

Director's Protest Resolution Report

**Mona to Oquirrh
Transmission Corridor
Project**

**Final Environmental Impact
Statement and Proposed
Pony Express Resource
Management Plan
Amendment**

February 4, 2011



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Reader's Guide

How do I read the Report?

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

Report Snapshot

Issue Topics and Responses
NEPA

Topic heading

Submission number

Issue Number: PP-CA-ESD-08-0020-10

Protest issue number

Organization: The Forest Initiative

Protesting organization

Protester: John Smith

Protester's name

Issue Excerpt Text:

Direct quote taken from the submission

Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.

Summary

General statement summarizing the issue excerpts (optional).

There is inadequate NEPA analysis in the PRMP/FEIS for renewable energy projects.

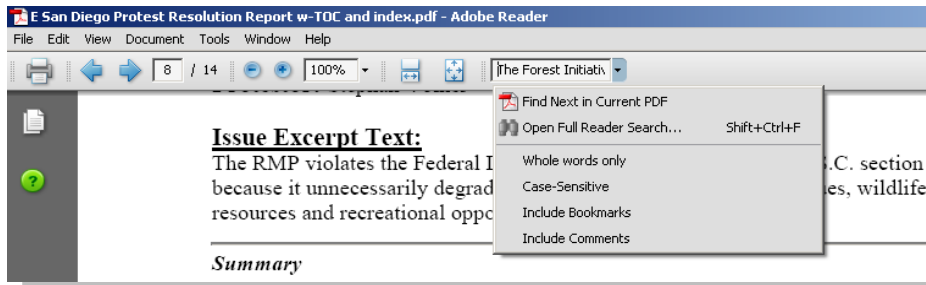
Response

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

How do I find my Protest Issues and Responses?

1. Find your submission number on the protesting party index which is organized alphabetically by protester's last name.
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 Commonly Used Acronyms

ACEC	Area of Critical Environmental Concern	GIS	Geographic Information Systems
APD	Application for Permit to Drill	IB	Information Bulletin
BA	Biological Assessment	IM	Instruction Memorandum
BLM	Bureau of Land Management	MOU	Memorandum of Understanding
BMP	Best Management Practice	NEPA	National Environmental Policy Act of 1969
BO	Biological Opinion	NHPA	National Historic Preservation Act of 1966, as amended
CAA	Clean Air Act	NOA	Notice of Availability
CEQ	Council on Environmental Quality	NOI	Notice of Intent
CFR	Code of Federal Regulations	NRHP	National Register of Historic Places
COA	Condition of Approval	NSO	No Surface Occupancy
CSU	Controlled Surface Use	OHV	Off-Highway Vehicle (has also been referred to as ORV, Off Road Vehicles)
CWA	Clean Water Act	PRMPA	Proposed Resource Management Plan Amendment
DEIS	Draft Environmental Impact Statement	RFDS	Reasonably Foreseeable Development Scenario
DM	Departmental Manual (Department of the Interior)	RMP	Resource Management Plan
DOI	Department of the Interior	ROD	Record of Decision
DRMPA	Draft Resource Management Plan Amendment	ROW	Right-of-Way
EA	Environmental Assessment	SHPO	State Historic Preservation Officer
EIS	Environmental Impact Statement	SO	State Office
EO	Executive Order	T&E	Threatened and Endangered
EPA	Environmental Protection Agency	USC	United States Code
ESA	Endangered Species Act	USGS	U.S. Geological Survey
FEIS	Final Environmental Impact Statement	VRM	Visual Resource Management
FLPMA	Federal Land Policy and Management Act of 1976	WA	Wilderness Area
FO	Field Office (BLM)	WSA	Wilderness Study Area
FWS	U.S. Fish and Wildlife Service	WSR	Wild and Scenic River(s)

Protesting Party Index

Protester	Organization	Submission Number	Determination
Ryan, Brendan	Kennecott Utah Copper LLC	PP-UT-MONA-10- 001	Denied – Issues and Comments
Smith, Darin T.		PP-UT-MONA-10- 002	Dismissed – Comments
Christiansen, Randy L.		PP-UT-MONA-10- 003	Dismissed – Comments
Studdert, Paulette and William		PP-UT-MONA-10- 004	Dismissed – Comments
Hullinger, Dennis and Rosemary		PP-UT-MONA-10- 005	Dismissed – Comments
LeSueur, David and Laura		PP-UT-MONA-10- 006	Dismissed – Comments
Grimm, Pete	Analine Management Company	PP-UT-MONA-10- 007	Dismissed – Comments
Warner, Douglas E.	E.A. Russell Trust and B.H. Russell Trust	PP-UT-MONA-10- 008	Dismissed – Comments
Cahoon, Andrea		PP-UT-MONA-10- 009	Dismissed – Comments
Baker, Roger	Tooele City	PP-UT-MONA-10- 010	Dismissed – Comments
England, Colleen and Gary		PP-UT-MONA-10- 011	Dismissed – Comments
Freiley, Art		PP-UT-MONA-10- 012	Dismissed – Comments
Clegg, Joy	Tooele County	PP-UT-MONA-10- 013	Denied – Issues and Comments
Pratt, Brad and Kaye		PP-UT-MONA-10- 014	Dismissed – Comments

