Action Item: Whether Gunnison County should submit comments regarding the Energy Corridor Abstract covering Gunnison County (Corridor 87-277)?

Recommendation: The County should submit the comments prepared by the County's Wildlife Coordinator, Jim Cochran (with possible additional submissions from Mike Pelletier).

Brief Analysis: There does not appear to be any immediate or emergency need for direct County involvement in the corridor process. But, because the corridor potentially impacts County species protection efforts, most notably the Gunnison Sage Grouse, water and land conservation efforts, and possibly constituent private property rights, I recommend that the County submit Mr. Cochran's comments so as at least help ensure that the County is recognized as an affected stakeholder and allow for continued County monitoring of the corridor process.

Deadline: The deadline to submit comments is February 25, 2018. (Note: this is the deadline only to submit comments for the abstract that describes the corridor. According to the website, there will be additional opportunity to comment during the EPAct process. However, failing to submit comments at this juncture could mean that items identified by Mr. Cochran go unchanged or uncorrected).

Background:

On August 8, 2005, the President signed the Energy Policy Act of 2005 (EPAct) (Public Law 109-58) into law. Section 368 of EPAct directed the Secretaries of Agriculture, Commerce, Defense, Energy, and the Interior to designate corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on federal lands in the 11 contiguous western states. Congress also directed the Agencies to perform any environmental reviews that may be required to complete the designation of the corridors and incorporate the corridors into land use plans.

On January 14, 2009, the Department of the Interior (DOI) approved a record of decision (ROD) to designate approximately 5,000 miles of corridors which included amendments to 92 land use plans in 11 western states. The U.S. Forest Service (USFS) issued a ROD on January 14, 2009, which amended 38 national forest land management plans and designated approximately 990 miles of corridors in 10 states.

On July 7, 2009, the Wilderness Society, BARK, Center for Biological Diversity, Defenders of Wildlife, Great Old Broads for Wilderness, Klamath-Siskiyou Wildlands Center, National Parks Conservation Association, National Trust for Historic Preservation, Natural Resources Defense Council, Oregon Natural Desert Association, Sierra Club, Southern Utah Wilderness Alliance, Western Resource Advocates, Western Watersheds Project, and County of San Miguel, Colorado (Plaintiffs) filed a complaint against the Agencies challenging the PEIS, DOI and USFS RODs, and associated energy corridor designations (Wilderness Society, et al. v. United States Department of the Interior, et al., No. 3:09-cv-03048-JW [D.N.D. Cal.]) challenging the

energy corridors under the Energy Policy Act, National Environmental Policy Act, Endangered Species Act, and the Federal Land Policy and Management Act.

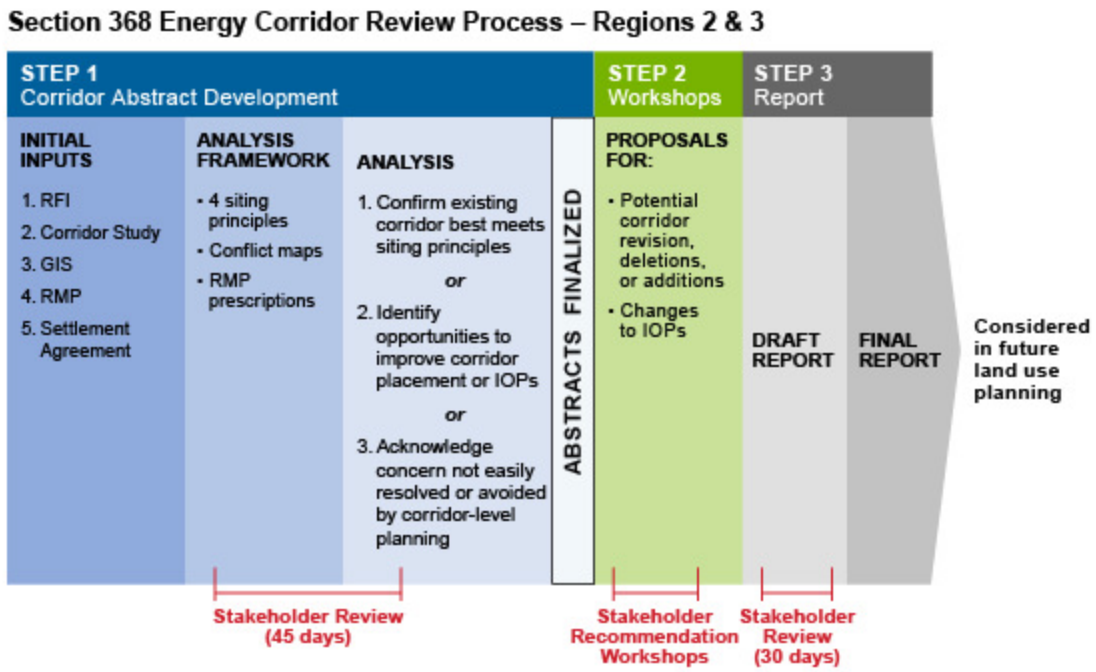
On July 11, 2012, the BLM, USFS, Department of Energy (DOE), and the Department of Justice developed a Settlement Agreement (Settlement) with the Plaintiffs that contains specific actions to resolve the challenges in the Complaint.

In June 2013, the BLM, USFS, and DOE entered into a memorandum of understanding (MOU) regarding regional periodic reviews, including a review of the IOPs, for Section 368 energy corridors. The MOU describes the interagency process for conducting regional periodic reviews of the Section 368 energy corridors (including review of IOPs) and includes a Work Plan for conducting the regional reviews which directs the Interagency Workgroup to examine new relevant information, the Section 368 energy corridor study, and public input, and based on this information will develop recommendations for any revisions, deletions, or additions to the Section 368 corridors.

On January 10, 2018, the BLM, USFS and DOE published draft energy corridor abstracts for the Regions 2 and 3 review process. This release initiated a 45-day stakeholder review period which will close February 25, 2018. The review includes 53 energy corridors situated in Arizona, Colorado, Nevada, New Mexico, and Utah.

The purpose of the Regional Reviews is to examine new relevant information and stakeholder input on the Section 368 energy corridors, including corridors of concern, and, based on this information, identify potential revisions, deletions, or additions to the corridors.

The abstracts are being developed to summarize why the corridor was designated, what energy infrastructure it already contains, and identify concerns that may limit future energy corridor development. The process that the Federal Government has set up to complete the abstracts is set forth in the chart below. The Feds apparently anticipate completing the Steps set forth below by September 2018, and issuing final abstracts and report by December 2018.



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On Feb 16, 2018, at 10:21 AM, Mike Pelletier <MPelletier@gunnisoncounty.org> wrote:

Hi All,

A couple of comments:

1. The corridor passes directly over the historic Aberdeen quarry (granite used in State Capitol building), which is a locally designated landmark. http://gunnisoncounty.org/785/Historic-Sites#Aberdeen
2. In the corridor analysis document on page 20 they say the corridor does not cross the North Branch of the Old Spanish Trail (National designated historic trail), but then on page 22 they say that it does cross it I believe it does crosses at least 2 times in Gunnison County but not on federal land.
3. We could say something about the amount of priority Sage-grouse habitat, but they do cover those issues in general already.
4. They mention that the terrain is undulating and steep but we could give more detail. This is an issue for pipelines and surely any project would contemplate that.

Hope that helps,
Mike

BLM-DOE
West-wide Energy Corridor Regional Review, 2018
Preliminary Abstract
Corridor 87-277
Monarch Pass Corridor
Comments Prepared for Gunnison County, Colorado
by
James O. Cochran

1. Figure 1b. Page 2: The area labeled as "Chaffee County" is actually Gunnison County.

2. Figure 2b. Page 5, "Source" column: The area labeled as the "Royal Gorge Field Office" is actually within the administrative boundary of the Gunnison Field Office of BLM.

3. Table, Page 10: Poncha Springs is north of Poncha Pass. La Veta Pass is on the southeast side of the San Luis Valley. We assume you are referring to Poncha Pass not La Veta Pass.

4. Table, Page 13, "Agency Review and Analysis" column: There are no Greater sage-grouse in the Gunnison Basin (here specifically MP 77 to MP86). We assume you are referring to Gunnison sage-grouse (GuSG) critical habitat. We also note that in the area noted (MP 77 to MP 86) the only direction a corridor shift would accomplish avoidance of GuSG critical habitat would be a northward shift.

5. Table, Page 14, "Agency Review and Analysis" column: We agree that the entire corridor within the Gunnison Basin is within USFWS designated critical habitat. We also note that the existing transmission line within this corridor has been noted as adversely impacting GuSG. Corridor maintenance practices/results have been identified as fragmenting GuSG habitat, in addition to the impacts of the towers and lines themselves. Gunnison County recommends a review of all maintenance and repair practices to reduce impacts. We also believe that conformance with the Gunnison Basin Gunnison sage-grouse Conservation Agreement on Federal Lands is a mandatory part of all corridor practices in the Gunnison Basin.

6. Table, Page 14, "Agency Review and Analysis" column: We note that the USFS GMUG National Forest is in the process of a Forest Plan Revision may impact this corridor. Also, the BLM GuSG Draft RMP amendment is still under consideration. The "exclusion" of Section 368 energy corridors from ROW exclusion areas is by no means a "done deal".

Corridor 87-277

Monarch Pass Corridor

Introduction

Corridor 87-277 (Figures 1a, b and 2a, b) begins 5.2 miles west of the Fort Carson Military Reservation, and extends west 141 miles to the intersection of Corridors 136-277 and 139-277. Federally designated portions of this corridor are on BLM- and USFS-administered lands. The corridor follows a previously designated corridor in the Gunnison Field Office only (Gunnison Resource Area RMP, 1993). Within the Gunnison Field Office, the corridor width varies from 1,000 feet within the South Beaver Creek ACEC to 5,280 feet. The remainder of the designated segments of the corridor outside of the Gunnison Field Office are 3,500 feet in width. Corridor 87-277 is designated multi-modal for future electrical transmission and pipeline projects. There are 76.6 miles of designated corridor on BLM- and USFS-administered lands; the overall route including gaps is 141.3 miles. The designated area is 38,436.7 acres or 60 square miles. Corridor 87-277 is in Fremont, Chaffee, Gunnison, and Montrose counties in Colorado. Portions of the corridor administered by the BLM are in the Royal Gorge and Gunnison Field Offices. Portions administered by the USFS are in the San Isabel National Forest and the Grand Mesa, Uncompahgre, and Gunnison (GMUG) National Forest. This corridor is entirely in Region 2.

