway West PRMPAs/EA incorporates by reference the analyses of the direct and indirect effects to vegetation communities in the Final EIS and Final SEIS, and summarizes in the effects of the proposed Project in the EA. It also states that BLM will require minimization of direct and indirect impacts associated with vegetation removal under each alternative as “the Proponents have proposed a Framework Reclamation Plan in the Plan of Development (POD) (Appendix B of Gateway West FEIS) that provides procedures for pre-construction treatment of noxious weeds and invasive plants, weed prevention and control, topsoil treatment, ROW restoration, stabilization of disturbed areas to minimize erosion and runoff, seedbed preparation, seeding methods, preliminary seed mixes, road reclamation, monitoring, and remedial actions. This plan would be implemented under the Proposed Action.” (pp. 15-16). The BLM makes clear that it disclosed the effects to vegetation communities in the Final EIS and Final SEIS, the necessary RMP amendments would be the same, and thus there are no additional effects associated with the Proposed Action that would require new analysis.

Additionally, in Section 4.4, the EA references Section 4.4.8 of the Final SEIS, which describes the cumulative impacts to vegetation communities, demonstrating that BLM analyzed the impacts to vegetation. The EA states “The measures used in the analysis are disclosed on each applicable section of Chapter 3 of the FEIS. The analysis recognizes that roads have impacts. Adverse effects are disclosed in Chapter 3 of the FEIS and Final SEIS. The need for new roads is reduced where the new lines follow existing lines. Mitigation measures are included to avoid, reduce, or mitigate these adverse effects; however, the FEIS and SEIS [do] disclose that there will be higher risks of adverse impacts” (PRMPA/EA, Response to Comments, Appendix H, p. H-12).

Sensitive and Invasive Plants

The Gateway West PRMPAs/EA, Section 3.3.8 incorporates by reference “the analysis of the effects of construction, operations, and decommissioning activities on the spread and/or introduction of invasive plant species” from the Final EIS (Section 3.8.2) and Final SEIS (Section 3.8.2). In particular, the EA refers to Table 2.7-1 in Chapter 2 of the Final EIS, which “contains a list of the EPMS that have been developed as part of this Project to offset or reduce potential impacts related to non-native plant species, as well as a description of where these various measures would apply (e.g., on private, state, or federally managed lands)” (PRMPAs/EA, p. 17). The EA states that “these measures also contain commitments by the Proponents to follow all existing federal Best Management Practices (BMPs) and restrictions that are applicable to the BLM Field Offices crossed by the Project, and the utilization of third-party environmental monitors who would ensure the Project complies with all environmental restrictions and requirements during construction. No impacts due to invasive plant species resulting from approving the Proposed Action, beyond the impacts disclosed in the Final EIS and Final SEIS, are anticipated. The Proposed Action requires no changes to or additional RMP amendments than those identified in the Final EIS and Final SEIS” (PRMPAs/EA, p 17). The Gateway West PRMPAs/EA, Sections 4.5

and 4.6 (pp. 32-33) respectively, state that the cumulative effects of both sensitive and invasive plants are discussed in Sections 4.4.9 (sensitive plants), and 4.4.10 (invasive plants) of the Gateway West Final SEIS. In short, the analysis in the EA, Final EIS, and Final SEIS with respect to the effects on the invasive plants and the spread of invasive species is adequate.

Migration Corridors

The Gateway West PRMPAs/EA incorporates by reference the analysis regarding bird mortality, including birds covered by the Migratory Bird Treaty Act of 1918 (MBTA) from Sections 3.10 and 3.11 of the FEIS and SEIS” (PRMPAs/EA, Response to Comments, Appendix H, p. H-11). It also incorporates “Section 5.2.3 of the 2017 Gateway West ROD for a discussion of how the Project would comply with the MBTA. Bird collisions are addressed in Section 3.10 of the FEIS and SEIS. Also see the analysis in Chapter 4 of both the FEIS and SEIS, which discloses the cumulative effects associated with the transmission line and other past, present, and foreseeable future activities” (PRMPAs/EA, Response to Comments, Appendix H, p. H-11). The analysis from the Final EIS and Final SEIS adequately represents the effects on migratory birds and the requirements to comply with the MBTA.

Human Disturbances (Roads, etc.)

The Gateway West PRMPAs/EA incorporates by reference the analysis of environmental effects on the existing transportation and traffic system from the Final EIS (Section 3.19.2) and Final SEIS (Section 3.19.2). Additionally, the Proponents have committed to preparing a detailed transportation plan (including road maps) that would be developed to consider road conditions, wear and tear on roads, bridges, stream crossings, traffic control, and post-construction repair, reclamation, and access control. This plan would be approved by the appropriate federal, state, and local agencies prior to any Notice to Proceed to construction. The necessary RMP amendments would remain the same as discussed in the Final EIS” (Gateway West PRMPAs/EA, Section 3.3.19, p. 21).

Contrary to the Protester’s comments, the BLM has complied with NEPA’s requirement to analyze impacts, as outlined above, in the Gateway West PRMPAs/EA.

NEPA – Impacts Analysis – Socioeconomics

Issue Excerpt Text:

We Protest that the socioeconomic analysis lacks valuation of elements of the environment adversely impacted and/or destroyed by the project.