Issue Topics and Responses

Failure to Adequately Respond to Comments

Issue Number: PP-UT-MONA-10-001-5

Organization: Kennecott Utah Copper LLC

Protestor: Brendan Ryan

Issue Excerpt Text:

In addition, the BLM failed to adequately respond to Kennecott's comments in the Draft EIS with respect to the above-described alignment concerns, causing the Final EIS to be deficient in several respects.

Issue Number: PP-UT-MONA-10-001-9

Organization: Kennecott Utah Copper LLC

Protestor: Brendan Ryan

Issue Excerpt Text:

Kennecott also believe that the BLM gave inadequate consideration to Kennecott's comment on the Draft EIS with respect to this alignment issue. Kennecott stated that "The preferred route for Kennecott Utah Copper is through [the NOMA] where there are already transmission lines. Kennecott strongly recommends that the BLM reconsiders, as it is unnecessary to create another transmission route when one already exists. . . . The basis for Kennecott's preferred route is that it is an active mining company that is continuing to explore and develop potential ore bodies. . . ." Rather than addressing the merits of Kennecott's comment, or seeking to compare the tradeoffs between interference with potential mineral development and the impacts of running another parallel line through the NOMA, the BLM responded with a simple "Comment and route preference noted." See FEIS at H-69. Moreover, there is no discussion in the body of the FEIS of this important issue, that would apprise the decision maker and the public of this "unresolved conflict" over competing uses of resources. Kennecott requests that a supplemental EIS be prepared which more fully discloses and discusses this issue, or that the BLM modify its preferred alternative so as to avoid these potential conflicts with Kennecott's exploration and mineral development operations.

Summary

The BLM failed to adequately respond to comments on the DRMPA/DEIS.

Response

The BLM considered all information and comments submitted during the planning process, beginning with scoping in November 2007. The BLM complied with the NEPA regulations at 40 CFR 1503.4 by performing a detailed comment analysis which assessed and considered all substantive comments received on the DRMPA/DEIS. All 234 letters or emails received on the DRMPA/DEIS were compiled, reviewed, and analyzed to determine whether the comments submitted were substantive. The systematic process used by the Interdisciplinary (ID) Team for identification of substantive comments is described in the PRMPA/FEIS beginning at Appendix H-1. The ID Team labeled comments "substantive" when the submission identified, with reasonable basis, errors in the analysis that would substantively alter analytical conclusions, provided new or missing information that would substantively alter the analytical conclusions, or proposed a new alternative that would meet the purpose and need. For all substantive comments raised, the ID Team determined if the comment warranted the addition or modification of the analyses by making factual corrections or explaining why the comment did not warrant any action. Some of the information and suggestions provided were not pertinent to an RMP-level document. Such comments would be more appropriate for use on a site-specific implementation action. For non-pertinent comments, the BLM explained "why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position" and indicated "those circumstances which would trigger agency reappraisal or further response" (40 CFR 1503.4).

Appendix H pages 9 through 125 of the PRMPA/FEIS list the comments that the BLM received on the DRMPA/DEIS as well as the BLM responses to those comments, including instances where the BLM made changes to the DRMPA/DEIS. As Appendix H of the PRMPA/FEIS states, adjustments were made to the alternative routes based on comments to the DRMPA/DEIS. However, siting the right-of-way through the NOMA would not be in conformance with the NOMA amendment to the Pony Express RMP. On FEIS page 1-13, the management guidance presented in the 1997 amendment of the BLM Pony Express RMP for consideration of new utility rights-of-way in the NOMA is outlined, including criteria for new rights-of-way to avoid the following areas:

- Lands within VRM Class II
- Lands above 5,200 feet in elevation
- Lands with slope greater than 30 percent
- Lands within 0.25 miles of live water sources

In addition, the FEIS noted that rights-of-way proposed for areas above the 5,200-foot elevation mark must be constructed underground and must be completely rehabilitated.