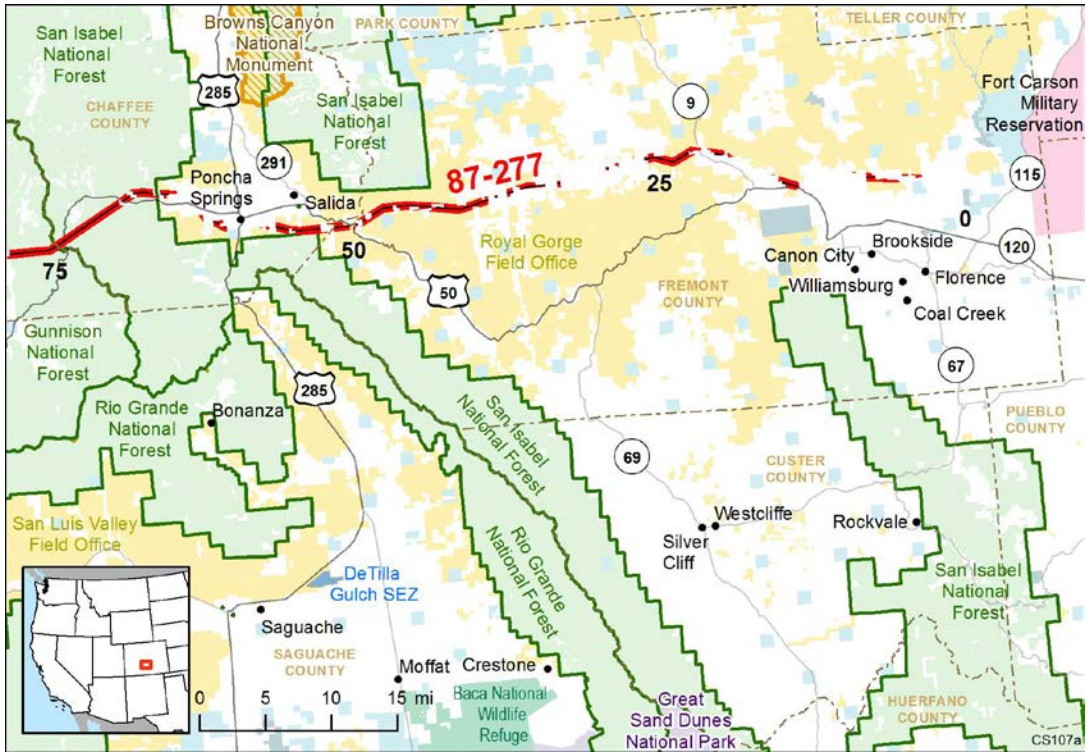

Figure 1a. Eastern Portion of Corridor 87-277

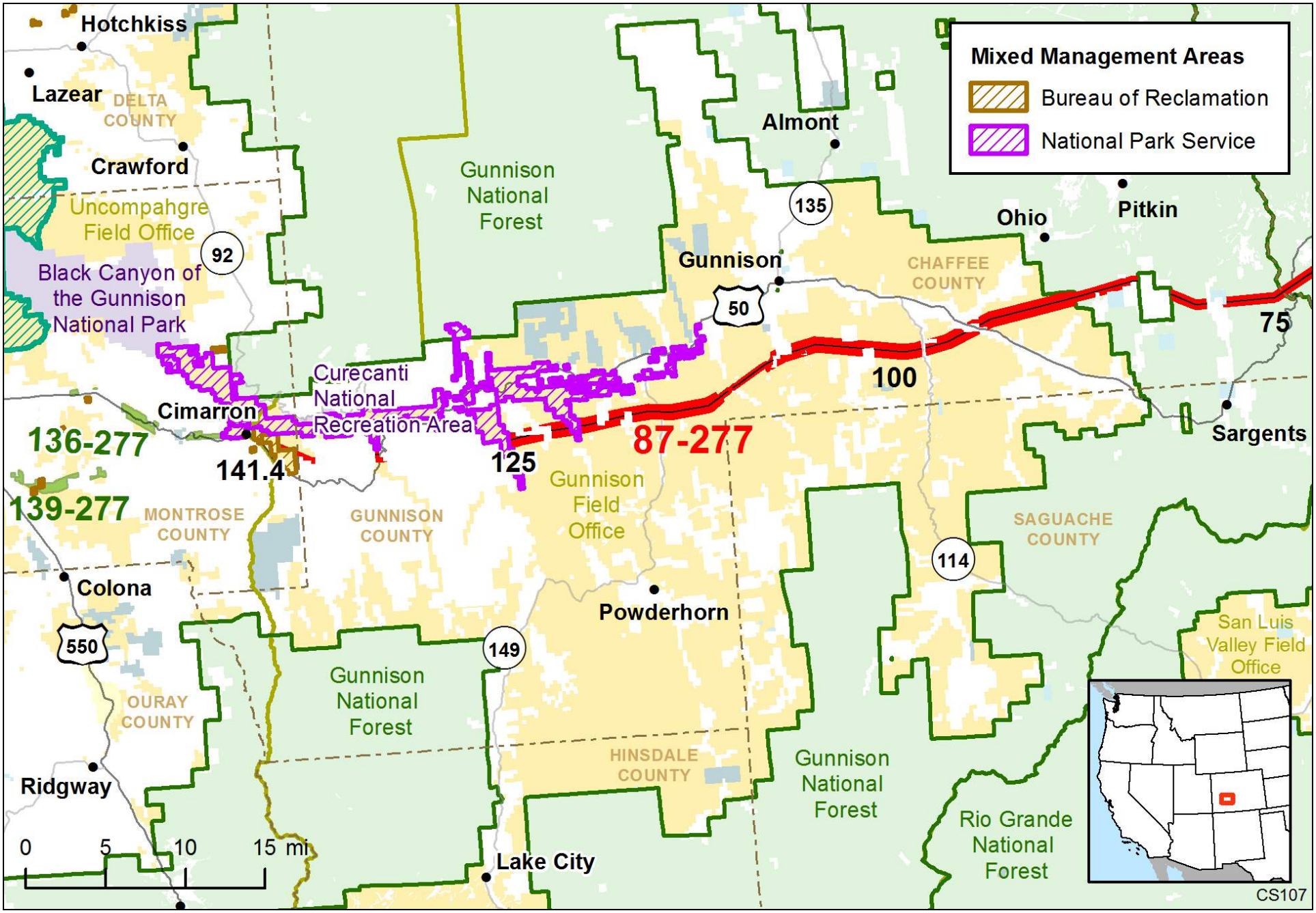

Figure 1b. Western Portion of Corridor 87-277

Key for All Figures

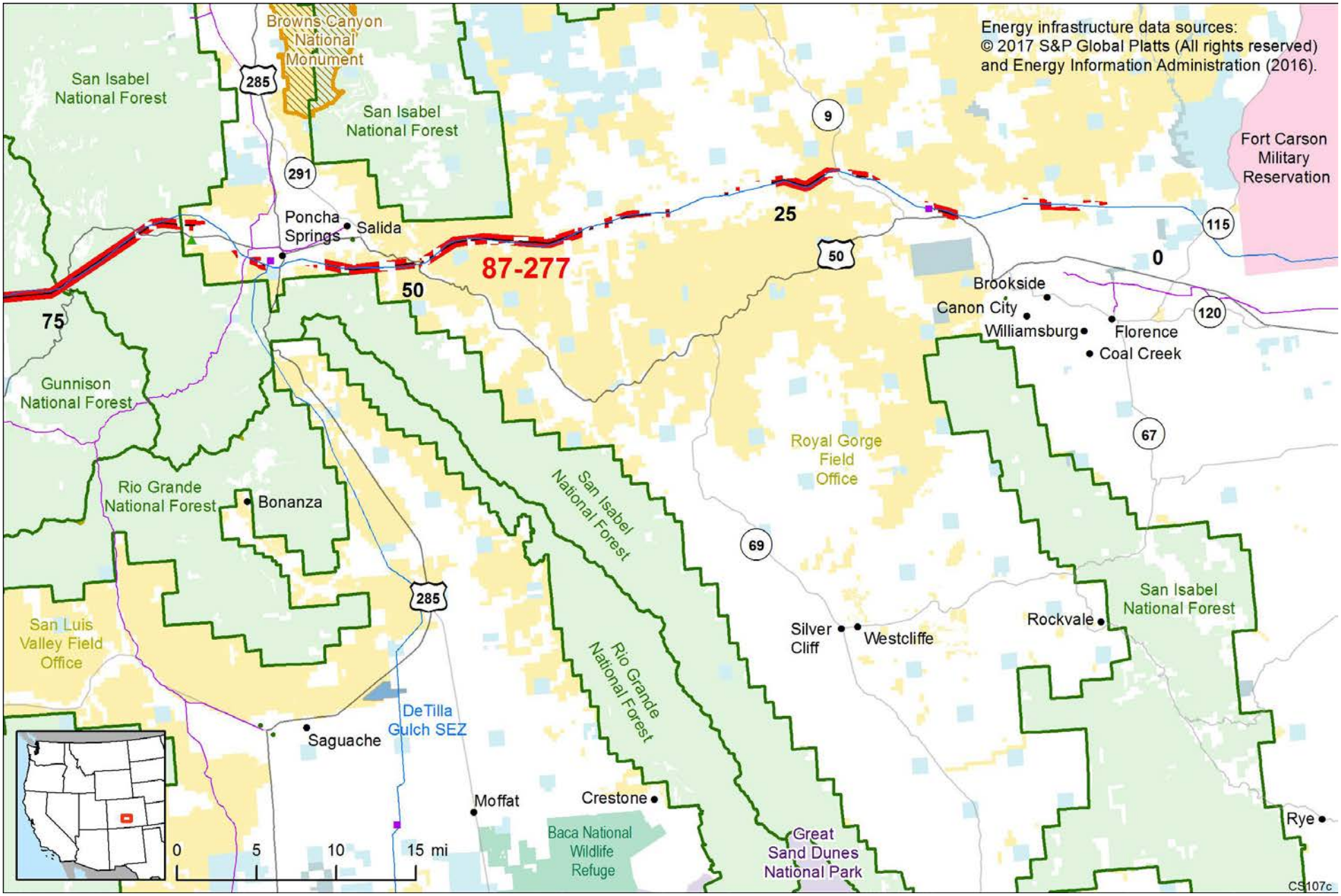

Figure 2a. Eastern Portion of Corridor 87-277, Including Existing Energy Infrastructure

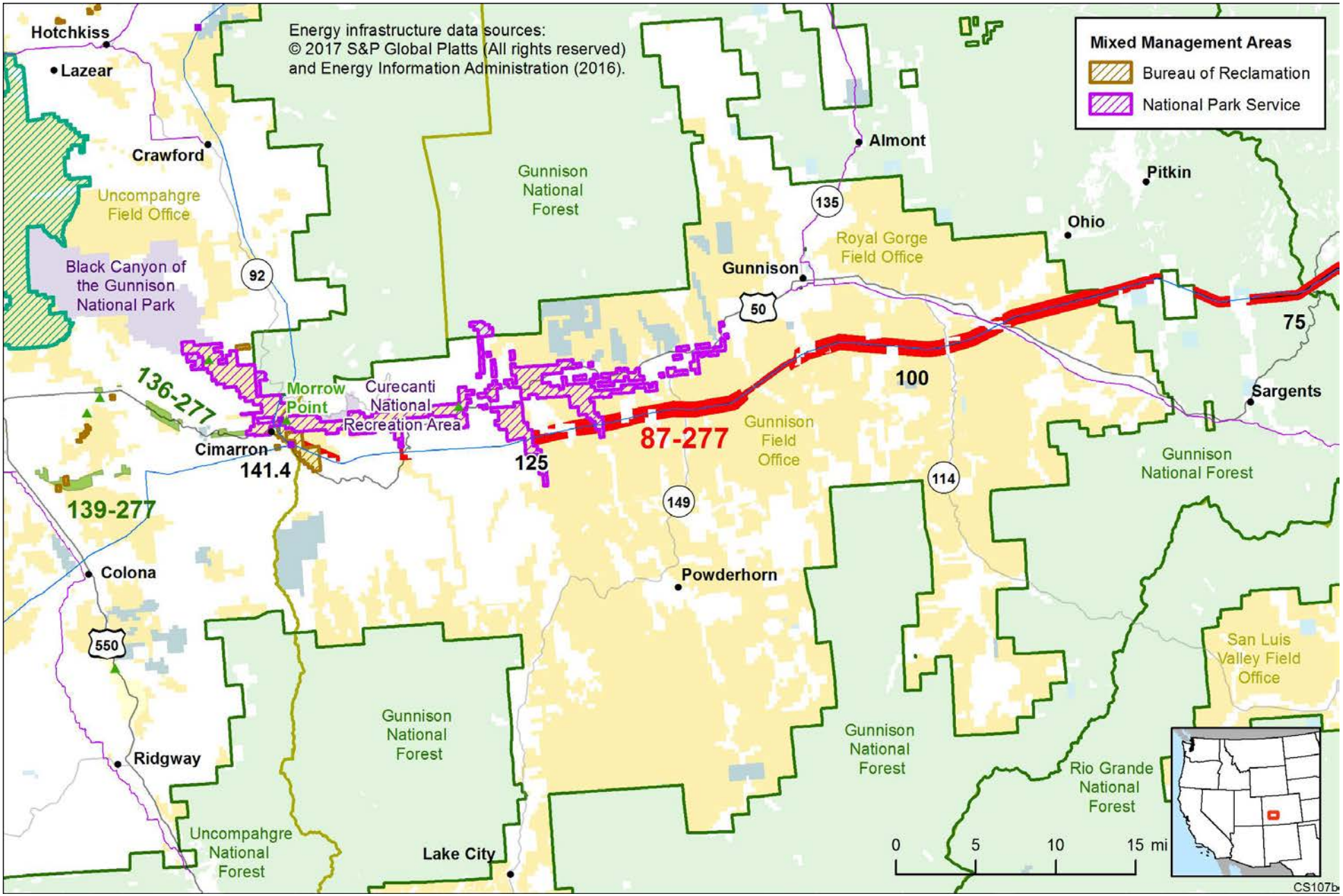

Figure 2b. Western Portion of Corridor 87-277, Including Existing Energy Infrastructure

Corridor Rationale

During scoping for the WWEC PEIS, routes generally following this corridor were suggested by the Western Utility Group.

Existing Infrastructure: The corridor is centered on an existing 230-kV transmission line operated by Western Area Power Administration and follows a previously designated corridor in the Gunnison Field Office. The corridor crosses Monarch Pass at the Monarch Ski Area on the GMUG and San Isabel National Forests. The corridor also crosses multiple ROWs including roads, local REA distribution lines and phone lines.

Potential for Future Development: No pending transmission lines or pipelines were identified during interviews for the Corridor Study. The Platts data indicate a 345-kV planned electric transmission line proposed by Western Area Power Administration that follows the entire corridor and a 115-kV planned electric transmission line proposed by Portland General Electric Company that generally parallels the corridor from MP 53.2 to MP 129.5. BLM indicated that there is not any interest for development within the corridor in the Gunnison or Royal Gorge Field Offices, and that there is currently no oil and gas development in Gunnison Field Office. In the Royal Gorge Field Office there is no oil and gas development near the corridor and low potential for oil and gas along the corridor. Pipeline development within the corridor would be challenging due to Gunnison Sage-grouse designated critical habitat and terrain. Any new pipelines would likely follow along U.S. Highway 50; there is one existing gas pipeline that roughly follows U.S. Highway 50 east of Gunnison. BLM analysis indicates that there are no pending utility-scale renewable projects in the area. There is an active geothermal lease on BLM, Forest Service, and private surface near MP 85 to MP 88. Part of the lease is intersected by the corridor. The rest is located south of the corridor and the southernmost portion of the lease is intersected by the 115-kV Western Area Power Administration transmission line. The lessee has not conducted any exploration activities since the lease was issued in 2012; the lease will expire in 2022. Gunnison County has had interest in geothermal development on private lands in the Waunita vicinity, but has no active applications at this time. The San Isabel National Forest manages the corridor from MP 65 to MP 74, and there are currently no transmission line or pipeline proposals for additional uses in the corridor. There are also no proposals for renewable energy development in proximity to this corridor on the San Isabel National Forest. It is possible that the corridor will be affected by the BLM Gunnison Sage-Grouse Range-wide Draft RMP Amendment/Draft EIS.

Corridor of Concern Status

Corridor 87-277 is a corridor of concern. Concerns regarding coal, WSAs, Gunnison Sage-grouse habitat, and National Historic Places were identified in Exhibit A of the Settlement Agreement. These corridor of concern issues are highlighted in yellow in the Corridor Analysis table.

Conflict Map Analysis

Figures 3a and 3b reflect a comprehensive resource conflict assessment to help the Agencies identify a corridor's proximity to environmentally sensitive areas. The potential conflict assessment (low, medium, high) shown in the figures are based on criteria found on the WWEC Information Center at www.corridoreis.anl.gov. The conflict assessment criteria table was used to identify if the corridor meets the Settlement Agreement siting principles to provide maximum utility and minimum impact on the environment. This facilitates balance between resource protection and potential development. Where feasible, corridors should be sited in the areas of low conflict; however, to meet the requirements in the Energy Policy Act and the siting principles in the Settlement Agreement, corridors may be located in high potential conflict areas. Many energy corridors were designated in land use plans prior to being carried forward into Section 368 designation. In almost all instances, these existing corridors (pre-Section 368) contained existing infrastructure. Between MP 0 and MP 75, portions of Corridor 87-277 generally run through medium and high potential conflict areas. From MP 80 to MP 140 the corridor is primarily located in high

potential conflict areas. There does not appear to be much opportunity to avoid the high potential conflict areas. This is due primarily to the presence of Gunnison Sage-Grouse designated critical habitat throughout the Gunnison Basin.

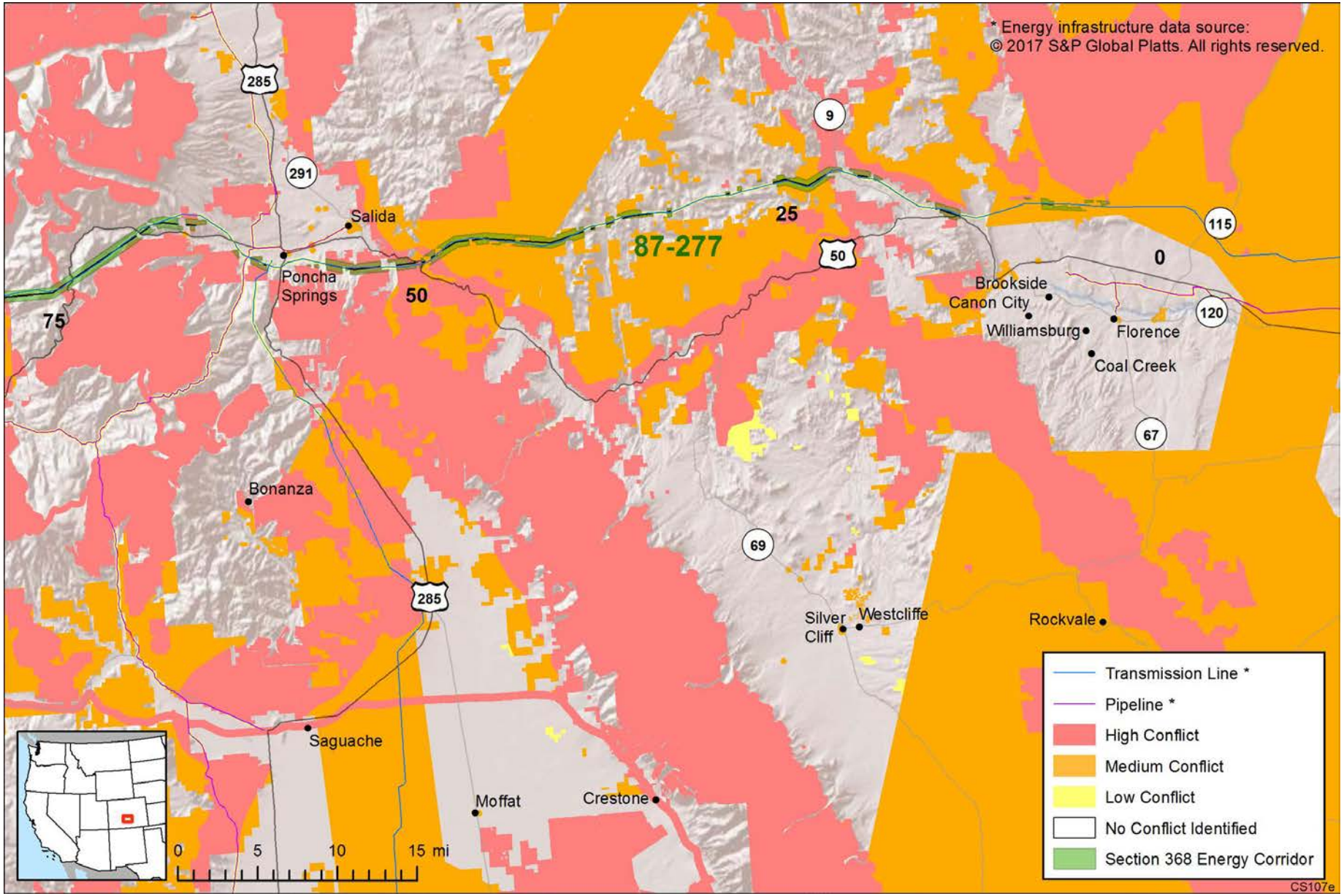

Figure 3a. Mapping of Conflict Areas in Vicinity of Eastern Portion of Corridor 87-277