Summary:

The BLM violates NEPA in the Gateway West PRMPAs/EA because the socioeconomic analysis lacks valuation of elements of the environment adversely impacted by the project.

Response:

The BLM has evaluated the impacts of the proposed transmission line on socioeconomic conditions in the Gateway West PRMPAs/EA. NEPA directs that data and analyses in a NEPA analysis must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). Valuation of all costs and benefits is not the purpose of the NEPA analysis and is not required.

Section 3.3.4 of the Gateway West PRMPAs/EA (p. 15) refers to potential impacts to socioeconomics during construction, operations, and decommissioning from the alternatives that were analyzed in the Final EIS (Section 3.4.2). The effects on a range of social and economic conditions is thoroughly discussed in these documents including socioeconomic effects directly tied to environmental impacts such as impacts to agricultural costs, quality of recreation, and property values. The Final EIS and Final SEIS also provide thorough analyses of potential environmental impacts. Valuation or monetization of these impacts is not necessary to meet the requirements of NEPA and the BLM's approach is adequate for disclosing the potential environmental effects for the decision-maker and public. No impacts to socioeconomics resulting from approving the Proposed Action, beyond the impacts disclosed in the Final EIS and Final SEIS, are anticipated. The Proposed Action requires no changes to or additional RMP amendments than those identified in the Final EIS and Final SEIS. The effects from the Proposed Action would be the same as what was disclosed in the Final EIS and Final SEIS.

NEPA – Impacts Analysis – Paleontology

Issue Excerpt Text:

Paleo resource protections and site identification are largely ignored, despite proximity of Hagerman Fossil Beds and several known fossil sites. We Protest the failure to minimize impacts to, and analyze effects on, these resources.

Summary:

The BLM fails to analyze protections for paleontological resources despite the nearby Hagerman Fossil Beds and other known sites in the Gateway West PRMPAs/EA.

Response:

The BLM has adequately analyzed the impacts on paleontological resources and considered potential mitigation measures to minimize the impacts in the Gateway West PRMPAs/EA consistent with the requirements of NEPA, which incorporated by reference the analysis from the Final EIS (Section 3.13.2) and Final SEIS (Section 3.13.2) (Gateway West PRMPAs/EA, p. 19. As noted in comment response section Appendix H-13 of the EA, “Paleo resources are analyzed and both potential effects and measures to avoid and or reduce effects are disclosed in Section 3.13 of the SEIS, geologic hazards in Section 3.14, and soils in Section 3.15.” The BLM analyzed in detail the impacts to paleontological resources from construction, operations, and decommissioning of the Gateway West Project in Section 3.13.2.2 of the FEIS. Of the seven alternatives analyzed in the Final SEIS, Alternative 1 has the lowest paleontological risk factor. As also noted on page 13 of the EA, section 3.3.13, “Direct effects due to construction common to the Alternatives include possible damage to paleontological specimens and possible loss of associated data. No direct effects on the paleontological resources due to operations are foreseen. Very limited effects due to decommissioning are foreseen because the activities would occur within the same footprint as construction. There are no additional effects from the Proposed Action than those already disclosed in the Final EIS and Final SEIS.”

NEPA – Impacts Analysis – Grazing

Issue Excerpt Text:

Along and near lengths of the ROW, BLM is proposing increased grazing use (as in the case of the U2 and Loughmiller allotments decision - outright increase in open allotment, potential for TNR – MORE cows through “Temporary Non-Renewable use), or continuing extremely high levels of use and stocking (60% utilization measured on crested wheat – which means all the other native plants suffer much higher use and typically cannot survive). There is no analysis of BLM reauthorization of grazing permits that contain AUM numbers dramatically in excess of current actual use, or highly foreseeable imposition of large-scale de facto grazing increases under TNR and unbridled flexibility. Again Burley BLM in the Berger Tracts area near Salmon Falls Creek just authorized an EA that will destroy sagebrush and rabbitbrush to placate ranchers who have grazed the land to dirt in many places. This, and similar actions from BLM offices across the length of the line, illustrate the ongoing loss of sagebrush habitat, and Dark Ages style BLM management that is taking hold again. There is no analysis of the severe scorched earth disturbance from the Owyhee BLM Soda Fuelbreaks, or other agency scorched earth fuelbreak and/or grazing schemes that result from non-stop political pressures on BLM to perpetuate or expand high levels of grazing use. We Protest the great dearth of analysis of grazing impacts and current grazing actions (Berger, U2, Loughmiller allotments) to resources and impacts to rehab/restoration/mitigation promises of the Gateway documents. We stress that throughout the entire Gateway process, there has been a shocking void in baseline data on grazing allotments, ecological conditions, livestock use levels, stocking rates, rangeland health, grazing effects on vegetation and wildlife, and many other values of the public lands in the very same area where Gateway disturbance will be imposed. Climate change amplifies the adverse effects of grazing disturbance (Beschta et al .2012) – and will make Gateway’s rehab and “mitigation” measures more prone to fail. Livestock grazing causes weed infestation and expansion (Belsky and Gelbard (2000)) and will make Gateway’s rehab and “mitigation” measures more prone to fail. Livestock grazing harms and degrades sensitive species habitats, can destroy nests and eggs of ground nesting birds, increases presence of mesopredators, and generally exerts a serious disturbance stress on habitats and populations of native biota (Fleischner et al, 1994, Connelly et al. 2004, Knick and Connelly 2011) (Belsky and Gelbard (2000) and will make Gateway’s rehab and “mitigation” measures more prone to fail. It also is an unassessed cumulative stressor on sensitive and rare species across the project landscape. We Protest the failure of BLM to adequately assess, minimize and mitigate these ecological concerns.