These criteria were used in development and refinement of route alternatives and considered in the DEIS and FEIS. For example, the analysis presented in the FEIS Chapters 3 and 4 of for Alternatives E1 and E2 through the NOMA discloses that these alternatives would cross VRM Class II lands (FEIS p. 3-83) and, thus, would not be consistent (FEIS p. 4-62) with the visual objectives established for this location as prescribed in the amended Pony Express RMP. Also, under these alternatives, the transmission line would be located above the 5,200-foot elevation mark and on slopes greater than 30 percent. Further, as discussed in Chapter 2 (FEIS p. 2-24), the possibility of constructing the transmission line underground was considered as an alternative but was not analyzed in detail because of issues relating to costs, environmental impacts, and potential operations. Because of these issues, the underground construction possibility was eliminated as inconsistent with the purpose and need of the Project (FEIS p. 2-21). The BLM Preferred Alternative D does not cross the NOMA (FEIS p. 3-82 and 4-61) and is in conformance with the criteria for amendment for the Pony Express RMP. Alternatives E1 and E2 also would result in short-term and long-term impacts on the wilderness characteristics of the Oquirrh Mountains Wilderness Inventory Area (FEIS p. 4-66), which is located in the NOMA.

With respect to mineral extraction and mining operations, the FEIS considers Kennecott's mining operations in Bingham Canyon (FEIS p. 3-91) and future mining operations south of the existing mine, as these issues were identified by Kennecott staff during the data collection phase of the EIS in 2007 and 2008. Table 2-9 of the FEIS provides a summary comparison of alternative route by resource for the decisionmaker and general public. Table 2-9 specifically highlights mining operation issues and concerns expressed by Kennecott Land and Copper representatives (FEIS p. 2-85 and 2-86) during the EIS process. In Comment 3F of the FEIS (p. H-26), the BLM assessed and considered SITLA's comment to realign the route affecting the SITLA parcel in the Oquirrh Mountains, just north of the Bingham Canyon Mine; however, this change was not preferred as it would require construction in an area of severe terrain and would conflict with existing Kennecott mining operations in Dry Fork Canyon. This information also applies to Kennecott's comments on the FEIS with respect to the alignment issue. In Comment 17E of the FEIS (p. H-63), the BLM reviewed Rocky Mountain Power's request to select Alternative E1 through the NOMA, and noted that the proposed action would not conform with the Pony Express RMP and specifically the NOMA amendment. This information also applies to Kennecott's comments on the FEIS with respect to the alignment issue. The BLM Preferred Alternative D is intended to minimize impacts to Kennecott mining operations aligning the transmission route in areas that are no longer active and have been reclaimed. Additionally, the route alignment in Dry Fork Canyon and Barney's Canyon was developed in conjunction with Kennecott staff.

Information and input received during the December 10, 2008, field review meeting were considered and incorporated into the FEIS route alignments by the Proponent and the BLM by shifting Link 230 north and west to avoid existing and potential future mining operations (FEIS Table H-3).

Inconsistency with Transmission Corridor Guidance

Issue Number: PP-UT-MONA-10-001-15
Organization: Kennecott Utah Copper LLC
Protestor: Brendan Ryan

Issue Excerpt Text:

Approval of the preferred alignment for the Mona to Oquirrh Transmission Corridor is inconsistent with the Federal Land Policy and Management Act ("FLPMA") and BLM's policy to site new transmission lines adjacent to existing lines wherever possible.

Issue Number: PP-UT-MONA-10-001-6
Organization: Kennecott Utah Copper LLC
Protestor: Brendan Ryan

Issue Excerpt Text:

FLPMA strongly encourages the use of existing linear rights-of-way and corridors when siting new proposed transmission facilities. See 43 U.S.C. 1763 ("In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act.") In general, the BLM's Pony Express Resource Management Plan does the same. See RMP at 56. To the extent that siting the proposed transmission line adjacent to the existing 138kV line in the NOMA would require an amendment to the NOMA provisions of the Pony Express RMP, it would be in the public interest and consistent with FLPMA to make such an amendment in light of the potential mineral values impaired by the currently preferred route. Kennecott urges the BLM to take that course of action rather than approve the RMP amendment as proposed.

Summary

The preferred alignment is inconsistent with the FLPMA and BLM policy to utilize common rights-of-way, which in this case would mean siting a new transmission corridor within or adjacent to an existing corridor.

Response

Section 503 of the FLPMA states: "The utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, the Secretary shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices" (43 U.S.C. 1763). This gives the Secretary discretion to determine whether it is appropriate to require that a new transmission corridor be confined to an existing right-of-way based on relevant factors, as listed above. On FEIS p. 1-13, the management guidance presented in the 1997 amendment of the BLM Pony Express RMP for consideration of new utility rights-of-way in the NOMA is outlined. This RMP amendment was developed consistent with FLPMA and includes criteria for new rights-of-way to avoid the following areas:

- Lands within VRM Class II
- Lands above 5,200 feet in elevation
- Lands with slope greater than 30 percent
- Lands within 0.25 miles of live water sources