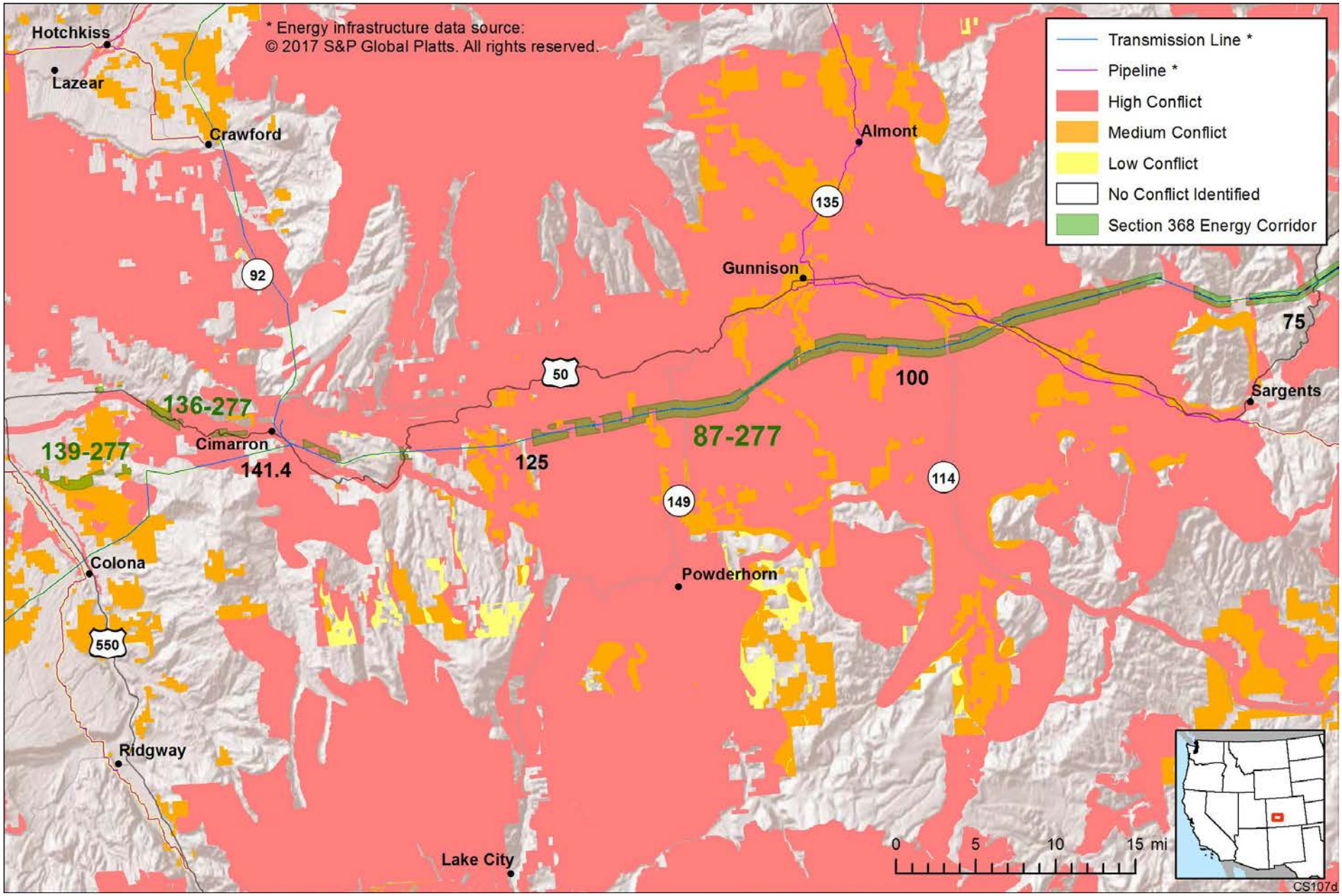

Figure 3b. Mapping of Conflict Areas in Vicinity of Western Portion of Corridor 87-277

Corridor Analysis

The corridor analysis table below identifies issues potentially affecting Corridor 87-277, locations of resources within the corridor, and the results of the analysis by the Agencies. Issues are checked below if they are known to apply to the corridor. Corridor of concern issues are highlighted in yellow.

☒ **Energy Planning Opportunities**

☒ **Energy Planning Issues**
- ☒Physical barrier
- ☒Jurisdiction
- ☒Existing infrastructure/available space

☒ **Land Management Responsibilities and Environmental Resource Issues**
- ☐Air quality
- ☒Cultural resources
- ☒Ecological resources
- ☒Hydrological resources
- ☒Lands and realty
- ☒Lands with wilderness characteristics
- ☐Livestock grazing
- ☐Paleontology
- ☒Public access and recreation
- ☒Soils/erosion
- ☒Specially designated areas
- ☐Tribal concerns
- ☒Visual resources

☐ **Interagency Operating Procedures**

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
ENERGY PLANNING OPPORTUNITIES							
87-277 .001	BLM and USFS	Gunnison and Royal Gorge FOs, GMUG and San Isabel National Forests	Montrose, Gunnison, Chaffee, and Fremont, CO	Substations	MP 9.8 to MP 141.3	GIS Analysis: 20 substations within 5 mi of corridor.	Nearby substations provide an opportunity for the corridor to accommodate additional transmission.
87-277 .002	BLM	Royal Gorge and Gunnison FOs	Chaffee and Gunnison, CO	Salida – hydro-electric, Blue Mesa - hydroelectric, and Morrow Point - hydroelectric	MP 64.3, MP 129.4, and MP 140.7	GIS Analysis: three power plants within 3.7 mi of corridor.	Nearby power plants provide an opportunity for the corridor to accommodate additional transmission.
87-277 .003				Proximity to renewable energy	Not specified.	Settlement Agreement RFI: re-route to ensure connection to renewable energy development. Agency Input: Gunnison Sage-grouse designated critical habitat is an exclusion area for	Geothermal energy potential provides an opportunity for the corridor to accommodate transmission tied to renewable energy development, however critical habitat limits future solar energy development.

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
						utility-scale solar development, however, there is an active geothermal lease on BLM, USFS, and private surface near MP 85 to MP 88. Part of the lease is intersected by the corridor. The rest is located south of the corridor. There is renewable energy potential in the San Luis Valley, with transmission coming through Poncha Springs (MP 58) at La Veta Pass, but north over Poncha would also be a possibility. There are no proposals for renewable energy development in proximity of the corridor on the San Isabel National Forest.	
ENERGY PLANNING ISSUES							
Physical Barrier							
87-277 .004	USFS	GMUG and San Isabel National Forests	Chaffee and Gunnison, CO	Monarch Pass	MP 73 to MP 75	Agency Input: Monarch Pass is a geographic break and the location of the Continental Divide, the boundary between the GMUG and San Isabel National Forests, the boundary between Gunnison and Chaffee County. The corridor, including the existing transmission line, traverses the south side of the Monarch Ski Area.	There is probably a pinch point, but the corridor has to go over the pass somewhere. During the WWEC PEIS development, the USFS agreed to designate the corridor in that location following the existing transmission line.
87-277 .005	BLM	Royal Gorge FO	Chaffee, CO	Pinch points/narrow areas	MP 38 to MP 50	Agency Input: pinch points and narrow areas are present in the Royal Gorge FO.	There is a pinch point in the corridor as well as one existing transmission

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
							line; however, there appears to be room for additional development.
87-277 .006	NPS	Curecanti NRA	Gunnison, CO	Pinch points/deep canyons	MP 120 to MP 121, MP 125 to MP 126	Agency Input: the WAPA line crosses two deep canyons with arms of Blue Mesa Reservoir (Cebolla Creek and Lake Fork of the Gunnison River) located at the bottom.	Pinch point may limit pipeline development within the corridor.
Jurisdiction							
87-277 .007	NA	Private	Chaffee, CO	Maysville	MP 64.8 to MP 65.3	GIS Analysis: community in corridor gap.	BLM can only authorize projects on BLM-administered lands. Development in corridor gaps would require coordination outside of the Agencies.
87-277 .008	NPS	Curecanti NRA	Montrose and Gunnison, CO	Curecanti NRA	MP 109 to MP 141.3	GIS Analysis: NRA and the corridor are parallel and abut each other in some locations. The corridor crosses the NRA. Agency Input: between MP 124 to MP 126 corridor crosses Curecanti NRA where there is existing large lattice towers. Corridor also crosses Curecanti NRA from MP 138 to MP 140. .	BLM can only authorize projects on BLM-administered lands. Development in corridor gaps would require coordination outside of the Agencies. The NPS General Management Plan for the Curecanti NRA has no ROW exclusion or avoidance prescriptions regarding utility corridors paralleling or abutting the NRA. Project proponents should reach out to the NRA early in the process to identify potential issues associated with projects near to or spanning the NRA.
87-277 .009	NPS	Curecanti NRA	Montrose and Gunnison, CO	Lands of Conservation Opportunity	MP 119 ,MP 133 to MP 138	Agency Input: Lands of Conservation Opportunity centered on corridor near MP 119.Corridor abuts Lands of Conservation Opportunity to the north between MP 133 to MP 138. Lands of Conservation Opportunity are private lands that have been identified around the Curecanti NRA as being recommended for conserving natural, cultural,	Project proponents should be aware of these jurisdictional concerns when planning projects in this corridor and should reach out to the NRA early in the process to identify potential issues associated with projects near to or spanning these areas.

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
						recreation, and scenic resources. Curecanti NRA has identified some adjacent areas as Lands of Conservation Opportunity. There are several areas currently managed by other federal agencies that have been identified as having potential to be exchanged with the NPS.	
87-277 .010	BLM	Gunnison FO	Montrose, CO	Black Canyon of the Gunnison National Park	MP 138.4 to MP 140.6	GIS Analysis: the corridor is 4 mi south of the southern boundary of the National Park.	The corridor does not cross into the National Park. Coordination with the NPS regarding any project-specific impacts would be needed.
Existing Infrastructure/Available Space							
87-277 .011	BLM and USFS	Royal Gorge FO and, GMUG and San Isabel and National Forests	Fremont and Chaffee, CO	Existing transmission line	MP 13.3 to MP 14.3; MP 21.4 to MP 21.7, MP 37 to MP 40.5, MP 58 to MP 58.3, and MP 64.7 to MP 71.2; MP 92.5 to MP 93; MP 137 to MP 141.5	GIS Analysis: transmission line and corridor intersect at angles.	Existing line uses entire width of corridor at times crossing side to side presumably due topography, terrain and cost. Additional projects would need to cross this line multiple times to stay within the corridor. Proposed project siting and colocation alternatives to address impacts would be analyzed during the ROW application process. The present San Isabel National Forest RMP requires this application process and review for new siting.
87-277 .012	BLM	Royal Gorge FO	Chaffee, CO	Existing Pipeline	MP 59.1 to MP 60.2 MP 93.8 to 94.5	GIS Analysis: pipeline and corridor intersect at an angle in a corridor gap.	Generally does not affect use of the corridor. Proposed project siting and colocation alternatives to address impacts would be analyzed during the ROW application process.
87-277 .013	BLM	Gunnison FO	Gunnison, CO	Reduced corridor width	MP 107.9 to MP 111.1	GIS Analysis: the corridor was locally designated by the Gunnison FO and the width is reduced from 5280 ft to 1000 ft for 2 mi where the corridor	The corridor width is reduced to 1,000 ft through the South Beaver Creek ACEC between MP 109.3 and MP 110.4. There is one existing transmission line; however, there appears to be room for additional

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
						crosses the South Beaver Creek ACEC.	development. See analysis for Skiff Milkvetch.
87-277 .014	BLM and USFS	Royal Gorge and Gunnison FOs and GMUG and San Isabel National Forests	Fremont, Chaffee, Gunnison, and Montrose, CO	U.S. Highway 50, State Highway 9, US Highway 285, and State Highway 114	MP 12.8 to MP 140.9	GIS Analysis highways and roads cross the corridor multiple times.	Generally does not affect use of the corridor. Consistent with BLM ROW regulations, notification to adjacent ROW holders would be provided.
87-277 .015	BLM and USFS	Royal Gorge FO and San Isabel National Forest	Fremont and Chaffee, CO	Railroad	MP 48.8 to MP 49.6, MP 60.9 to MP 61.8, and MP 67.5 to MP 67.8	GIS Analysis: railroad crosses the corridor.	Generally does not affect use of the corridor. Consistent with BLM ROW regulations, notification to adjacent ROW holders would be provided.
LAND MANAGEMENT RESPONSIBILITIES AND ENVIRONMENTAL RESOURCE ISSUES							
Cultural Resources							
87-277 .016	BLM and USFS	Royal Gorge and Gunnison FO, San Isabel National Forest, and private land	Chaffee and Montrose, CO	National Register of Historic Places (NRHP) properties	MP 55 (near), MP 65 (near), and MP 140.7 (near)	Settlement Agreement: National Historic Places GIS Analysis: Hutchinson Ranch (Boundary Increase), Hutchinson Ranch (pending NRHP-listing), and Poncha Springs Schoolhouse as close as 0.9 mi north of corridor; Maysville School 0.3 mi south of corridor; D&RG Railroad Box Outfit Car No. 04414, D&RG Western Railroad Stock Car No. 5620, D&RG Western Railroad Stock Car No. 5679D, and RGS Railroad Derrick Car 0.8 mi northwest of corridor.	These properties are either listed on or are pending listing on the NRHP, but it is not clear which properties are specified as being of concern in the Settlement Agreement, Exhibit A. None of these properties are located on federal lands within the Section 368 energy corridor. The potential exists for cultural/heritage resources to be present within the corridor. Analysis of cultural resource impacts would be conducted as part of the ROW application process, but are not being considered for corridor-level planning because they are not in the corridor.
Ecology: Special Status Animal Species							
87-277 .017	BLM and USFS	Gunnison FO and GMUG National Forests	Montrose and Gunnison, CO	Gunnison Sage-grouse critical habitat (ESA-listed: threatened)	MP 77.3 to MP 77.8, MP 78.3 to MP 78.5, MP 78.8 to MP 83.2, MP 84.3 to MP 127.3, MP 129.3 to MP 133.3,	Settlement Agreement RFI: re-route to avoid Gunnison Sage-grouse habitat.	There is an opportunity to consider revising the corridor in the GMUG National Forests, including shifting the corridor between MP 77 to MP 86 to avoid Greater Sage-grouse critical