Summary:

The BLM failed to analyze reauthorization of grazing permits in the Gateway West PRMPAs/EA, specifically:

- those that contain AUM numbers dramatically in excess of current actual use;
- Burley BLM in the Berger Tracts area near Salmon Falls Creek just authorized an EA that will destroy sagebrush and rabbitbrush; and
- the Owyhee BLM Soda Fuelbreaks, and/or grazing schemes perpetuate or expand high levels of grazing use.

Response:

The BLM has adequately considered the cumulative impacts of grazing with the Gateway West Transmission project in the PRMPAs/EA. To the extent the Protester is protesting expanding or restricting grazing authorizations, these actions are beyond the scope of this EA and not protestable. Any changes to grazing authorizations would be made in conformance with the provisions in 43 CFR Part 4100. As referenced in the PRMPAs/EA, the Final SEIS discloses in Chapter 3 that grazing has affected habitat across the project area. Chapter 4 also considers how grazing adds to cumulative effects of the Gateway West Transmission Line Project. As stated in the Gateway West PRMPAs/EA, p. H-14, the decision to allow grazing and reauthorize following construction would be based on site-specific conditions. The same basis applies regarding Berger Tracts and Soda Fuelbreaks.

NEPA – Impacts Analysis – Vegetation

Issue Excerpt Text:

We Protest that there is no adequate analysis, avoidance, minimization and mitigation for adverse impacts to slickspot peppergrass, (LEPA). We are greatly concerned at the potential for the construction and other activity associated with this project to expand forage kochia, which is known to invade and smother slickspots, along with other weeds likely to do the same. Windblown tumbleweeds from project disturbance are also highly likely to choke slickspots, and other rare plant habitat and playas, including *Lepidium davisii* sites. And of course, none of these locations is properly identified in mapping and other information so that the full scope of the projects' impact on the site, local, and regional populations can be adequately understood. They are also likely to clog fences, and block antelope and other species passage in places. Just as with all other environmental attributes, LEPA is given minimal consideration.

This is despite the EA acknowledging that: “Slickspot peppergrass was reinstated as a threatened species on September 16, 2016, which was subsequent to the completion of the 2013 Biological Assessment (BA). We have determined that implementation of the Proposed Action for Segments 8 and 9 of the 2017 EA “may effect”, and is “likely to adversely affect” slickspot peppergrass in a manner or to an extent similar to that which was analyzed in the original 2013 BA and for which the Service provided its 2013 Conference Opinion (CO). The BLM has requested U.S. Fish and Wildlife Service (USFWS) acknowledgement of this “may effect, likely to adversely affect” determination for slickspot peppergrass and its proposed critical habitat for the Proposed Action and further request USFWS confirm the conclusion of the 2013 CO as formal consultation and as the USFWS’s Biological Opinion”. How have conditions of occupied LEPA habitats and the landscape changed since 2013? What areas have burned in fires or suffered other damage? What does monitoring show? How many “A” sites remain, and where? What is the proximity of sites of each Habitat category to the line route? Will the line jeopardize any occupied slickspots? The minimal provisions of the EA do not comport with recovery of the species. We Protest that failure of BLM to provide a hard look analysis and BA that fully examines threats.

Summary:

The BLM’s vegetation analysis inadequately assesses:

- adverse impacts to threatened slickspot peppergrass (*Lepidium papilliferum*, LEPA) and *Lepidium davisii*; and
- how the spreading of forage kochia as a result of project activity will impact these species.

Response:

In the Gateway West PRMPAs/EA, BLM adequately analyzed the impacts to slickspot peppergrass *Lepidium papilliferum* (LEPA). As noted on page H-15 of comment response Appendix H, “Slickspot peppergrass is addressed in Section 3.8 of the SEIS. Slickspot peppergrass was reinstated as a threatened species on September 16, 2016 (PRMPAs/EA, pp 16- 17), which was subsequent to the completion of the 2013 Biological Assessment (BA). The BLM determined that implementation of the Proposed Action for Segments 8 and 9 of the 2017 EA “may effect”, and is

“likely to adversely affect” slickspot peppergrass in a manner or to an extent similar to that which was analyzed in the original 2013 BA and for which the Service provided its 2013 Conference Opinion (CO). The BLM requested U.S Fish and Wildlife Service (USFWS) acknowledgement of this “may effect, likely to adversely affect” determination for slickspot peppergrass and its proposed critical habitat for the Proposed Action and further requested USFWS confirm the conclusion of the 2013 CO as formal consultation and as the USFWS’s Biological Opinion.