The FEIS also noted that rights-of-way proposed for areas above the 5,200-foot elevation mark must be constructed

underground and completely rehabilitated. These criteria were used in development and refinement of route alternatives and considered in the DEIS and FEIS. In Alternatives E1 and E2, the transmission line would cross VRM Class II lands through the NOMA (FEIS p. 3-83) and would not be compliant (FEIS p. 4-62) with the visual objectives established for this location as prescribed in the amended Pony Express RMP. Also, under these alternatives, the transmission line would be located above the 5,200-foot elevation mark and on slopes greater than 30 percent. The 138kV line referenced by protestor pre-existed the NOMA and is also located above 5,200 feet in elevation. Further, as discussed in Chapter 2 (FEIS p. 2-24), the possibility of constructing the transmission line underground was considered as an alternative but was not analyzed in detail because of issues relating to costs, environmental impacts, and potential operations. Because of these issues, the underground construction was eliminated as inconsistent with the purpose and need of the Project (FEIS p. 2-21). The BLM Preferred Alternative D does not cross the NOMA (FEIS p. 3-82 and 4-61) and is in conformance with the criteria for amendment for the Pony Express RMP, as it meets the criteria listed above. Alternatives E1 and E2 also would result in short-term and long-term impacts on the wilderness characteristics of the Oquirrh Mountains Wilderness Inventory Area (FEIS p. 4-66), which is located in the NOMA.

For these reasons, the preferred alignment is consistent with the FLPMA and BLM policy.

Hazardous Materials, Public Safety

Issue Number: PP-UT-MONA-10-013-3

Organization: Tooele County

Protestor: Joy Clegg

Issue Excerpt Text:

2) The EIS chooses to ignore any evidence of health risks associated with EMF's. Additionally, Tooele County objects to the EIS ignoring medical testimony evidence from Dr. David O. Carpenter linking high EMF's to childhood leukemia and other deadly diseases. Instead, only Rocky Mountain Power's submissions are discussed in the EIS. Page 4-89. (See Dr. David O. Carpenter's Information attached as Exhibit C)

Summary

The BLM did not accurately characterize the public health risks associated with electric and magnetic fields (EMF).

Response

The FEIS discloses health risks associated with EMF in the Executive Summary (p. S-9), and Chapter 4 (p. 4-74 through 4-90). The BLM contracted with an independent third-party consultant and EMF expert to prepare the analysis, modeling, and findings for EMF in the EIS. Rocky Mountain Power provided project description information (e.g., tower design, conductor spacing) and electrical loading information on which the modeling and effects analysis were based. Comments 34A and B (FEIS p. H-99) are examples of responses to public comments regarding EMF submitted on the DEIS.

As noted in the BLM response to comments on the DEIS (FEIS H-128), "no scientific agency has classified magnetic fields as a cancer causing agent. . . [two, the World Health Organization and IARC] have designated magnetic fields a 'possible carcinogen' because of statistical data from some epidemiologic studies showing an association between childhood leukemia and average exposure to magnetic fields greater than 3 to 4 milligauss (mG)." However, EMFs were not designated as a "known carcinogen" or a "probable carcinogen." Several public health and scientific organizations have reviewed the research on EMFs and health, and considered the strengths and weaknesses of the epidemiologic and laboratory studies. These reviewers have concluded that the overall body of research does not indicate any disease or adverse health effect caused by EMF exposure at levels below the guideline limits (FEIS p. 4-89). The BLM relied on a review conducted by a panel of experts representing the World

Health Organization in 2007 in its analysis. The conclusions of this review are available at <http://www.who.int/mediacentre/factsheets/fs322/en/index.html> and include the following:

Thus, on balance, the evidence related to childhood leukaemia is not strong enough to be considered causal. . . . A number of other adverse health effects have been studied for possible association with [extremely low frequency (ELF)] magnetic field exposure. . . [and] [t]he WHO Task Group concluded that scientific evidence supporting an association between ELF magnetic field exposure and all of these health effects is much weaker than for childhood leukaemia. In some instances (i.e. for cardiovascular disease or breast cancer) the evidence suggests that these fields do not cause them.

As the FEIS states at p. 4-89, at the edge of the right-of-way, "EMF exposure would be well below exposure limits, in keeping with recommendations noted in Table 4-17." The FEIS at p. 4-90 states that "the maximum levels of EMF even underneath the conductors of the 345 kV line section would be less than [minimum threshold levels for EMF interference]," and discusses the potential risks of EMFs to persons with pacemakers, and cautions such persons to avoid the right-of-way. It further notes that while "there are locations on the proposed right-of-way between Mona and Limber Substations where the electric field from the single-current 500kV transmission line would be higher than the ACGIH guideline, the electric field levels outside the 500kV right-of-way are also below the ACGIH guideline" (Table 4-12).

For these reasons, the BLM accurately characterized the public health risks associated with EMF based on available research and in the context of reasonable use of the right-of-way.