

Orders. The court declined to enjoin operation of the transmission lines immediately, but instead deferred the setting aside of the Presidential permits and the FONSI until July 1, 2004, or until such time as superseding NEPA documents and permits are issued, whichever is earlier. (Material related to the Federal suit and the court's orders can be found on the FE Web site given above.)

In light of the concerns raised by the court in its decisions, and to increase opportunities for public and stakeholder participation in the environmental review of this proposal, DOE and BLM have decided to prepare an EIS.

Agency Purpose and Need, Proposed Action, and Alternatives

An agency's analysis of the proposed action and alternatives to that proposal is said to be the heart of an EIS. The analysis is intended to present the environmental impacts of the proposal in the United States and the alternatives in comparative form, thereby sharpening and defining the issues and providing a clear basis for choice by the decision maker and the public. The agency's alternatives should reflect the range of reasonable decisions consistent with the purpose and need for action. DOE and BLM also desire to comply with the court's orders. In its July 8, 2003, Order remanding this matter back to the respective agencies for additional NEPA review, the court stated:

Finally, the court **PROHIBITS** the federal defendants from considering the interim operation of the transmission lines, the completion of the construction, or this Court's equitable analysis of the environmental impacts of the proposed actions as part of the NEPA analysis and determination process on remand. *Cf. Northern Cheyenne Tribe v. Hodel*, 851 F.2d 1152, 1157 (9th Cir. 1988). (Emphasis in original.)

DOE and BLM have interpreted this language to require that they are to conduct their NEPA review from a fresh slate, *i.e.*, as if the transmission lines did not exist. Accordingly, DOE and BLM will base their EIS analysis on the same purpose and need as they did originally: whether to grant or deny Presidential permits and rights-of-way to BCP and SER.

In order to consider the complete range of reasonable alternatives, DOE and BLM propose the following preliminary alternatives:

1. No Action Alternative: Deny both permit and corresponding rights-of-way applications. This will present the environmental impacts in the United States as if the lines had never been constructed and will provide a baseline

against which the impacts in the United States of the action alternatives can be measured in the absence of Presidential permits and corresponding rights-of-way.

2. Grant one or both permits and corresponding right(s)-of-way. This will set forth the impacts in the United States of constructing and operating the line(s) from Mexican powerplants, as those plants are presently designed. This is DOE's and BLM's preferred alternative.

3. Alternative technologies: Grant one or both permits and corresponding right(s)-of-way to authorize transmission lines that connect to powerplants that employ more efficient emissions controls and alternative cooling technologies, such as "dry cooling" or a combination of wet and dry cooling that will minimize environmental and health impacts in the United States.

4. Mitigation measures: Grant one or both permits and corresponding right(s)-of-way to authorize transmission lines whose developers employ off-site mitigation measures to minimize environmental impacts in the United States. (For example, off-site mitigation could include off-sets, such as paving roads and retiring older automobiles.)

DOE and BLM also propose to consider alternative routes for the transmission lines within the United States under the action alternatives described above.

Because DOE and BLM have proceeded here from the assumption that no lines now exist, this EIS will not address the environmental impacts in the United States of removing the existing transmission lines and poles from BLM lands. Should permits and rights-of-way not be granted, the issue of whether to remove the existing lines from BLM lands will arise and the impacts in the United States from that action would have to be considered in appropriate future NEPA review.

DOE and BLM invite all stakeholders and the public to comment on these alternatives during the scoping period and to offer other alternatives for consideration. DOE and BLM can and have in the past added to their list of alternatives in an EIS if they deem that review of an alternative brought to their attention during scoping is reasonable, appropriate, and furthers the purposes of NEPA review, that is, produces useful information for the decision maker and the public.

Identification of Environmental Issues

One purpose of this notice is to solicit comments and suggestions for consideration in the preparation of the EIS. In addition to the issues identified

by the court ((1) the potential for public controversy; (2) water impacts; (3) impacts from ammonia and carbon dioxide; (4) the range of alternatives; and (5) cumulative impacts), DOE and BLM propose to analyze the following potential environmental issues:

1. Impacts on protected, threatened, endangered, or sensitive species of animals or plants, or their critical habitats in the United States (*e.g.*, the Flat-Tailed Horned Lizard);

2. Impacts on floodplains and wetlands in the United States;

3. Impacts on cultural or historic resources in the United States;

4. Impacts on human health and safety in the United States;

5. Impacts on air, soil, and water resources in the United States (*e.g.*, the Salton Sea and the New River);

6. Visual impacts in the United States; and

7. Disproportionately high and adverse impacts on minority and low-income populations in the United States.

This list is not intended to be all-inclusive or to imply any predetermination of impacts, and we invite interested parties to suggest other issues to be considered.

DOE and BLM welcome and invite Border Power and all who participated in the litigation to participate in scoping to assist DOE and BLM in identifying issues that they believe the agencies should address in their EIS.

Scoping Process

Interested parties are invited to participate in the scoping process both to refine the preliminary alternatives and environmental issues to be analyzed in depth, and to eliminate from detailed study those alternatives and environmental issues that are not feasible or pertinent. The scoping process is intended to involve all interested agencies (Federal, State, county, and local), public interest groups, Native American tribes, businesses, and members of the public. Both oral and written comments will be considered and given equal weight by DOE and BLM.

Public scoping meetings will be held at the locations, dates, and times indicated above under the **DATES** and **ADDRESSES** sections. These scoping meetings will be informal. The presiding officer will establish procedures to ensure that everyone who wishes to speak has a chance to do so and that DOE and BLM understand all issues and comments. Speakers will be allocated approximately 10 minutes for their oral statements. Depending upon the number of persons wishing to speak,