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
					MP 137.4 to MP 141, and MP 141.2 to MP 141.3	GIS Analysis: critical habitat located within the corridor.	habitat while still encompassing the existing transmission line.
87-277 .018	BLM and USFS	Gunnison FO and GMUG National Forest	Montrose and Gunnison, CO	Gunnison Sage-Grouse production areas (ESA-listed: threatened)	Approx. MP 77 to MP 141.3 (end)	RFI: re-route or exclude new infrastructure ROWs and avoid all new energy infrastructure development within Gunnison Sage-grouse production areas. Use full mitigation hierarchy to avoid, minimize, and compensate for impacts within 4 mi of important Gunnison Sage-grouse breeding areas.	Given the overlap of critical habitat in the Gunnison Basin, there is no practical way to re-route the corridor to avoid habitat in the Gunnison FO. The Gunnison and GMUG National Forests RMPs have no ROW exclusion or avoidance prescriptions listed for utility corridors in Gunnison Sage-grouse critical habitat. The Gunnison RMP does contain management guidelines for sage grouse. It is possible that the corridor will be affected by the Gunnison Sage-Grouse Range-wide Draft RMP Amendment Draft EIS; in that draft document Section 368 energy corridors are 'excluded' from exclusion areas..
87-277 .019	BLM	Royal Gorge FO	Fremont, CO	Mexican Spotted Owl critical habitat (ESA-listed: threatened)	MP 3.6 to MP 5.7	GIS Analysis: critical habitat as close as 0.1 mi north of corridor but does not overlap the corridor.	The Royal Gorge RMP has no ROW exclusion or avoidance prescriptions for transmission lines that do not overlap Mexican Spotted Owl critical habitat.
87-277 .020	BLM	Gunnison FO	Gunnison, CO	Yellow-billed Cuckoo (ESA-listed: threatened)	Not specified.	Agency Input: Yellow-billed cuckoo identified by BLM CO as an issue for this corridor.	There are no management prescriptions for the Yellow-billed Cuckoo in any of the BLM or USFS RMPs associated with the corridor. If a proposal was submitted to use the corridor, it would be reviewed on a case-by-case basis and conflicts would be resolved at that time, rerouted, or additional resource protective measures would be implemented.
87-277 .021	USFS	San Isabel National Forest	Chaffee, CO	Canadian Lynx (ESA-listed: threatened)	MP 64 to MP 74	Agency Input: portions of the corridor across the San Isabel	Not a consideration for corridor-level planning. Lynx will be addressed

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
						National Forest is located within a Lynx Analysis Unit.	during the ROW application process for any proposed use of the corridor.
Ecology: Special Status Plant Species							
87-277 .022	BLM	Gunnison FO	Gunnison, CO	Skiff Milkvetch (ESA-candidate species)	Not specified.	Agency Input: in the Gunnison FO RMP (1993), the South Beaver Creek ACEC was designated to protect the Skiff Milkvetch. The species occurs as small, scattered colonies throughout the ACEC and surrounding areas, which is the only place in the world this plant is known to occur. Colonies are typically on southeast to southwest exposures, although surveys from the past several years have found them on flats near existing colonies.	The corridor width is 1,000 ft in Gunnison FO because of the presence of Skiff Milkvetch, a Candidate species. The RMP states that ROW development is allowed throughout the ACEC provided surface disturbance does not impair or degrade colonies of the Skiff Milkvetch. Appropriate mitigation would be required on all ROWs involving surface disturbing activities. The Gunnison FO typically conducts inventories for this plant in proposed project areas and relocates new disturbances to areas where there is no skiff milkvetch. Inventory would be done as part of the ROW application process.
87-277 .023	BLM	Royal Gorge FO	Chaffee and Fremont, CO	Brandegee Wild-buckwheat, Royal Gorge Stickleaf (BLM and Regional Forester's Sensitive species)	MP 49 to MP 55	Agency Input: known populations of sensitive plant species within the corridor.	The species would be avoided or mitigated during the ROW application process.
Hydrology: Surface Water							
87-277 .024	NPS	Curecanti NRA	Gunnison, CO	Blue Mesa Reservoir	MP 120.6 to MP 120.9 and MP 125.1 to MP 125.4	GIS Analysis: reservoir in a corridor gap.	The reservoir is within the Curecanti NRA managed by the NPS. *See also discussion under Physical Barriers above.*

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
87-277 .025	BLM and USFS	Gunnison and Royal Gorge FO and GMUG and San Isabel National Forests	Fremont, Gunnison, Chaffee, and Montrose, CO	Seventeen stream crossings: Eightmile Creek, Fourmile Creek, Wilson Creek, Currant Creek, Cottonwood Creek, North Tallahassee Creek, Badger Creek, Arkansas River, Poncha Creek, South Arkansas Creek, Tomichi Creek, Cochetopa Creek, South Beaver Creek, Willow Creek, Cebolla Creek, Big Blue Creek, Cimarron River	MP 3.4, MP 8.8 to MP 9.8, MP 19.2 to MP 26.2, MP 45.1 to MP 49.6, MP 57.8, MP 61.1, MP 67.9, MP 78, MP 93.8 to MP 94.6, MP 97.5 to MP 97.6, MP 110.4 to MP 110.5, MP 114 to MP 114.2, MP 120.5 to MP 121, MP 127.1, MP 133.1 to MP 133.2, and MP 140.2 to MP 140.8	GIS Analysis: streams cross the corridor.	Not a consideration for corridor-level planning. Linear ROWs can either span streams or be buried underneath them. Presently the linear ROW across the San Isabel National Forest spans the stream, future proposals will be reviewed per the RMP Amendment.

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
87-277 .026	BLM	Royal Gorge and Gunnison FO	Fremont, Gunnison, and Montrose, CO	No Surface Occupancy Area	MP 8.7 to MP 9, MP 14.7 to MP 15.5 (near), MP 28.7 to MP 29 (near), MP 88.1 to MP 97.4, MP 97.7 to MP 98.7, MP 100.1 to MP 105.9, MP 106.8 to MP 109.5, MP 115.7 to MP 119.7, MP 121.6 to MP 124.9, and MP 140.2 to MP 140.7	GIS Analysis: NSO area as close as 0.1 mi north of corridor (where listed as "near"), otherwise the NSO areas and corridor intersect.	The Royal Gorge and Gunnison RMPs have no ROW exclusion or avoidance prescriptions for NSOs related to utility corridors. The RMP identifies NSOs for oil and gas, developed recreation sites, some recreation and public purposes sites, threatened and endangered species, and some ACECs. The Garden Park ACEC is the only one close to the corridor. None of these NSOs would affect future development. In the Gunnison FO, the corridor intersects NSO areas for Gunnison Sage-grouse lek protection and the NSO only applies to fluid minerals leasing. All Gunnison Sage-grouse leks are protected from destruction and a timing limitation applies during March 15 - May 15. The creek crossings within Management Unit 14 are also subject to a timing limitation during June 15 - July 31 to protect brooding sage grouse. The Candidate Conservation Agreement for the Gunnison Sage-grouse, Gunnison Basin Population does not cover large-scale ROWs. However, it directs that new infrastructure be co-located within existing development footprints to the maximum extent feasible.
Lands and Realty: Military and Civilian Aviation							
87-277 .027	BLM	Royal Gorge FO	Fremont, CO	Military Training Route – VR	MP 40.5 to MP 50	GIS Analysis: VR and corridor intersect.	Adherence to IOP 1 under Project Planning in the WWEC PEIS RODs regarding coordination with DoD would be required.

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
87-277 .028	BLM	Royal Gorge FO	Fremont, CO	DoD Special Use Airspace - MOA	MP 0 to MP 26.8	GIS Analysis: MOA and corridor intersect.	Adherence to IOP 1 under Project Planning in the WWEC PEIS RODs regarding coordination with DoD would be required.
Lands with Wilderness Characteristics							
87-277 .029				Badger Creek South Citizens' proposed wilderness	Not specified.	Settlement Agreement RFI: re-route to avoid citizens' proposed wilderness.	This citizens' proposed wilderness is not in the RMP management prescriptions and is therefore not a consideration at the time of this review.
87-277 .030				BLM-identified Potential lands with wilderness characteristics	Not specified.	Settlement Agreement; RFI: re-route to avoid Wilderness COF-020-017-A, Cooper Mountain, Crampton Mountain subunit, Crampton Mountain, Echo Canyon, Eightmile Mountain, North Badger Creek, Stubbs Gulch, Sugar Creek --BLM-identified Potential lands with wilderness characteristics. Agency Input: BLM indicated that Gunnison FO has done wilderness inventory since the WWEC PEIS.	There is an opportunity to consider revision (corridor narrowed or moved) between MP 41 to MP 48 to avoid lands with wilderness characteristics. The Gunnison FO completed an inventory of the entire FO for wilderness characteristics in 2013. The corridor does cross three areas that were determined to have lands with wilderness characteristics. The WAPA line that is the center of the corridor is the boundary of the Stubbs Gulch and Sugar Creek areas. The line is within 1,000 to 1,200 ft of the boundary of the South Beaver Creek area. There are lands with wilderness characteristics on both sides of the corridor around MP 41 to MP 48. The inventories areas go to both sides of the current authorization (about 250 ft) where the corridor is 3,500 ft.
Public Access and Recreation							
87-277 .031	USFS	GMUG and San Isabel National Forests	Chaffee and Gunnison, CO	Monarch Pass Ski Area	MP 73 to MP 75	Agency Input: the present 230-kV line is very close to the south and east boundary of the Monarch Pass Ski Area. The corridor goes through 1B Downhill Skiing and Winter Sports prescription area that is a	The corridor was designated in its current location over Monarch Pass to align with the existing 230-kV transmission line. Half to most of the Monarch Pass Ski Area is in the north half of Corridor 87-277 creating a pinch point but there is little

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
						special use permit area for snowcat skiing from Monarch Ski Area.	opportunity for corridor revision across the Monarch Pass.
87-277 .032	BLM	Gunnison FO	Gunnison, CO	Colorado Scenic Byway - Silver Thread	MP 115.1 to MP 115.4	GIS Analysis: Silver Thread Scenic Byway intersects corridor. The Silver Thread Byway includes the entire length of Highway 149. The corridor crosses Hwy 149 near its northern end, and is located in a VRM Class 3 area. A Corridor Master Plan was completed in the late 1990s. Interpretive panels were recently developed and installed. The theme of the panels tells the story of mankind's progress, the evidence of that progress, and how it affects and is affected by the natural history of the area	If a proposal was submitted to use the corridor It would be reviewed on a case-by-case basis and conflicts would be resolved at that time or rerouted or additional resource protective measures would be implemented. Nothing in the scenic byway would prevent development. Coordination with Colorado DOT would be required to identify any management prescriptions related to the scenic highway.
87-277 .033	NA	City	Chaffee, CO	Chipeta Park, Hoover Ranch Park, Poncha Springs Disc Golf Course, and Hot Springs Pool	MP 54.2 and MP 57.3 to MP 58	GIS Analysis: city parks are as close as 0.8 mi north of corridor and within a corridor gap.	The parks are not within the corridor and are therefore not a consideration for corridor-level planning. . If a proposal was submitted to use the corridor it would be reviewed on a case-by-case basis, and conflicts would be resolved at that time, the project rerouted, or additional erosion control measures would be implemented.
Specially Designated Areas							
87-277 .034	USFS	GMUG National Forests	On the border of Gunnison CO and Chaffee, CO	Continental Divide National Scenic Trail	MP 73.6 to MP 73.9	GIS Analysis: CDNST intersects corridor	The corridor and 230-kV transmission line cross the CDNST, established by Congress in 1978. The CDNST is a pinch point visually for some types of potential future use or expansion in the corridor. The Agencies have identified the need for a new IOP to address development

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
							in Section 368 energy corridors while protecting values in Congressionally designated NSTs. The USFS does not feel the corridor should be moved because the corridor must cross the CDNST somewhere and the current path appears to be the best because it centers the corridor on an existing transmission line in an area that already has power lines and is heavily developed (Monarch Ski Area) keeping all impacts to this location.
87-277 .035	BLM	Royal Gorge	Fremont, Chafee, CO	Gold Belt Tour National Scenic and Historic Byway,	Intersections: MP 8.9, MP 13.3 to MP 14, and MP 21.5	GIS Analysis: Gold Belt Tour Scenic and Historic Byway intersects corridor.	The Gold Belt Tour Scenic Byway Partnership Plan includes a goal of open space and the following action- work with public works agencies, state and U.S. Highways, utilities, ditch companies, railroads and other agencies or concerns, to secure shared use of easements and corridors.
87-277 .036	USFS	San Isabel National Forests	Fremont and Chaffee, CO	Colorado Roadless Areas: Badger Creek, Sangre de Cristo: Silverheels Gulch to Hunts Creek, Methodist Mountain, Chipeta, Mount Antero	MP 51.7 to MP 52.5 and MP 68 to MP 69.5	GIS Analysis: Sangre de Cristo: Silverheels Gulch to Hunts Creek intersects corridor. Chipeta intersects and is adjacent to corridor.	The corridor intersects Colorado Roadless Areas in the San Isabel National Forest and may present challenges for future development. However, the intersection is small and there is an opportunity to consider realigning or reducing the width of the corridor to avoid the Colorado Roadless Areas.
87-277 .037	BLM	Gunnison FO	Gunnison and Montrose, CO	Old Spanish National Historic Trail	MP 93.9 to MP 94.5, MP 121.2 to MP 121.5, MP 137.2 to MP 141.3	GIS Analysis: OSNHT is as close as 0.5 mi in some locations.	The corridor does not cross the OSNHT. The Agencies have identified the need for a new IOP to address development in Section 368 energy corridors while

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
							protecting values in Congressionally designated NHTs. The OSNHT is a Congressionally designated trail. Adherence to IOPs would be required. Through project-specific environmental reviews, impacts would be analyzed in relation to any other alternatives that would be identified.
87-277 .038	BLM	Royal Gorge FO	Fremont, CO	High Mesa Grassland WSA	MP 23.7	GIS Analysis: WSA as close as 1.1 mi south of corridor.	Not a consideration for corridor-level planning. The corridor does not cross the WSA.
87-277 .039	BLM	Royal Gorge and Gunnison FOs	Fremont and Gunnison, CO	Phantom Canyon ACEC, Garden Park ACEC, Arkansas Canyonlands ACEC, South Beaver Creek ACEC	Intersections: MP 3.7 to MP 3.9, MP 109.2 to MP 110.3 Near: MP 7.6 to MP 9, MP 22.8 to MP 29	GIS Analysis: Phantom Canyon ACEC and South Beaver Creek ACEC intersect corridor. Garden Park ACEC as close as 0.6 mi north of corridor, Arkansas Canyonlands ACEC as close as 1.3 mi south of corridor.	The Royal Gorge and Gunnison RMPs have exclusion and avoidance prescriptions related to utility corridors and intersection with ACECs. ROW will be authorized on a case-by-case basis when exclusion and avoidance criteria are satisfied and protective stipulations are in place.
87-277 .040	BLM	Royal Gorge FO	Fremont, CO	Indian Springs Trace Fossil Area	MP 3.7	GIS Analysis: Natural National Landmark as close as 0.7 mi northeast of corridor.	The Indian Springs Trace Fossil Area should not be an issue at this distance; however, coordination and mitigation would occur during ROW application process.
87-277 .041	BLM	Royal Gorge FO	Fremont and Chaffee, CO	Gold Belt SRMA	MP 0 to MP 22.5, MP 47.2 to MP 51.8	GIS Analysis: SRMA intersects corridor.	The BLM RMP does not have exclusion or avoidance prescriptions for utility corridors that would intersect SRMAs.
Visual Resources							
87-277 .042	BLM	Royal Gorge FO	Fremont, CO	VRM Class I	MP 3.7 to MP 4.2, MP 22.3 to MP 25.7	GIS Analysis: VRM Class I areas are as close as 1.1 mi north and south of corridor.	The corridor is not in a VRM Class I area.
87-277 .043	BLM	Royal Gorge, Gunnison, and Uncompahgre FOs	Fremont, Chaffee, Gunnison, and	VRM Class II	MP 3.7 to MP 4, MP 13.2 to MP 22.6, MP 47.7 to MP 64.8, MP 93.9 to MP 94.1, MP 106.7 to MP 107.6,	GIS Analysis: VRM Class II areas and corridor intersect.	Future development within the corridor could be limited as VRM Class II allows for low level of change to the characteristic landscape. Management activities may be seen,