As noted in the EA and reflected in Appendix G of the EA, the BLM notified the USFWS of the changes in the 2016 Gateway West Final SEIS and the 2017 draft EA, the new BLM preferred alternative for Segments 8 and 9 as reflected in the EA, and requested the USFWS to confirm the conclusion from the 2013 Conference Opinion as formal consultation and as the USFWS’s Biological Opinion (BO) on December 15, 2017. On December 21, 2017, the USFWS notified BLM by letter of its acknowledgment of BLM’s changes “may affect, likely to adversely affect” determination and the continued validity of the conclusions that “Segments 8 and 9 . . . is not likely to jeopardize the continued existence of slickspot peppergrass and will not destroy or adversely modify proposed critical habitat for slickspot peppergrass.” EA at Appendix G, pages 32-33. The USFWS also agreed with BLM’s conclusion that “no significant changes have occurred that would necessitate a reanalysis of effects to slickspot peppergrass for Segments 8 and 9 of the Project” (EA at Appendix G, p.36).

With regard to site-specific impacts of *kochia* on LEPA, the BLM may address this concern during project construction and associated activities. The terms and conditions in the ROW grant, if approved, will be determined by using best management practices, which may include minimizing and/or disallowing *kochia* in seed mix, if appropriate, for suitable rehabilitation and restoration of the vegetation communities impacted by the Gateway West Transmission project.

NEPA – Impacts Analysis – Threatened and Endangered Species

Issue Excerpt Text:

We Protest BLM failing to properly assess cumulative threats to LEPA and sensitive animal species in the SRBOPA and other impacted Gateway lands. There are serious ongoing threats to LEPA in the project area – including military training activity and fires, and very harmful periods and manner of livestock grazing use disturbance that is chronically inflicted. This includes winter and spring grazing when soils are very moist and trampling damage is high. The cleared line path will make it much easier for livestock to trail along the line to access and trample slickspots that previously may have received less disturbance.

Summary:

The BLM violated NEPA because it did not adequately address cumulative threats, including impacts from the Gateway West Transmission Project, to the threatened LEPA.

Response:

The Gateway West PRMPAs/EA addresses cumulative impacts to LEPA, indicating the action area intersects slickspot peppergrass habitat and some adverse impacts are anticipated. The PRMPAs/EA states that the U.S. Fish and Wildlife Service provided a Conference Opinion for the Project with respect to the 2013 FEIS Agency Preferred Alternative “may affect” and was “likely to adversely affect” slickspot peppergrass and its proposed critical habitat. As detailed in the 2013 Biological Assessment (BA), 2016 SEIS and this EA, impacts from the FEIS Agency-Preferred Alternative and the SEIS/EA Alternative 1 may occur to slickspot peppergrass known occurrences, occupied habitat, potential habitat, slickspot peppergrass habitat, and proposed critical habitat. As noted in the EA and reflected in Appendix G of the EA, the BLM notified the USFWS of the changes in the 2016 Gateway West Final SEIS and the 2017 Draft EA, the updated BLM-preferred alternative for Segments 8 and 9 as reflected in the EA, and requested the USFWS to confirm the conclusion from the 2013 Conference Opinion as formal consultation and as the USFWS’s Biological Opinion (BO) on December 15, 2017. On December 21, 2017, the USFWS notified the BLM of its acknowledgment by letter of the BLM’s changes “may affect, likely to adversely affect” determination and the continued validity of the conclusions that “Segments 8 and 9...is not likely to jeopardize the continued existence of slickspot peppergrass and will not destroy or adversely modify proposed critical habitat for slickspot peppergrass” (PRMPAs/EA, Appendix G, pp. 32-33. The USFWS also agreed with the BLM’s conclusion that “no significant changes have occurred that would necessitate a reanalysis of effects to slickspot peppergrass for Segments 8 and 9 of the Project” (PRMPAs/EA at Appendix G, p.36) (see also NEPA – Impacts Analysis – Vegetation). Also, please refer to the Gateway West PRMPAs/EA, Appendix G (BLM ESA Compliance Memorandum and USFWS Response Memorandum).

NEPA – Impacts Analysis – Oregon National Historic Trail

Issue Excerpt Text:

In Comments at F-71 NPS stated: “The NPS appreciates the listing of federally protected areas and scenic quality rating units. Please provide a clear narrative of impacts to the Oregon National Historic Trail (NHT), and also tables that identify specific crossings and related impacts to the NHT”. We Protest the glaring lack of essential info for Trails, slickspot peppergrass, or any other affected value of public lands harmed by Gateway. It must be done so that the proper mitigation can be applied, and/or impacts avoided to the maximum degree possible. NPS submitted substantial comments on EIS deficiencies related to Trails, and the current analysis fails to rectify this.

While the EA admits adverse cumulative effects to Historic Trails, it never adequately addresses the relative quality of the Trail in the areas to be disturbed/marred/destroyed by Gateway, and if other comparable sites exist in the local or regional setting for these trails. The cumulative disturbance and degradation effects across the lengths of Gateway East, West and B2H [Boardman to Hemingway] have never been properly assessed. We Protest this.

Summary:

The BLM violated NEPA in the Gateway West PRMPAs/EA because it does not adequately address:

- impacts to or mitigation of impacts to the Oregon National Historic Trail (NHT) and cumulative Effects; and
- comments provided by the NPS on the EIS regarding the Oregon NHT.