REGION 2 – CORRIDOR 87-277– ANALYSIS TABLE							
ID	**Agency**	**Agency Jurisdiction**	**County**	**Primary Issue**	**Corridor Location (by Milepost [MP])**	**Source**	**Agency Review and Analysis[1]**
			Montrose, CO		MP 119.5 to MP 120.1, MP 124.4 to MP 140.4 MP 3.7 to MP 4 MP 0 to MP 22.5; MP 47.2 to MP 51.8	 Agency Input: corridor passes through VRM Class II area of Phantom Canyon ACEC. Agency Input: corridor crosses through VRM II and III areas of Gold Belt SRMA at MP 0 to MP 22.5 and Arkansas Headwaters SRMA at MP 47.2 to MP 51.8.	but should not attract the attention of the casual observer. The BLM RMPs do have exclusion or avoidance prescriptions for utility corridors that would intersect VRM Class II areas depending on the location (e.g., within a SRMA). The Gunnison RMP does not designate any ROW exclusion or avoidance areas related to VRM.
87-277 .044	BLM	Royal Gorge, Gunnison, and Uncompahgre FOs	Fremont, Gunnison, and Montrose, Co	VRM Class III	MP 87.4 to MP 97.7, MP 104.5 to MP 106.9, MP 111.4 to MP 122.4, and MP 141.2 to MP 141.3 MP 93.4 MP 115.1 to MP 115.4	GIS Analysis: VRM Class III areas and corridor intersect. Agency Input: corridor crosses Old Spanish National Historic Trail. Agency Input: corridor crosses over Silver Thread Scenic Byway within VRM Class III area.	VRM Class III allows for moderate change to the characteristic landscape, although minimizing visual contrast remains a requirement. Management activities may attract the attention of the casual observer, but shall not dominate the view.
87-277 .045	BLM	Gunnison FO	Gunnison, CO	VRM Class IV	MP 89.9 to MP 91.7, MP 94.7 to MP 114.6, MP 120.1 to MP 124.6, and MP 133.3	GIS Analysis: VRM Class IV areas and corridor intersect.	Corridor meets Settlement Agreement general principles for corridor siting for minimum impact on the environment in terms of visual resources. VRM Class IV objectives allow for major modification to occur and management activities may dominate the view, although minimizing visual contrast remains a requirement.

[1] Projects proposed in the corridor would be reviewed during their ROW application review process and would adhere to federal laws, regulations, and policy.

Abstract Acronyms and Abbreviations

ACEC = Area of Critical Environmental Concern; BLM = Bureau of Land Management; CDNST = Continental Divide National Scenic Trail; CDOT = Colorado Department of Transportation; D&RG = Denver & Rio Grande; DoD = Department of Defense; FO = Field Office; GIS = geographic information system; GMUG = Grand Mesa, Uncompahgre, and Gunnison; IOP = interagency operating procedure; IRA = Inventoried Roadless Area; KOP = key observation point; MOA = Military Operations Area; MP = milepost; MS = Manual Section; NEPA = National Environmental Policy Act; NPS = National Park Service; NRA = National Recreation Area; NRHP = National Register of Historic Places; NSO = No Surface Occupancy; OSNHT = Old Spanish National Historic Trail; PEIS = Programmatic Environmental Impact Statement; REA = Rural Electrification Administration; RFI = Request for Information; RGS = Rio Grande Southern; ROD = Record of Decision; ROW = right-of-way; SRMA = Special Recreation Management Area; USFS = U.S. Forest Service; USFWS = U.S. Fish and Wildlife Service; VR = Visual Route; VRM = Visual Resource Management; WAPA = Western Area Power Administration; WSA = Wilderness Study Area; WWEC = West-wide Energy Corridor.

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Stakeholder Input
To facilitate stakeholder engagement during the Regional Reviews, the BLM and USFS have developed corridor abstracts and an online input form

Frequently Asked Questions

Regions 2 and 3 Regional Review

Region 2 and Region 3 energy corridor abstracts.

On January 10, 2018, the BLM, USFS and DOE published draft energy corridor abstracts for the Regions 2 and 3 review process. This release initiated a 45-day stakeholder review period which will close February 25, 2018. The review includes 53 energy corridors situated in Arizona, Colorado, Nevada, New Mexico, and Utah. The agencies also held a webinar on January 24, 2018, to provide an orientation to the review process. Draft energy corridor abstracts are available below.

Regions 2 and 3 for Review of Section 368 Energy Corridors

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The purpose of the Regional Reviews is to examine new relevant information and stakeholder input on the Section 368 energy corridors, including corridors of concern, and, based on this information, identify potential revisions, deletions, or additions to the corridors and identify possible changes to the IOPs. Visit the Regional Reviews page for general information on the Regional Reviews. To assist in the review of the abstracts, utilize the Section 368 Mapping Tool. It serves as a geospatial tool for abstract review and it depicts corridors, boundaries, resource data, as well as a licensed database of pipelines and electric transmission lines.

Within the regional review process, there are three opportunities for stakeholder engagement. The graphic below displays the entire review process and highlights (in red) these three opportunities.

Section 368 Energy Corridor Review Process - Regions 2 & 3

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The abstracts are being developed to summarize why the corridor was designated, what energy infrastructure it already contains, and identify concerns that may limit future energy corridor development. As shown above, Step 1 of the review process is the development pf draft abstracts using information from the 2012 Settlement Agreement, comments submitted in the 2014 Request for Information (RFI), the 2016 Corridor Study, GIS analysis, and applicable Agencies' land use plans. The analysis framework for abstract development includes the 4 siting principles identified in the Settlement Agreement, maps of potential resource conflicts ('conflict maps'), and BLM and USFS management prescriptions ('RMP prescriptions') potentially impacting the corridors. The intent of the analysis is to:

- Confirm the existing corridor best meets the siting principles (e.g., the corridor is located in the best place given the siting principles - maximum utility, minimum environmental impact);
- Identify opportunities to improve corridor placement or interagency operating procedures (IOPs) (e.g., shift a corridor segment, widen or narrow the corridor, remove a corridor, or add a new corridor elsewhere) or to add new or revise existing IOPs; or

- Acknowledge the concern is not easily resolved or avoided through corridor-level planning (Note that review of these issues will continue after the abstracts are finalized.

Abstracts will be finalized following the 45-day stakeholder review and input. In Step 2, the corridor abstracts serve as the foundation for the stakeholder workshops, which will serve as a collaborative venue for consideration and development of potential corridor revisions, deletions, or additions and potential changes to IOPs. This input will be compiled into a draft report (Step 3) for Regions 2 and 3 targeted to be released in September 2018 for a 30-day stakeholder review, followed by the release of the final report targeted for late December 2018.

Energy Corridor Abstracts

- *110-114*
- *110-233*
- *111-226*
- *113-114*
- *113-116*
- *114-241*
- *115-208*
- *115-238*
- *116-206*
- *126-133*
- *126-218*
- *126-258*
- *130-131(N)/130-131(S)*
- *130-274/130-274(E)*
- *131-134*
- *132-133*
- *132-136*
- *132-276*
- *133-142*
- *134-136*
- *134-139*
- *136-139*
- *136-277*
- *138-143*
- *139-277*
- *144-275*
- *17-35*
- *232-233(E) (W)*
- *234-235*
- *256-257*
- *30-52*
- *35-111*
- *35-43*
- *37-232*
- *39-113*
- *43-111*
- *43-44*
- *44-110*
- *44-239*
- *46-269*
- *47-68*
- *61-207*
- *62-211*
- *66-209*
- *66-212*
- *66-259*
- *68-116*
- *73-133*
- *80-273*
- *81-213*
- *81-272*
- *87-277*
- *89-271*

- *Conflict Assessment Criteria Table for Section 368 Energy Corridor Reviews* *(138 KB)*

MEMORANDUM OF UNDERSTANDING

AMONG THE

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

AND

UNITED STATES DEPARTMENT OF ENERGY

REGARDING REGIONAL PERIODIC REVIEWS,
INCLUDING REVIEW OF
INTERAGENCY OPERATING PROCEDURES,
FOR SECTION 368 CORRIDORS

I. Introduction

This memorandum of understanding (MOU) is entered into among the United States Department of the Interior (DOI), Bureau of Land Management (BLM); the United States Department of Agriculture, Forest Service (FS); and the United States Department of Energy (DOE), jointly referred to as "the Agencies."

II. Purpose

This MOU and the attached work plan (Appendix A) satisfies requirements of the settlement agreement for *Wilderness Society v. United States Department of Interior*, No. 3:09-cv-03048-JW (D.N.D. Cal.), approved on July 11, 2012 (Settlement), and attached as Appendix B. This MOU describes the interagency process for conducting regional periodic reviews of the section 368 corridors, including review of interagency operating procedures (IOP), to assess the need for revisions, deletions, or additions; the types of information and data to be considered in the reviews; and the process for incorporating resulting recommendations in BLM and FS land use plans.

III. Background

On August 8, 2005, the President signed into law the Energy Policy Act of 2005 (EPAct) (42 U.S.C. § 15801 *et seq.*). In Section 368 of the EPAct (42 U.S.C. 15926), Congress directed the Secretaries of Agriculture, Commerce, Defense, Energy, and the Interior to designate corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the 11 contiguous western states (section 368 corridors). The Agencies were also directed to perform any environmental reviews required to complete the

designation of section 368 corridors, incorporate the section 368 corridors into land use plans, and establish a process for identifying new section 368 corridors.

On January 14, 2009, the BLM approved a record of decision (ROD) that amended 92 BLM land use plans and designated approximately 5,000 miles of section 368 corridors on BLM-administered lands. The affected states include Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The FS issued a ROD on January 14, 2009, which amended 38 FS land use plans and designated approximately 990 miles of section 368 corridors on National Forest System lands in 10 states. The RODs stated that the Agencies intended to produce an interagency MOU for implementation of the RODs.

The DOI based the ROD on the analysis in a 2008 final programmatic environmental impact statement (EIS). The DOE and the BLM were lead agencies in preparation of the draft and final programmatic EIS. The FS, United States Department of Defense, and United States Fish and Wildlife Service participated as cooperating agencies.

On July 7, 2009, several non-governmental organizations filed a complaint in the United States District Court for the Northern District of California challenging the DOI and FS RODs pursuant to the EPAct, National Environmental Policy Act (NEPA), Endangered Species Act, and Administrative Procedure Act.

On July 11, 2012, the court dismissed the case pursuant to the Settlement. The primary objective of the Settlement is to ensure that future section 368 corridor revisions, deletions, and additions consider the following principles: (1) location of section 368 corridors in favorable landscapes; (2) facilitation of renewable energy projects where feasible; (3) avoidance of environmentally sensitive areas to the maximum extent practicable; (4) diminution of the proliferation of dispersed rights-of-way crossing the landscape; and (5) improvement of the long-term benefits of reliable and safe transmission.

The Settlement further established that public input and an open and transparent process with engagement by tribes, States, local governments, and other interested parties would occur as part of the process for making potential revisions, deletions, or additions to section 368 corridors. To accomplish these objectives, the Settlement set forth five provisions. Two of these provisions are relevant to this MOU: (1) to establish a process for periodic review of the section 368 corridors and the IOPs, and (2) to develop a corridor study to assess the overall usefulness of the section 368 corridors. Although the section 368 corridor study will be produced under a separate work plan, it will inform the regional periodic review of the section 368 corridors. Additionally, the Agencies will re-evaluate as part of the regional periodic reviews the 45 corridors of concern (COC) identified by the Plaintiffs in Exhibit A of the Settlement. All obligations under the Settlement are contingent upon the availability of appropriated funds.

The following time lines established by the Settlement are relevant to this MOU:

- By July 11, 2013, the Agencies will complete a MOU to describe the process for regional periodic reviews, including review of IOPs, for section 368 corridors.

- Twelve months after signing the MOU, the Agencies will complete a regional periodic review, including recommendations regarding revisions, deletions, or additions to the section 368 corridors.

IV. Authorities

BLM
The Federal Land Policy and Management Act of 1976, as amended (FLPMA), 43 U.S.C. § 1701 *et seq.*

FS
The Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, 16 U.S.C. § 1600 *et seq*.; FLPMA, 43 U.S.C. § 1701 *et seq*.; and the Mineral Leasing Act of 1920, 30 U.S.C. § 181 *et seq*.

DOE
DOE Organization Act, 42 U.S.C. § 7131 *et seq.*

V. Workgroup Roles and Responsibilities

A. Interagency Workgroup

1. The Agencies have established an interagency workgroup (Workgroup) composed of national office and field personnel (see Appendix C). The Workgroup anticipates meeting bi-weekly either in person, by telephone, or by webinar. The Workgroup may, if necessary, request the occasional participation of other Agency subject matter experts not identified in Appendix C.

2. The Workgroup may utilize contractors to assist with various tasks, including the regional periodic review of section 368 corridors, document preparation, website and document hosting, and external outreach.

3. The Workgroup will remain in effect for at least 2 years after this MOU is fully executed. The Workgroup will review the effectiveness of the MOU on its first anniversary date. After its second anniversary date, the Workgroup may be disbanded upon written agreement of all the Agencies. Any Agency seeking to disband the Workgroup must notify the other Agencies in writing. A final decision to disband the Workgroup will be made after a meeting of all the Agencies.

4. The Workgroup will consider the following when prioritizing regions for review:

    - COCs;
    - Section 368 corridors with environmental or technical concerns identified during an environmental review or land use planning process;
    - Ongoing or planned transmission lines or pipelines of national or regional significance that are or may be located in section 368 corridors;
    - Ongoing or planned energy development projects that may require use of section 368 corridors; and
    - The availability and quality of existing data.

5. The Workgroup has identified new relevant information per section V.B of this MOU that is pertinent to the consideration of section 368 corridors. In general, the Agencies agree to consider significant regional energy development and corridor and transmission plans and studies, supplemented by select project-specific studies completed after January 2009 or those which are substantially underway.

6. The Workgroup will examine the new relevant information, the section 368 corridor study, and public input during Workgroup meetings. The Agencies will take this information into consideration in conducting the regional periodic review of the section 368 corridors and will develop recommendations for any revisions, deletions, or additions to the section 368 corridors. The regional periodic review record will reference the information the Workgroup reviewed and relied upon in making recommendations.

7. The BLM and the FS will ensure that recommendations are conveyed to appropriate agency line managers and staff and that these recommendations are fully considered during land use planning, as appropriate under applicable law, regulations, and agency policy and guidance.

8. The BLM and the FS will rely upon the four general principles in section V.C of this MOU as the guidance for conducting the regional periodic review of the section 368 corridors. The Workgroup will also consider input from the public, tribes, State and local governments, and other Federal agencies (including member agencies of the Rapid Response Team for Transmission (RRTT), for more information about the RRTT visit www.whitehouse.gov/administration/eop/ceq/initiatives).

9. The Workgroup will provide a brief annual report to each Agency and their principal contacts. The report will assess the effectiveness of the Workgroup in meeting required timeframes, engaging interested parties, and informing appropriate Agency managers. The report will summarize progress on meeting the requirements in the Settlement as compiled from quarterly reports. The report will also assess the current utility of the Workgroup. The report will be made available to the public on the web, along with a summary of any revisions, deletions, and additions to the section 368 corridors completed at that time.

B. Review materials

The new relevant information that the Workgroup will review includes, but is not limited to, the following:

1. Results of the joint studies of electric transmission needs and renewable energy potential being conducted by the Western Electricity Coordinating Council and the Western Governors' Association (WGA) and funded by the DOE;

2. Results of the BLM's rapid ecoregional assessments that characterize the ecological values across regional landscapes;

3. The Agencies' corridor study assessing the efficient and effective use and lessons learned regarding section 368 corridors and IOPs;

4. Other ongoing resource studies, such as the WGA wildlife corridor study, the BLM's and the FS's National Sage-Grouse Habitat Conservation Strategy, and the State of Wyoming's sage grouse strategy;

5. The BLM and the FS Sage Grouse Regional Land Use Plans that overlap the section 368 corridors;

6. Current studies and other factors, such as States' renewable portfolio standards, that address potential energy demand, source, and load, with particular regard to renewable energy;

7. The BLM's and the DOE's joint programmatic EIS assessing the environmental, social, and economic impacts associated with solar energy development on the BLM-managed lands in the States of Arizona, California, Colorado, Nevada, New Mexico, and Utah;

8. Restoration Design Energy Project Final EIS and Record of Decision issued in January 2013;

9. Desert Renewable Energy Conservation Plan draft EIS and draft Environmental Impact Report scheduled for release in 2013;

10. The BLM Wind and Transmission Study for southern Wyoming;

11. Draft and final EISs and land use plan amendments and related studies for select pipeline and transmission line projects of national or regional significance that use section 368 corridors;

12. Renewable Electricity Futures Study Report (2012);

13. Transmission Corridor Assessment Report for the Western States to be prepared by the DOE in accordance with the requirements set forth in subsection (b) of section 1 of the Presidential Memorandum on "Transforming our Nation's Electric Grid Through Improved Siting, Permitting, and Review"; and

14. New IOPs submitted by the Plaintiffs in the Settlement.

C. Corridor Siting Principles

The Agencies will review the section 368 corridors in the areas below to ensure that the four general principles listed in this section were considered prior to making recommendations for revisions, deletions, and additions to the section 368 corridors:

- Northeastern California and northwestern Nevada;
- Southern California, southeastern Nevada, and western Utah; and
- Southern Wyoming, northeastern Utah, and northwestern Colorado.

The BLM and the FS will make future recommendations for revisions, deletions, and additions to the section 368 corridors consistent with applicable law, regulations, and agency policy and guidance and will consider the following four general principles in future siting recommendations:

1. Section 368 corridors are thoughtfully sited to provide maximum utility and minimum impact to the environment;

2. Section 368 corridors promote efficient use of the landscape for necessary development;

3. Appropriate and acceptable uses are defined for specific section 368 corridors; and

4. Section 368 corridors provide connectivity to renewable energy generation to the maximum extent possible while also considering other sources of generation, in order to balance the renewable sources and to ensure the safety and reliability of electricity transmission.

In accordance with the EPAct, the Agencies will ensure that all future section 368 corridors are designated for the placement of oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the 11 contiguous western states. The designation of section 368 corridors will include a specified centerline, width, and compatible uses. The EPAct and the BLM's and the FS's RODs specify that additional section 368 corridors are to be promptly identified and designated as the need arises.

Agencies shall also consider the requirements set forth in subsection (a) of section 1 of the Presidential Memorandum on "Transforming our Nation's Electric Grid Through Improved Siting, Permitting, and Review."

D. IOPs

The BLM and the FS will review the IOPs adopted in their respective RODs designating section 368 corridors. The BLM and the FS will review the current utility of the IOPs and pertinent new data and will actively solicit suggestions from the public for changes to the IOPs. Public input will be sought through a variety of means, such as in-person meetings, webinars, e-mail, and paper copy submissions. The BLM and the FS will consider new IOPs submitted by the plaintiffs in *Wilderness Society v. United States Department of Interior* for specific resources, including but not limited to wildlife, wilderness characteristics, and special areas. The BLM and the FS will develop recommendations for updating the IOPs concurrently with their regional periodic review of section 368 corridors.

E. Implementation of Workgroup Recommendations

Workgroup recommendations for section 368 corridor revisions, deletions, and additions will be considered for implementation through BLM and FS land use planning and environmental review processes. Final decisions on corridor changes will occur at the regional or local level in accordance with applicable land use planning laws, regulations, and policies. There are three circumstances when corridor changes may occur:

1. During the normal course of land use plan revisions;

2. During an amendment to a land use plan caused by a project proposal that does not conform to a land use plan or when issues within a designated section 368 corridor necessitate review of an alternative corridor; or

3. During an amendment to a land use plan to address corridor changes.

The BLM and the FS will adopt recommended additions, revisions, and deletions to the IOPs through completion of a guidebook outlining best management practices. Recommendations that result from review of the IOPs will be considered by the Agencies for inclusion during the next round of revisions to the guidebook.

F. Communications and Public Input

The Workgroup will develop a communications and outreach plan to guide the process for communication inside and outside the Agencies. The communications and outreach plan will help ensure communication is timely, clearly stated, and disseminated appropriately.

There will be two significant opportunities for public input:

1. The Workgroup will solicit comment from the public regarding the Workgroup's regional periodic review of 368 corridors and subsequent recommendations, and will coordinate with other Federal agencies (including member agencies of the RRTT), tribes, States, and local governments during the review and before making recommendations. Workgroup members will use this same process in reviewing and making recommendations on IOPs.

The public will be notified at least 15 days in advance of any meetings, webinars, or solicitations for comments. Notifications may include publication in the *Federal Register*, newspapers, news releases, and posting on Agency websites. Outreach may include listening sessions, electronic town hall meetings, web postings, or other appropriate means.

2. Any land use plan amendments based on Workgroup recommendations will require evaluation under NEPA in accordance with applicable law, regulations, and BLM and FS policy and guidance. The Agencies agree to a robust public involvement process and will ensure that:

   a. The NEPA process follows the applicable BLM and FS procedures, including all applicable opportunities for stakeholder, tribal, State and local government, and Federal agency participation;

   b. All potentially interested parties are provided opportunities to participate in scoping and the environmental review process as required by applicable BLM and FS procedures; and

   c. Opportunities for full involvement of minority populations, low-income communities, and tribes are promoted and provided by the BLM and the FS.

G. Agency Responsibilities

DOE will provide technical review, advice, and assistance regarding:

1. The need for proposed energy transport facilities;

2. The practical functionality of section 368 corridors;

3. The impact on reliability and electric system operation for facilities located outside section 368 corridors; and

4. Other technical factors relevant to siting pipelines and transmission lines.

The BLM and the FS will make recommendations for revisions, deletions, and additions to section 368 corridors and will ensure that these recommendations are considered consistent with applicable law, regulations, agency policy and guidance, and this MOU.

VI. <u>Principal Contacts</u>

The Agencies' principal contacts will ensure coordination during implementation of this MOU. The Agencies' principal contacts and contact information are listed in Appendix C of this MOU. The Agencies may change their principal contacts at any time by providing a revised list to the other Agencies.

VII. Funding

A. Expenses

Subject to the availability of appropriated funds, the Agencies agree to fund their own expenses associated with implementation of this MOU.

B. Obligation of Funds

Nothing in this MOU authorizes the Agencies to obligate or transfer funds. Specific projects or activities that involve the transfer of funds, services, or property among the Agencies require execution of separate agreements and are contingent upon the availability of appropriated funds. These activities must be independently authorized by statute. This MOU does not provide that authority. Negotiation, execution, and administration of these agreements must comply with all applicable law.

VIII. Compliance with Applicable Laws and Regulations, Effect on Existing Law, and Members of Congress

A. Compliance with Applicable Laws and Regulations

This MOU is subject to all applicable Federal laws and regulations.

B. Effect on Existing Law

Nothing in this MOU is intended to alter, limit, or expand the Agencies' statutory and regulatory authority.

C. Members of Congress

No member of or delegate to Congress may benefit from this MOU either directly or indirectly.

IX. Term and Amendments

A. Term

This MOU becomes effective when it is fully executed and will expire 5 years from its effective date.

B. Amendments

Amendments to this MOU may be made upon the written agreement of all the Agencies.

X. Signatures

All signatories have the appropriate delegation of authority to sign this MOU.

Dated: 7/8/13

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Assistant Director
Minerals and Realty Management
Bureau of Land Management
United States Department of the Interior

Dated: 6/26/13

Jon Worthington
Deputy Assistant Secretary
National Energy Delivery (OE-20)
Office of Electricity Delivery and Energy Reliability
United States Department of Energy

Dated: 6/27/13

Leslie A. C. Weldon
Deputy Chief, National Forest System
United States Forest Service
United States Department of Agriculture

LIST OF MOU APPENDICES

APPENDIX A – Approved Work Plan for Regional Periodic Reviews, Including Review of Interagency Operating Procedures, for Section 368 Corridors

APPENDIX B – Settlement Agreement for *Wilderness Society v. United States Department of Interior*, No. 3:09-cv-03048-JW (D.N.D. Cal.), approved on July 11, 2012

APPENDIX C – Section 368 Interagency Workgroup Members and Agencies' Principal Contacts

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

AND

UNITED STATES DEPARTMENT OF ENERGY

APPROVED WORK PLAN FOR REGIONAL PERIODIC REVIEWS, INCLUDING REVIEW OF INTERAGENCY OPERATING PROCEDURES, FOR SECTION 368 CORRIDORS

July 8, 2013

Introduction

Through the Regional Periodic Reviews, the Bureau of Land Management (BLM), the U.S. Forest Service (FS), and the U.S. Department of Energy (the Agencies) will periodically review the section 368 corridors on a regional basis to assess the need for corridor revisions, deletions, or additions. The BLM and the FS will also concurrently review their Interagency Operating Procedures (IOPs) to identify any necessary or appropriate revisions, deletions, or additions. The Agencies have executed a Memorandum of Understanding (MOU) describing the process for conducting Regional Periodic Reviews. This Work Plan is part of the MOU and establishes the process for conducting Regional Periodic Reviews. All work described in this plan is contingent upon availability of appropriated funds.

Regional Periodic Review Objectives

1. **Establish the geographic scope of the regions for periodic review.** The Agencies will establish the geographic scope of the regions for purposes of periodic review by considering at a minimum the following:
   - The following language from the settlement agreement in *Wilderness Society v. United States Department of Interior,* No. 3:09-cv-03048-JW (N.D. Cal.) (Settlement) –

     > The Agencies shall review the following areas to ensure that the general principles listed here were considered in siting the current corridors, especially with regard to efficient use of the landscape: (i) Northeastern California and Northwestern Nevada, (ii) Southern California, Southeastern Nevada, and Western Utah, (iii) Southern Wyoming, Northeastern Utah, and Northwestern Colorado;

- Locations of Corridors of Concern;
- Rapid Ecoregional Assessments;
- Availability and Regionalization of Existing Data (e.g. the Western Electricity Coordinating Council Study Plan);
- Land Use Plan / Forest Plan planning areas;
- The entirety of each section 368 corridor, without bifurcation; and
- Overlap among the regions, as appropriate.

2. **Prioritize the regions.** The Agencies will prioritize the regions for periodic review. When prioritizing regions, the Agencies will consider:
   - Corridors of Concern;
   - Section 368 corridors with environmental or technical concerns identified during an environmental review or land use planning process;
   - Ongoing or planned transmission lines or pipelines of national or regional significance that are located or may be located in section 368 corridors;
   - Ongoing or planned energy development projects that may require use of section 368 corridors; and
   - The availability and quality of existing data.

   Based on this information, the Agencies will prioritize the regions through the following process:
   - Assess how the foregoing five criteria apply to regions;
   - Recommend the order of priority for regional periodic reviews; and
   - Approve the order of priority for regional periodic reviews. The Agencies may revise the priority as appropriate.

3. **Provide for participation by stakeholders.** During the Regional Periodic Reviews and before recommendations are finalized, the Agencies will provide information to and solicit comment from the public, state and local governments, federal agencies, tribes, and other interested persons through an active exchange of information and opinion. The Agencies will facilitate this exchange by a variety of means which may include the following:
   - Publish an RFI in the *Federal Register* or an alternative public outreach method for requesting public comments;
   - Consult with agencies on the RRTT;
   - Consult with other federal agencies;
   - Utilize existing forums (e.g. the Western Electricity Coordinating Council, Western Governors Association, Resource Advisory Councils, the Tribal Energy Group);
   - Conduct in-person meeting(s);
   - Webinars; and
   - Government-to-government tribal consultation – on a local or regional basis.

4. **Identify new relevant, existing, publicly available information.** In general, in conducting regional periodic reviews (including review of the IOPs), the Agencies will consider significant regional energy development and corridor and transmission plans and studies, supplemented by select project-specific studies completed after January 2009 or those which are substantially underway.

- See section V. subsection B. of the MOU for the initial list of new relevant, existing, publicly available information.
- The Agencies will solicit input for identification of new relevant, existing, publicly available information in the following ways:
    - Consult with member agencies of the Rapid Response Team for Transmission (RRTT) (for more information about the RRTT visit www.whitehouse.gov/administration/eop/ceq/initiatives) ;
    - Consult agencies involved in pipeline permitting and planning;
    - Utilize ongoing stakeholder forums; and
    - Issue a Request for Information (RFI) in the *Federal Register* or utilize an alternative public outreach method to request public comments.

5. **Review the Corridor Study to assess the need for updates.** If the Agencies determine that the Corridor Study needs to be updated to inform regional periodic reviews, the studies may be conducted concurrently. The methodology for updates to the Corridor Study is identified in the Corridor Study Work Plan.

6. **Synthesize new relevant, existing, publicly available information.** Since the periodic reviews will be conducted regionally, the Agencies may synthesize new and initial relevant, existing, publicly available information specific to each region when they conduct regional periodic reviews (including for review of the IOPs). The synthesis will result in a Report(s) to be considered in the Regional Periodic Reviews. In addition to the initial list and information compiled from the process referenced in number 3, the synthesis will also include consideration of the Corridor Study.

7. **Conduct Regional Periodic Reviews.** The Agencies will consider the following information as part of conducting Regional Periodic Reviews:

    - The Report(s) synthesizing new and initial relevant, existing, publicly available information;
    - Reevaluation of the Corridors of Concern;
    - Stakeholder feedback received during Regional Periodic Reviews and before recommendations are finalized;
    - Applicable laws, regulations, policies, standards, and other requirements (e.g., Section 503 of the Federal Land Policy and Management Act, Section 368 of the Energy Policy Act, 43 CFR §2800 and 2880, North American Electric Reliability Corporation standards, Western Electricity Coordinating Council standards, and Federal Energy Regulatory Commission Orders);
    - Portions of section 368 corridors with constraints and/or that provide opportunities (e.g., resource constraints beyond those identified by the Settlement Plaintiffs as corridors of concern, technical obstacles such as pinch points due to natural or geographic issues); and
    - Considerations identified in Section C of the MOU, including the four general siting principles identified in the Settlement, and the requirements set forth in subsection (a) of section 1 of the Presidential Memorandum on “Transforming our Nation’s Electric Grid Through Improved Siting, Permitting, and Review.