Response:

The BLM adequately analyzes the impacts to the Oregon NHT and provides for measures to mitigate such impacts. As indicated on page F-71 of the EA in the response to the NPS’s comment, Appendix J of the Gateway West Final SEIS addresses an inventory of trail resources and includes an impacts analysis for National Historic Trails and Study Trails, design features and measures, and mitigation.

Impacts Analysis

As indicated on page F-72 of the EA in the response to the NPS’ comment, effects on individual crossings are disclosed in Section 3.1 and Appendix J of the FSEIS. The Gateway West PRMPAs/EA describes the potential impacts to the Oregon NHT from construction, operations, and decommissioning activities and also incorporates by reference the Oregon NHT impacts analysis from the Final SEIS (PRMPAs/EA, p. 12). Specifically, the Gateway West PRMPAs/EA states that construction of the Project and its ancillary facilities could directly impact segments of the Oregon NHT and North Alternate Study Trail. Short-term impacts from construction would include the visual intrusion of construction vehicles, equipment, materials, and a work force in staging areas, along access roads, and along the new transmission line right-of-way. Long-term impacts from construction include ground-disturbing activities that could directly disturb ruts, swales, and previously recorded and/or undetected sites associated with the trails. Project crossings and access road construction and/or improvements are the most likely locations for this type of impact to

occur” (PRMPAs/EA, p. 12). The EA also describes long-term visual impacts, an increase in the potential for vandalism and illicit artifact collection due to project access roads, and a diminished quality of trail-related recreational activities (p.12).

Additionally, the PRMPAs/EA analyzes the cumulative effects of the proposal and other reasonably foreseeable actions on the Oregon NHT and incorporated by reference the cumulative effects analysis from Section 4.4.3 of the Final SEIS (EA, p. 30). The EA summarizes the discussion from the Final SEIS stating that “Segments 8 and 9 of Gateway West and the other current and reasonably foreseeable actions would result in substantial cumulative adverse effects on NHTs. Construction of the Gateway West transmission line and its ancillary facilities could directly impact the existing Oregon NHT, North Alternate Study Trail, and indirectly impact its associated visual contexts, recreational values and settings, and associated cultural resources and landscapes. Construction or other ground-disturbing activities could directly or indirectly impact previously undetected components of the Oregon NHT. Such impacts are likely to be adverse. Impacts on the setting and feeling of the Oregon NHT may be introduced through the addition of structural elements to the landscape. Construction of transmission line structures introduces an indirect (visual) impact upon the visual contexts, recreational values, and historic/cultural settings of the Oregon NHT” (EA, p. 30). The EA generally acknowledges the cumulative effects on the Oregon NHT, and that the more extensive analysis of impacts is found in the Final SEIS, which is consistent with BLM’s obligations under NEPA

Mitigation

In a response to a NPS comment on Page F-74 of the EA, the BLM refers to a detailed analysis of trail impacts in Appendix J of the Final SEIS and states that “mitigation for project effects to national historic trails would be implemented in accordance with legislation, regulations, Manual 6280 (see Appendix J of the Final SEIS) and land management plans, as amended. Historic properties would have site specific Historic Properties Treatment Plans (HPTPs) as discussed in Section 3.1.2.4 of the 2016 Final SEIS. The BLM will collaborate with cooperators, agencies and other interested parties to develop appropriate mitigation.”

Section 6.7 of Appendix J of the Final SEIS addresses mitigation and specifies “Consistent with BLM Manual 6280, the BLM is required, to the greatest extent possible, to consider opportunities for mitigation to a level commensurate with the adverse impact to the nature and purposes; resources, qualities, values, and associated settings; and the primary use or uses of the NHT. To eliminate or moderate adverse impacts, the BLM can consider:

- rectifying, reducing, or eliminating the impact over time and/or compensating for the impact by replacing or providing substitute resources or environments;
- on-site mitigation and design considerations, which can include moving the project location, minimizing the scale, camouflaging the proposed activity with visual screening techniques, or similar actions;
- prioritizing on-site mitigation prior to considering off-site mitigation options with regional options being considered prior to statewide options; and/or
- monetary compensation for public lands along the Oregon NHT where on-site mitigation (along the Oregon NHT) cannot adequately compensate for an adverse impact.

It is anticipated that mitigation measures would be implemented through site-specific Historic Properties Treatment Plans (HPTP). These plans would include measures to avoid, minimize, or mitigate adverse impacts (direct and/or indirect) to the Oregon NHT and/or the North Alternate Study Trail. In the event of unavoidable adverse impacts to the Oregon NHT and/or the North Alternate Study Trail, the Historic Property Treatment Plan may stipulate compensatory mitigation measures.”

The Programmatic Agreement (PA) (Final EIS, Appendix N) “provides for site-specific HPTPs to be reviewed and approved by the BLM prior to issuance of a Notice to Proceed for that work element” (Gateway West/RMPA/EA, p. 31). In addition, Appendix N of the Final EIS states the BLM will collaborate with cooperators, agencies and other interested parties to develop appropriate mitigation, in accordance with the Section 106 PA. The Final SEIS, Appendix M, “Environmental Protection Measures”, includes measures the proponent has committed to ensure environmental protection during construction, operation, and maintenance and include micrositing where transmission facilities will impact visual quality including crossings of high quality historic trails (VIS-11).