8. **Conduct review of the IOPs.** The Agencies will review the efficiency and effectiveness of the IOPs based on pertinent new data and will actively solicit suggestions from stakeholders for changes to the IOPs. The Agencies will consider the following information when reviewing the IOPs:
   - Information collected during the Corridor Study that is relevant to assessment of the IOPs;
   - The Report(s) synthesizing the new and initial relevant, existing, publicly available information;
   - New IOPs submitted for consideration by the Plaintiffs that are parties to the Settlement;
   - Responses to the RFI or alternative public outreach method utilized to request public comment; and
   - Stakeholder feedback received during the Regional Periodic Reviews and before recommendations are finalized.

9. **Formulate recommendation(s) for additions, deletions, and revisions to section 368 corridors and IOPs.**
   - Note that for section 368 corridor recommendations, the Regional Periodic Review process is anticipated to identify pinch points, conflict areas, and where new or expanded corridors may be needed. Specific locational siting of recommended new corridors or recommended modifications to corridors will be identified and considered during the BLM's and FS's planning process.

10. **Consideration of recommendations that result from the Regional Periodic Reviews.**
    - Section 368 corridors:
      - Recommendations for section 368 corridors will be considered per the Settlement and MOU.
      - See Data Set from Appendix I of the West-wide Energy Corridor Final Environmental Impact Statement (including any updates made as part of the Corridor Study) when undertaking a land use planning process involving recommendations for additions, deletions, or revisions to section 368 corridors.
    - IOPs:
      - The Agencies will complete a guidebook that outlines best practices (including the IOPs).
      - Recommendations that result from review of the IOPs will be considered by the Agencies for inclusion during the next round of revisions to the guidebook.

Schedule

Schedule is contingent upon availability of appropriated funds.

Milestone	**Target Timeline**
Establish geographic scope of regions for Periodic Review	
Prioritize regions for Periodic Review	
Review Corridor Study and assess whether updates are needed	
Request public comment and information, through release of a Request for Information or other public outreach method	
Comment period ends	30 days after comment period begins
Compile and analyze comments that will inform the Regional Periodic Reviews, including the review of the IOPs	
Initiate Regional Periodic Reviews, including review of IOPs	
Complete draft *Report(s) synthesizing new and initial relevant, publicly available information*	6 months
Circulate the d*raft Report* among the Agencies	15 days
Address Agency Comments	15 days (may be reduced, depending on number and complexity of comments)
Circulate the draft report for other agency and stakeholder review	30 days
Address other agency, public and stakeholder comments & finalize *Report(s)*	15 days (may be reduced, depending on number and complexity of comments)
Review corridors & IOPs (steps 6-7 above)	60 days
Draft Recommendations for additions, deletions, and/or revisions to section 368 corridors, if any.	60 days after finalizing the *Report(s) Synthesizing New Relevant Existing Publicly Available Information*
Provide for other agency, public and stakeholder review of draft Recommendations	30 days
Address other agency, public, and stakeholder comments	15 days
Finalize Recommendations	**12 months following formal initiation of Regional Periodic Review**

The Agencies may utilize contractors to assist with various tasks, including the work conducted as part of the section 368 regional periodic review, document preparation, website and document hosting, and external outreach.

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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

THE WILDERNESS SOCIETY, *et al.*, Plaintiffs, v. U.S. DEPARTMENT OF THE INTERIOR, *et al.*, Defendants.	No. 3:09-cv-03048 JW NOTICE OF MOTION AND JOINT MOTION TO DISMISS CASE PURSUANT TO FED. R. CIV. P. 41(a)(2) Date: July 9, 2012 Time: 9:00 a.m. Courtroom 9, 19th Floor Hon. James Ware

NOTICE OF MOTION

Plaintiffs The Wilderness Society, BARK, Center for Biological Diversity, Defenders of Wildlife, Great Old Broads for Wilderness, Klamath-Siskiyou Wildlands Center, National Parks Conservation Association, National Trust for Historic Preservation, Natural Resources Defense Council, Oregon Natural Desert Association, Sierra Club, Southern Utah Wilderness Alliance, Western Resource Advocates, Western Watersheds Project, and County of San Miguel, Colorado (collectively "Plaintiffs") and Federal Defendants U.S. Department of Energy ("DOE"), U.S. Department of the Interior ("DOI"), U.S. Bureau of Land Management ("BLM"), U.S. Department of Agriculture ("USDA"), and U.S. Forest Service ("USFS")[1] hereby serve notice that on July 9, 2012, at 9:00 a.m., they shall bring on for hearing before the Hon. James Ware, in Courtroom 9 a joint motion for dismissal of this action pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure in accordance with Paragraph III.B and subject to Paragraphs III.B and F of the Settlement Agreement attached hereto as Attachment A.

Intervenor-Defendants American Gas Association, American Public Power Association, Chamber of Commerce of the United States of America, Edison Electric Institute, National Association of Manufacturers, and National Rural Electric Cooperative Association have indicated that they likely do not oppose this motion, but will provide their response separately. A courtesy copy of this motion was provided to the Intervenor-Defendants on June 27, 2012.

MEMORANDUM OF POINTS AND AUTHORITIES

I. ISSUE TO BE DECIDED

Whether this action should be dismissed with prejudice in accordance with Paragraph III.B and subject to Paragraphs III.B and F of the Settlement Agreement attached hereto as Attachment A.

II. DISCUSSION

A. Factual Overview

Section 368 of the Energy Policy Act of 2005 ("EPAct"), 42 U.S.C. § 15926, directed the

[1] The complaint also names in their official capacities Steven Chu, Secretary of Energy; Ken Salazar, Secretary of Interior; Tom Vilsack, Secretary of Agriculture; Tom Tidwell, Chief of the USFS (an agency within USDA); and Mike Pool, Acting Director of BLM (an agency within DOI).

Secretaries of the Interior, Agriculture, Commerce, Defense, and Energy to "(1) designate, under their respective authorities, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the eleven western States . . . (2) perform any environmental reviews that may be required . . . and (3) incorporate the designated corridors into the relevant agency land use and resource management plans or equivalent plans." To carry out this direction, BLM, DOE, and the USFS prepared a programmatic environmental impact statement ("PEIS") to support the designation of energy corridors across Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. On September 28, 2005, the Agencies published in the Federal Register a Notice of Intent to prepare the PEIS, amend relevant agency land use plans, and conduct public scoping meetings. The Agencies published a Notice of Availability of the draft PEIS in the Federal Register on November 16, 2007, inviting the public to comment on the draft PEIS until February 14, 2008. The final PEIS was made available in November 2008.

On January 14, 2009, DOI approved amendments to 92 BLM land management plans to designate energy corridors on the public lands governed by these plans. The designation includes approximately 5,000 miles of corridors. On the same day, the USFS amended 38 land use plans, designating 957 miles of energy corridors on public lands it administers.

B. Procedural History

Plaintiffs filed this action on July 7, 2009, challenging the PEIS and associated energy corridor designations. Plaintiffs bring claims under EPAct against all the Agencies, challenging their compliance with that statute. Plaintiffs also bring claims under the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321–4370h, against DOI, BLM, USDA, and USFS, alleging deficiencies in the PEIS prepared for the corridor designations. Plaintiffs further challenge the Records of Decisions ("RODs") issued by DOI and BLM to incorporate the relevant corridor designations into the Resource Management Plans ("RMPs") governing management under the Federal Land Policy and Management Act ("FLPMA"), 43 U.S.C. §§ 1701–1787, of the affected units of BLM-administered lands. Finally, Plaintiffs challenge compliance with the requirements of section 7 of the Endangered Species Act ("ESA"), 16 U.S.C. § 1536, alleging that DOI, BLM, USDA, and USFS failed to ensure that the corridor

designations would not jeopardize the existence, or adversely modify the critical habitat, of species listed under that Act.

On September 28, 2009, the Court granted the parties' motion to stay proceedings to accommodate ongoing settlement discussions. That stay has remained in place and has allowed the parties to negotiate a satisfactory settlement. On March 9, 2011, the court granted the motion to intervene of Intervenor-Defendants.

C. Description of Settlement

The proposed Settlement Agreement has four principal components: an interagency Memorandum of Understanding ("MOU") addressing periodic corridor reviews; agency guidance; training; and a corridor study.[2] The MOU, described in Section II.A.1 of the Settlement Agreement, will govern the Agencies' future review of corridors identified in the PEIS to address environmental concerns. That review will take account of siting principles identified in the Agreement, as well as the need for the periodic review and updating of appropriate mitigation measures. The siting principles are consistent with EPAct, FLPMA, and regulations implementing FLPMA. Revision of any PEIS corridors would occur (1) during the normal course of the land use planning process, (2) during environmental review of a particular site-specific project that occasions reconsideration of a particular corridor, or (3) during land use plan revisions proposed specifically to address potential corridor changes.

The agency guidance, described in Section II.A.2 of the Agreement, will embody principles enunciated in the Agreement and will address the need for site-specific NEPA analysis for individual projects.

Finally, the Settlement Agreement will provide for updating the BLM's and the USFS's training materials to incorporate the principles set forth in the Agreement, as well as a corridor study to assess whether the PEIS corridors are achieving their purposes to promote efficient and environmentally

[2] In addition, BLM will delete portions of a superseded agency guidance document concerning the siting of electric transmission corridors, IM 2010-169, and will issue a new guidance memorandum consistent with the Settlement Agreement. *See* Section II.B.5 of the Agreement. The Plaintiffs and Federal Defendants have also agreed on a settlement of Plaintiffs' claim for attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412.

sensitive corridor-siting decisions. *See* Section II.A.3 & 4 of the Agreement.

The Agreement contains Dispute Resolution provisions, Section III.B & F, allowing for the resolution of disagreements concerning compliance with the terms of the agreement.

In return for the Agencies' undertakings, the Plaintiffs agree to dismiss their action with prejudice and will release the claims raised therein. Sections III.A & B. In accordance with that agreement, the Plaintiffs and Federal Defendants jointly move at this time for dismissal of the complaint, with prejudice, subject to the provisions of Paragraphs III.B and F of the Agreement.

Because the Intervenors will be filing a separate response to this motion, dismissal by stipulation pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) is not available.

III. CONCLUSION

The attached settlement represents a fair and reasonable resolution of this litigation and accommodates in a compromise document the competing concerns of the Plaintiffs and Federal Defendants as reflected in the PEIS and RODs and in Plaintiffs' challenge thereto. *See Ahern v. Central Pac. Freight Lines*, 846 F.2d 47, 48 (9th Cir. 1988) (Ninth Circuit committed to rule favoring settlement of litigation); *California Dep't of Toxic Subs. Contr. v. Waymire Drum Co., Inc.*, No. C-98-03834 PJH, 1999 U.S. Dist. LEXIS 3814, *5 (N.D. Cal. Mar. 19, 1999) (same).

Accordingly, the Plaintiffs and Federal Defendants respectfully request that the Court grant this motion and dismiss this action with prejudice, in accordance with and subject to Paragraphs III.B and F of the attached Settlement Agreement.

Respectfully submitted,

FOR THE PLAINTIFFS

DATED: July 3, 2012

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FOR THE FEDERAL DEFENDANTS

DATED: July 3, 2012

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Washington, D.C. 20044-7369
TEL: (202) 305-0404
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e-mail: meredith.flax@usdoj.gov

ATTORNEY ATTESTATION OF CONCURRENCE

I hereby attest that I have obtained concurrence in this filing and for affixing the signature of Plaintiffs' counsel, indicated by a "conformed" signature ("/s/"), to this e-filed document, in accordance with General Order 45.X.

Dated: July 3, 2012

/s/*David B. Glazer*
DAVID B. GLAZER
Natural Resources Section
Environment and Natural Resources Division
United States Department of Justice
301 Howard Street, Suite 1050
San Francisco, California 94105
Telephone: (415) 744-6491
Facsimile: (415) 744-6476
E-mail: david.glazer@usdoj.gov

CERTIFICATE OF SERVICE

I, David B. Glazer, hereby certify that I have caused the foregoing to be served upon counsel of record through the Court's electronic service system.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 3, 2012

/s/*David B. Glazer*
David B. Glazer

SETTLEMENT AGREEMENT

Plaintiffs The Wilderness Society, BARK, Center for Biological Diversity, Defenders of Wildlife, Great Old Broads for Wilderness, Klamath-Siskiyou Wildlands Center, National Parks Conservation Association, National Trust for Historic Preservation, Natural Resources Defense Council, Oregon Natural Desert Association, Sierra Club, Southern Utah Wilderness Alliance, Western Resource Advocates, Western Watersheds Project, and County of San Miguel, Colorado ("Plaintiffs"), and Federal Defendants United States Department of the Interior ("DOI"), Kenneth L. Salazar, Secretary of the Interior; United States Bureau of Land Management ("BLM"); Robert Abbey, Director, BLM; United States Department of Agriculture; Tom Vilsack, Secretary of Agriculture; United States Forest Service ("FS"); Tom Tidwell, Chief of the Forest Service; United States Department of Energy ("DOE"); and Steven Chu, Secretary of Energy ("Defendants") (collectively the "Parties"), by and through their undersigned counsel, hereby agree and stipulate as follows:

WHEREAS, on July 7, 2009, Plaintiffs filed the Complaint in *The Wilderness Society, et al. v. United States Department of the Interior, et al.*, No. 3:09-cv-03048-JW (N.D. Cal.), which Plaintiffs amended on September 14, 2009;

WHEREAS Plaintiffs' Amended Complaint alleges violations of the Energy Policy Act of 2005, P.L. 109-58 ("EPAct"), the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq*. ("NEPA"), the Federal Land Policy and Management Act, 43 U.S.C. § 1763 *et seq*. ("FLPMA"), the Endangered Species Act, 16 U.S.C. § 1531 *et seq.* ("ESA"), and the Administrative Procedure Act, 5 U.S.C. § 551 *et seq*. ("APA");

WHEREAS Section 368 of the EPAct, 42 U.S.C. § 15926(a), directs the Secretaries of Agriculture, Commerce, Defense, Energy, and Interior, in consultation with the Federal Energy Regulatory Commission, States, tribal or local units of government as appropriate, affected utility industries, and other interested persons, to designate corridors for oil, gas, and hydrogen

pipelines and electricity transmission and distribution facilities on federal land, beginning with 11 western States ("section 368 Corridors");

WHEREAS Section 368 of the EPAct further directs the Secretaries of Agriculture, Commerce, Defense, Energy, and Interior to "perform any environmental reviews required to complete the designation" of the corridors and to formalize the designations by "incorporat[ing] the designated corridors into the relevant agency land use and resource management plans or equivalent plans," 42 U.S.C. §§ 15926(a)(2) and 3;

WHEREAS, on November 20, 2008, Defendants issued a Final Programmatic Environmental Impact Statement for the section 368 Corridors, 73 Fed. Reg. 72,521 (Nov. 28, 2008);

WHEREAS, on January 14, 2009, the Deputy Assistant Secretary, Land and Minerals Management, signed a Record of Decision, amending 92 BLM land use plans to incorporate designation of the Section 368 Corridors;

WHEREAS, on January 14, 2009, the Undersecretary of the Department of Agriculture signed a Record of Decision amending 38 National Forest Land Management plans to incorporate designation of the Section 368 Corridors;

WHEREAS the Parties wish to implement this Settlement Agreement to resolve Plaintiffs' Amended Complaint in *The Wilderness Society, et al. v. United States Department of the Interior, et al.*, No. 3:09-cv-03048-JW (N.D. Cal.), and thereby avoid protracted and costly litigation and preserve judicial resources;

WHEREAS the Parties have agreed to a settlement of these matters without any adjudication or admission of fact or law by any party; and

WHEREAS the Parties believe that this Agreement is in the public interest;

the Parties now agree as follows:

I. SCOPE OF AGREEMENT

A. This Agreement shall constitute a complete and final settlement of Plaintiffs' Amended Complaint in *The Wilderness Society, et al. v. United States Department of Interior, et al.*, No. 3:09-cv-03048-JW (N.D. Cal.).