NEPA – Impacts Analysis – Greenhouse Gases

Issue Excerpt Text:

We Protest that the degree to which the project will affect greenhouse gas emissions, and the energy need basis for the project have never been adequately assessed under any EIS alternatives, or the EA. The project further entrenches a harmful carbon footprint, and is an incredibly wasteful use of land and other natural resources. The immense amounts of steel and other materials including all material used in wires, must be fully assessed for their carbon and other pollution footprints. The project has significant global warming and climate change impacts that must be fully assessed. See <http://siteresources.worldbank.org/EXTENERGY2/Resources/4114199-1292347235985/GHGImpactofTDFullReport.pdf> .

Summary:

The BLM violated NEPA because the energy need basis for the Gateway West Transmission project has never been adequately assessed under any EIS alternatives, nor this EA. The project’s carbon footprint and other pollution footprints that have significant impacts to global warming and climate change must be fully assessed.

Response:

Council on Environmental Quality (CEQ) regulations implementing NEPA require that agencies use “high quality information” (40 CFR 1500.1(b)). NEPA regulations require the BLM to “ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements” (40 CFR 1502.24). In addition, the BLM NEPA Handbook directs the BLM to “use the best available science to support NEPA analyses, and give greater consideration to peer-reviewed science and methodology over that which is not peer-reviewed” (BLM Handbook H-1790-1, p. 55). Under the BLM’s guidelines for implementing the Information Quality Act, the BLM applies the principle of using the “best available” data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012).

Section 3.3.20, p. 21 of the Gateway West PRMPAs/EA, the Air Quality section of the Final EIS (Section 3.20.2) and Final SEIS (Section 3.20.2) address the potential impacts of the various alternatives would have on air quality during construction, operation, and decommissioning activities. For both construction and operations, the Final EIS and Final SEIS summarize emissions of criteria pollutants (nitrogen oxide [NO_x], carbon monoxide, sulfur oxide, volatile organic compounds, and particulate matter with diameters less than 10 and less than 2.5 microns [PM₁₀/PM_{2.5}]), and greenhouse gases (carbon dioxide, methane, and NO_x) for the route alternatives and takes a hard look at the direct and indirect effects (Final SEIS, pp. 3.20-1 -17). As noted in the Gateway West PRMPAs/EA, the effects from the Proposed Action would be the same as what was disclosed in the Final EIS and Final SEIS, and therefore additional analysis is not necessary (PRMPAs/EA, p. 21 and the “NEPA-Supplemental EIS” section of this report).

The BLM response to the energy need basis is addressed in the EA on page H-24. The EA incorporates by reference and tiers to the analysis found in the 2013 Final EIS and 2016 Final SEIS regarding Project-wide impacts. Additionally, the BLM intends to mitigate Project impacts to vegetation communities on lands formerly within the National Conservation Area (NCA) as well as areas classified as sage-grouse habitat. Restoration of shrubland structure is expected to mitigate impacts in the mid- to long-term. This should lead to increased ability of the area to sequester carbon compared to current conditions. As noted on pp. H-26 and H-29, the BLM agrees that large fires are a significant problem.

NEPA – Impacts Analysis – Wildlife

Issue Excerpt Text:

We Protest the failure to properly assess, minimize and mitigate impacts to avian species. This line will provide a lethal flight hazard all along its length for migratory songbirds and other avian species, rare bats, and native insects. Migration routes have not been studied. The FEIS fails to require that necessary protections are put in place for volant species – for example, every line length between towers must be marked with avian flight diverters.

Summary:

The BLM fails to properly address impacts to avian species in the Gateway West PRMPAs/EA by not requiring necessary protections for the species.

Response:

The BLM has adequately identified and assessed impacts to migratory birds, avian species, rare bats, and native insects, and analyzed measures to mitigate such impacts. NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the Gateway West PRMPAs/EA.

Per the BLM’s Land Use Planning Handbook H-1790-1, the level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree impact caused by the proposed action and alternatives. The BLM need not speculate about every impact possible, but it must evaluate the reasonably foreseeable significant effects of the proposed action. For the EA, the BLM incorporated by reference the analysis of bird mortality, including birds covered by the Migratory Bird Treaty Act of 1918 (MBTA) from Sections 3.10 and 3.11 of the Gateway West FEIS and Final SEIS. Additionally, the BLM also explained that Section 5.2.3 of the Gateway West 2017 ROD discussed how the Project would comply with the MBTA in the response to comments on the Draft EA. (EA, Response to Comments p. F-48). Please refer EA Section 3.3.11 Special Status Wildlife and Fish Species: Table 2.7-1 in Chapter 2 of the Final EIS contains a list of the EPMs that have been developed as part of this Project to offset or reduce potential impacts to wildlife species (including TES), as well as a description of where these various measures would apply (e.g., on private, state, or federally managed lands). These measures also contain commitments by the Proponents to follow all existing federal BMPs and restrictions that are applicable to the BLM Field Office crossed by the Project and the utilization of third-party environmental monitors who would ensure the Project complies with all environmental restrictions and requirements during construction. These EMPs would still apply to the Proposed Action.

No additional effects would occur from the Proposed Action and no additional RMP amendments would be required other than those already identified in the Final EIS and Final SEIS.

The BLM specifically analyzed the impacts of avian species collisions in Section 3.10 of the FEIS and SEIS. The BLM also analyzes the potential cumulative effects on avian species associated with the proposed transmission line and other past, present, and foreseeable future activities in Chapter 4 of both the Gateway West Final EIS and Final SEIS (EA, Response to Comments, p. H-11). (See also the NEPA: Impacts Analysis – Wildlife section of this report as well as Appendix M of the Gateway West Final SEIS).

The EA incorporates the analysis of the Final EIS (Section 3.10) and Final SEIS (Section 3.10) regarding vegetation clearing activities associated with the lines and roads. Direct loss of habitat is addressed for surface disturbance specifically at tower locations, access roads, temporary construction sites, and off-site ancillary facilities. Areas of the right-of-way spanned by transmission lines may have indirect effects to migratory birds and habitats, but the BLM's ability to quantify these impacts and develop meaningful mitigation, as well as an estimate of how many birds may be killed or injured, is limited. The BLM required the development a Migratory Bird Habitat Mitigation Plan (Appendix D Final EIS) as a means of "present[ing] a reasonable analysis and appropriate conclusions from the available research and fully meets the intent of the MBTA" (EA, Response to Comments, p. H-12).

The BLM complied with NEPA's requirement to analyze the environmental consequences and impacts to avian wildlife in the Gateway West PRMPAs/EA. As stated in the EA, Appendix M of the Gateway West SEIS includes over 300 environmental protection measures, referenced throughout the SEIS. Individual measures are evaluated in Chapter 3 of the Final EIS and the Final SEIS.

NEPA – Impacts Analysis – Invasive Species

Issue Excerpt Text:

We Protest the failure to take a hard look at invasive species proliferation and dominance stemming from the project disturbance. While BLM claims to apply “Integrated” weed management, the agency steadfastly has failed to assess and address causes of weeds- such as grazing – in the project-affected landscape. Thus, “integrated” management is not applied, it is merely spraying/treating in various ways – while chronic grazing disturbance continues non-stop, and large-scale new development like this massive new B2H weed corridor a host of ancillary and linked disturbance continues to tear apart the landscape.

Climate change will result in hotter temperatures that will also promote cheatgrass, medusahead and other flammable weeds. Ubiquitous livestock grazing impacts across public land and other segments of the route promote these weeds, too. See Belsky and Gelbard 2000, Reisner Dissertation 2010, Reisner et al. 2013. See Attached documents and excerpts. Spring grazing and trampling dries out sites earlier. All of this combined – climate change, hotter temps and less precip[itation] failing as snow and earlier snowmelt, increased flammable annual grasses, increased drought and/or extreme weather events – and the chronic extensive disturbance – will exacerbate fire risk. We Protest the failure to address this.

Summary:

The BLM violates NEPA because the Gateway West PRMPAs/EA fails to:

- adequately address the proliferation and dominance of invasive species caused by project surface disturbance; and
- address the fire risk exacerbated by climate change, other land uses, and land disturbance.

Response:

The BLM has adequately analyzed the impacts of the proposed project relating to the potential proliferation of invasive species in the Final SEIS. The BLM incorporates by reference the cumulative effects to invasive plant species (PRMPAs/EA, Section 4.6, p.33) from the Final SEIS (Section 4.4.10). Past, present and reasonably foreseeable actions that could add to the introduction or spread of weeds were included in the analysis (Refer to the Final SEIS, Section 3.8.1.2 “Issues Related to Invasive Plant Species”). Cumulative effects on the introduction and spread of noxious weeds and invasive plants do not differ substantially by Alternative, except by length of the route, for example, longer routes have greater ground disturbance, more access roads, and therefore additional opportunity for introduction or spread of weeds (Final SEIS Section 3.8.1.2, “Issues Related to Invasive Plant Species”). The No Action Alternative is longer by approximately 26 miles. Given the concern for introduction and spread of noxious weeds and invasive plants on both public and private lands, and requirements for the prevention of introduction or spread of noxious weeds imposed on all projects, the cumulative impact of reasonably foreseeable projects, including Gateway West, is not anticipated to be substantial (Final SEIS, Section 3.8.1.2, “Issues Related to Invasive Plant Species”). The effects from the Proposed Action would be the same as what was disclosed in the Final SEIS; therefore, additional analysis is not necessary.

The Gateway West PRMPAs/EA addresses fire-related impacts in Section 3.3.7, “Special Status Plants”, Section 3.3.10, “General Wildlife and Fish”, Section 3.3.11, “Special Status Wildlife and Fish Species”, and Section 4.4, “Vegetation Communities”. Regarding the consideration of fire risk, Section 3.5.2.5 of the Final SEIS cites Sections 3.5.2.2, 5.3.2.3 and 3.5.2.4 on the environmental consequences to the human environment. Also, in Section 3.0, p.1, the Final SEIS cites to the Final EIS Environmental Protection Measures (also called design features) detailed in Appendix M. The Land Use and Recreation Section of the EA (Section 3.3.17) indicates that Section 3.17.2 of the Final EIS and Section 3.17.2 of the Final SEIS address potential impacts of the route alternatives during construction, operation, and decommissioning. The potential impacts disclosed in the Final EIS and Final SEIS are not expected to change.

The Final EIS and Final SEIS also include Environmental Protection Measures (EPMs) designed to reduce fire risk, and the BLM would include these requirements in the ROW grant. Appendix M to the Final SEIS includes 19 EPMs designed to reduce fire risks.

NEPA – Cumulative Effects

Issue Excerpt Text:

The cumulative effects over time of all the deterioration of the environment have not been assessed. The cumulative effects over time of wildfire and weed expansion in the sagebrush ecosystem since the old LUPs were adopted has never been properly assessed – resulting in greatly increased scarcity of higher quality habitats, and some of those areas are damaged, fragmented and otherwise harmed by Gateway. The same thing applies to the Trails. And we stress that the effects of all the other Gateway East, B2h and other amendments have never been assessed (Trail degradation, sensitive species habitat loss and degradation, effects on local and regional populations, avian mortality from collision with lines). We Protest the lack of full analysis of these important resource concerns.

The EA states, “The amendment changing the [Visual Resource Management] VRM Class II classification to VRM Class III would change the classification of lands within 3,000 feet of an existing transmission line. This may result in up to two additional transmission lines being located along this route, which would result in additional impacts to resources managed under the MFP. The cumulative effect of the plan amendment would not differ substantially from the effect of the Project itself, particularly given that no projects other than possible future transmission lines are proposed for the area. What are these other transmission lines, where do they originate and terminate, and what are their foreseeable adverse effects? Is this related to the Cat Creek Energy Project or some other project? What additional lines are in the works? This demonstrates the perils and high significance of such amendments. The Plan must be amended only for this project, with no future amendments allowed. We Protest the failure to take a hard look at these significant adverse direct indirect and cumulative effects to biotic and other resources.

We Protest that the welter of indirect and cumulative impacts that are not adequately examined in the EA. This includes the adverse direct, indirect and cumulative effects of the B2H line. See B2H FEIS and ROD info at <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=99006>

Summary:

The Gateway West PRMPAs/EA:

- does not adequately consider the cumulative impacts from changes in landscape conditions over time that will be further altered by the project;
- refers to the potentiality of up to two additional transmission lines being located along a portion of the route, resulting in additional impacts to resources but no substantial difference in cumulative impacts because no actions other than possible transmission lines are proposed for the area. The impacts from all transmission-related amendments have not been assessed. Provide more information about these possible transmission lines, including foreseeable adverse impacts. The analysis did not adequately consider adverse direct, indirect, and cumulative impacts from these additional transmission lines; and
- does not adequately address adverse direct, indirect, and cumulative impacts.

Response:

The BLM adequately analyzes the cumulative impacts of the Gateway West Transmission project in the PRMPAs/EA, including the potential cumulative impacts of the land use plan amendment change from VRM Class II to VRM Class III. Section 4.0 of the PRMPAs/EA summarizes the extensive cumulative effects analysis from Section 4.4 of the Final SEIS, which is incorporated by reference, and also identifies any new reasonably foreseeable actions since January 2017. In particular, the EA points to the analysis of the other reasonably foreseeable projects, including other transmission proposals. The Final SEIS, for example:

- considered projects or actions with potential for cumulative effects with Gateway West (see Section 4.2 of the Final SEIS), including existing and reasonably foreseeable transmission lines, pipelines, roads, power generation facilities, resource extraction activities, and agricultural uses including livestock grazing; and
- considered the cumulative impacts from other transmission lines proposed in the vicinity of the project area, see Section 4.2.2.1, Proposed Transmission Lines of the Final SEIS.

The PRMPAs/EA (p. 7) indicates that adverse direct and indirect impacts are addressed in the Final EIS and the Final SEIS, Section 3.1.2. The BLM's analysis of cumulative impacts, as identified in the PRMPAs/EA and incorporated from the Final EIS and Final SEIS, identifies all reasonably foreseeable actions consistent with NEPA's requirements.

Cost and Economic Analysis

Issue Excerpt Text:

[In the EA's Response to Comments, p. F-16], the BLM admits that costs fluctuate over time. This EA must disclose the current costs vs. benefits, and the greatly changed energy and grid conditions across the West in 2018, as well as a growing glut of wind and other energy. We Protest the lack of complete cost and economic analysis, and lack of a hard look at energy sprawl foreseeably linked to Gateway.

Summary:

The Gateway West PRMPAs/EA lacks complete cost and economic analysis, and the potential expansion of energy infrastructure linked to the Gateway West Transmission project is not adequately considered.

Response:

For purposes of complying with the NEPA, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations (40 CFR 1502.23). While a comprehensive cost-benefit analysis of energy projects is out of scope in the NEPA analysis, the Final SEIS uses updated costs. As stated in page H-21, the BLM considers these to be reasonable approximations for this analysis. The actual costs during construction, which is likely years away, are unknown as the routes approved in 2013 have not yet been built.

The Gateway West PRMPAs/EA addresses other foreseeable developments in Section 4.0, (p. 29). The PRMPAs/EA refers to impacts disclosed in Section 4.4 of the Final SEIS and considered actions and reasonably foreseeable actions that BLM became aware of subsequent to the January 2017 Decision, and in doing so, has adequately analyzed the impacts of the proposed project.