B. This Agreement in no way affects the rights of the United States as against any person not a party hereto.

C. Nothing in this Agreement shall constitute an admission of fact or law by any party. This Agreement shall not be used or admitted in any proceeding against a party over the objection of that party.

D. This Settlement Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties and supersedes all prior agreements and understandings, whether oral or written, concerning the subject matter hereof. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Settlement Agreement or the settlement it represents, nor shall it be used in construing this Settlement Agreement. It is further expressly understood and agreed that this Agreement was jointly drafted by the Parties. Accordingly, the Parties agree that any and all rules of construction to the effect that ambiguity is construed against the drafting party shall be inapplicable in any dispute concerning the terms or interpretation of this Agreement.

E. This Agreement shall be governed by and construed under federal law.

F. Nothing in this Settlement Agreement shall constitute, or be construed to constitute, a waiver of sovereign immunity by the United States. Nothing in the terms of this Agreement shall be construed to limit or modify the discretion accorded Defendants by the APA, the EPAct, NEPA, FLPMA, the ESA, or by general principles of administrative law.

G. The Parties agree that Defendants' obligations under this Settlement Agreement are contingent upon the availability of appropriated funds and that nothing contained in this Settlement Agreement shall be construed as a commitment or requirement that Defendants

obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. §1341, or other applicable law.

II. SPECIFIC PROVISIONS

A. This Agreement consists of the following five provisions: an interagency Memorandum of Understanding ("MOU") addressing periodic corridor reviews; agency guidance; training; corridor study; and IM 2010-169. The objectives of these settlement provisions are to ensure that future revision, deletion, or addition to the system of corridors designated pursuant to section 368 of EPAct consider the following general principles: location of corridors in favorable landscapes, facilitation of renewable energy projects where feasible, avoidance of environmentally sensitive areas to the maximum extent practicable, diminution of the proliferation of dispersed rights-of-way ("ROWs") crossing the landscape, and improvement of the long-term benefits of reliable and safe energy transmission. In addition, revisions, deletions, or additions to section 368 corridors are to be made through an open and transparent process incorporating consultation and robust opportunities for engagement by tribes, states, local governments, and other interested parties.

1. Interagency MOU: The BLM, FS, and DOE (the "Agencies") will periodically review the section 368 corridors, as provided in Section 1.a.-c. below, on a regional basis to assess the need for corridor revisions, deletions, or additions. The agencies will establish an MOU describing the interagency process for conducting these reviews, the types of information and data to be considered, and the process for incorporating resulting recommendations in BLM and FS land use plans. DOE's role will be limited to providing technical assistance in the areas of transmission adequacy and electric power system operation, as needed. As part of the periodic review process, the BLM and the FS will re-evaluate those corridors identified by plaintiffs as having specific environmental issues, attached as Exhibit A.[1] The BLM and the FS

[1] Corridors of Concern: The corridors identified by plaintiffs are referred to here as "corridors of concern."

will also concurrently review their existing Interagency Operating Procedures ("IOPs") to identify any revisions, deletions, and additions necessary.

These items will comprise the elements of an interagency MOU to establish a process for periodic review of section 368 corridors and the IOPs.

a. Interagency Workgroup:

- The agencies will establish an interagency workgroup composed of national office and field personnel, as appropriate.
- The workgroup will identify new relevant information (below at b.) that is pertinent to the consideration of section 368 corridors.
- The workgroup shall examine this new relevant information, review the corridors based on this information, and develop recommendations for any revisions, deletions, or additions to the section 368 corridors.
- The BLM and the FS shall ensure that recommendations are conveyed to appropriate agency managers and staff and that these recommendations are fully considered, as appropriate under applicable law, regulations, and agency policy and guidance.
- The BLM and the FS shall ensure that the siting principles (below at c.) are fully considered and public, tribal, and governmental involvement commitments (below at f.) are fully met.

b. Review materials: The new relevant information that the workgroup will review includes, but is not limited to:

- Results of the joint studies of electric transmission needs and renewable energy potential currently being conducted by the Western Electricity Coordinating Council ("WECC") and the Western Governors' Association ("WGA"), and funded by the DOE;
- Results of BLM's eco-regional assessments that characterize the ecological values across regional landscapes;

- Agency Corridor Study of current use of section 368 corridors and IOPs (below at Section 4.);
- Other on-going resource studies, such as the WGA wildlife corridor study, the BLM's National Sage-Grouse Habitat Conservation Strategy, and the State of Wyoming's sage grouse strategy; and
- Current studies and other factors, such as states' renewable portfolio standards, that address potential demand, source, and load with particular regard to renewable energy.

c. Corridor Siting Principles: The Agencies shall review the following areas to ensure that the general principles listed here were considered in siting the current corridors, especially with regard to efficient use of the landscape: (i) northeastern California and northwestern Nevada, (ii) southern California, southeastern Nevada, and western Utah, and (iii) southern Wyoming, northeastern Utah, and northwestern Colorado. The BLM and the FS will make future recommendations for revisions, deletions, and additions to the section 368 corridor network consistent with applicable law, regulations, agency policy and guidance, and will also consider the following general principles in future siting recommendations:

- Corridors are thoughtfully sited to provide maximum utility and minimum impact to the environment;
- Corridors promote efficient use of the landscape for necessary development;
- Appropriate and acceptable uses are defined for specific corridors; and
- Corridors provide connectivity to renewable energy generation to the maximum extent possible while also considering other sources of generation, in order to balance the renewable sources and to ensure the safety and reliability of electricity transmission.

d. Interagency Operating Procedures: The BLM and the FS shall review the IOPs adopted in their respective Records of Decision designating energy corridors (January 2009). The BLM and the FS shall review the current utility of the IOPs and pertinent new data and shall actively solicit suggestions from stake-holders for changes to the IOPs. The BLM and FS shall consider new IOPs submitted by Plaintiffs for specific resources including, but not limited to, wildlife, wilderness characteristics, and special areas. The BLM and the FS shall develop recommendations for updating the IOPs concurrently with their periodic review of section 368 corridors.

e. Implementation of Workgroup Recommendations: Workgroup recommendations for section 368 corridor revisions, deletions, or additions will be considered for implementation through the BLM and the FS land use planning and environmental review processes. There are three circumstances when such consideration may occur:

- During the normal course of land use plan(s) revisions;
- During an amendment to a land use plan(s) caused by a specific project proposal that does not conform to a land use plan, or when issues within a designated section 368 corridor necessitate review of an alternative corridor path; or
- During an amendment to individual land use plans specifically to address corridor changes.

BLM and FS will adopt recommended changes to the IOPs (additions, revisions, deletions) through internal guidance or manuals or handbooks.

f. **Stakeholder Participation:** There will be two significant opportunities for stakeholder participation:

- The workgroup will provide information to and solicit comment from the public regarding its periodic review of corridors and consequent

recommendations, and also engage in consultation with other federal agencies, tribes, states, local governments, and other interested persons through an active exchange of information and opinion during review and before the workgroup makes a recommendation(s). Workgroup members will use this same process in their periodic review of BLM and FS IOPs and recommendations therefor. The MOU will outline appropriate means for conducting outreach, which may include listening sessions/information sharing, web postings/comments, or other appropriate means.

- Any land use plan amendments that consider workgroup recommendations will require evaluation under NEPA in accordance with applicable law, regulations, and agency policy and guidance. The agencies agree to a robust public involvement process and will ensure that:
    - The NEPA process follows agency procedures, including all applicable opportunities for stakeholder, tribal, state, and local government participation;
    - All potentially interested parties are provided opportunities to participate in scoping and the environmental review process as required by agency procedures;
    - Opportunities for full involvement of minority populations, low-income communities, and tribes are promoted and provided by the agencies.

g. Agency Responsibilities:

- BLM, FS, and DOE will each identify an official responsible for implementation of this settlement agreement.
- The DOE shall provide technical review, advice, and assistance regarding:
    - The need for proposed energy transport facilities;
    - The practical functionality of section 368 corridors;

- The impact on reliability and electric system operation for facilities located outside section 368 corridors; and
- Other technical factors relevant to siting energy transport facilities.

- The BLM and the FS will make recommendations for revisions, deletions, and additions to section 368 corridors and ensure that these recommendations are considered, consistent with applicable law, regulations, agency policy and guidance, and this Agreement.

h. Working Group Duration: The interagency workgroup will convene upon signing the MOU and remain in effect until any of its participating agencies determines that the workgroup no longer serves a purpose, but no less than two years following the signing of the MOU. The workgroup shall provide a brief annual report to each agency's MOU signatory, assessing the effectiveness of the workgroup, progress on the settlement agreement commitments, and the current utility of the group. The report will be made available to the public along with a summary of any revisions, deletions, or additions to the section 368 corridors completed at that time.

2. Agency Guidance: The BLM and the FS agree to issue internal guidance to managers and staff regarding use and development of the section 368 corridors. As part of this guidance, the agencies will provide direction on using corridors of concern and will identify known conflicts within these corridors. The BLM and the FS will also issue direction, consistent with applicable NEPA regulations, on how to use the Final Programmatic Environmental Impact Statement ("FPEIS"), *Designation of Energy Corridors on Federal Land in the 11 Western States (DOE/EIS-0386)*, when preparing site-specific NEPA documents.

The BLM and the FS shall develop coordinated guidance for agency managers regarding use of section 368 corridors, and the guidance shall include the following elements:

a. Corridor Use: BLM and FS managers will: encourage project proponents to locate projects within designated corridors or adjacent to existing rights-of-

way; notify project proponents of any section 368 corridor segments that are corridors of concern; and consider alternative locations if a proposed project would be located within a section 368 corridor of concern segment. The agencies recognize that siting projects within corridors will require site-specific environmental analysis, as well as review of land use plans, as required by applicable law, regulations, and agency policy and guidance.

b. Corridors of Concern: BLM and FS managers will be notified of those corridors of concern set forth by the plaintiffs at Exhibit A and the concerns identified there. Managers and the public will be notified that siting projects within these corridors will likely lead to heightened public interest and concern and may:

- Be challenged;
- Involve significant environmental impacts;
- Involve substantially increased or extensive mitigation measures such as off-site mitigation to compensate for impacts to sensitive resources;
- Include preparation of an environmental impact statement;
- Include consideration of alternatives outside the corridor and consideration of an alternative that denies the requested use; and
- Include amendment of the applicable land use plan to modify or delete the corridor of concern and designate an alternative corridor.

c. Use of the FPEIS:

- BLM and FS will be reminded that site-specific projects in a section 368 corridor will require individual NEPA analysis. The scope of that NEPA review will include analysis of whether the use of that corridor identified in the FPEIS is appropriate in the context of the site-specific project and/or whether additional analysis should be undertaken to modify or delete the corridor and designate an alternative corridor.

- BLM and FS will encourage "incorporation by reference" of data and studies in the FPEIS and other relevant documents, as appropriate for individual projects and consistent with NEPA regulations, in order to reduce bulky and redundant studies.
- BLM and FS managers will be directed that tiering to the FPEIS is not a substitute for site-specific analyses of any project proposed within a section 368 corridor and that environmental reviews of projects within section 368 corridors are subject to this settlement agreement and the NEPA regulations at 40 C.F.R. § 1502.20 and 40 C.F.R. § 1508.28.

d. Implementation of IOPs: Guidance will include:

- Procedures for periodic review and update of IOPs, based on the principles of adaptive management and including stakeholder engagement;
- Use of IOPs outside designated corridors on Federal lands; and
- Adoption of IOPs considered and approved by the agencies, particularly with reference to wilderness characteristics, wildlife, and special areas.

e. Corridor Changes: Guidance will remind managers that revisions, deletions, and additions to section 368 corridors must (at a minimum) meet the requirements specified for these corridors in section 368 of the EPAct and must consider the siting principles identified in section 1.c. above.

3. Training: The BLM and the FS agree to incorporate environmental concerns into agency training regarding the processing of applications for pipeline and electricity transmission ROWs, and to invite participation from representatives of environmental groups, tribes, and industry in such courses. The BLM and the FS agree to review existing training materials and incorporate an increased emphasis on environmental considerations when siting and permitting pipelines and transmission lines. Specifically these courses are the BLM's Electric Systems Short Course offered once annually at the BLM National Training Center in Phoenix, Arizona; the BLM's Pipelines Systems Course offered once annually in Durango, Colorado; and the

National Lands Training for Line Officer and Program Managers, which is jointly offered by the BLM and FS once annually in various locations.

4. Corridor Study: The BLM and the FS agree to study section 368 corridors in order to assess their overall usefulness with regard to various factors, including their effectiveness in reducing the proliferation of dispersed ROWs crossing the landscape of federal lands.

The agencies will study the section 368 corridors to assess their efficient and effective use and record practical lessons learned. The interagency workgroup will develop a corridor monitoring plan to support this study. The study is anticipated to involve an identification of the types and numbers of projects within the corridors, as well as the widths and lengths of existing ROWs within the corridors. The study would also identify where corridors are being over- or underutilized and would evaluate use of the IOPs in order to recommend potential new or modified IOPs. The study will inform the periodic review of section 368 corridors and IOPs (above at 1.b.) and be made public upon completion.

5. IM 2010-169**:** BLM agrees to delete a section, entitled "Environmental Review and Energy Corridors," from Instruction Memorandum No. 2010-169, dated July 28, 2010, upon issuance of a new BLM instruction memorandum setting forth guidance for the siting and construction of electric transmission infrastructure in section 368 corridors. BLM Instruction Memorandum No. 2010-169, dated July 28, 2010, is entitled "Implementation Guidance for the Interagency Transmission Memorandum of Understanding." The memorandum of understanding referred to was entered into by nine federal agencies in October 2009 to expedite the siting and construction of qualified electric transmission infrastructure in the United States. IM 2010-169 contains a three-paragraph section entitled "Environmental Review and Energy Corridors," which addresses section 368 corridors and directs BLM managers to tier to the environmental analysis in the FPEIS to the extent the FPEIS addresses anticipated issues and concerns associated with individual qualifying projects.

B. **Time Line for Implementation of Agreement**

The agencies agree to make every effort to meet the timelines identified below. Should the agencies be unable to meet these internal timelines for any reason, the BLM Assistant Director for Minerals and Realty Management will notify the plaintiffs and explain the circumstances causing the delay.

- Upon the Effective Date (see Section III.I) of the settlement agreement, the provisions of section II.A.2.c. shall apply.
- Upon the Effective Date of the settlement agreement, the agencies will complete a MOU within twelve months. Progress on completion of the MOU will be reported quarterly to the plaintiffs. The final MOU will be made available to the public. Upon signing the MOU, the agencies will commence a periodic review of section 368 corridors, with recommendations due twelve months thereafter.
- Upon the Effective Date of the settlement agreement, the BLM and the FS will initiate a review of current guidance. New guidance will be developed concurrently with the MOU and will be completed within twelve months. Progress on completion of guidance will be reported quarterly to the plaintiffs. New guidance will be made available to the public.
- Upon the Effective Date of the settlement agreement, the BLM and the FS will initiate a review of current training materials, instructors, and outreach efforts. Within three months the BLM and the FS will identify representatives to be invited to participate in future training. Within twelve months training courses will be revised. Progress on completion of training revisions will be reported quarterly to the plaintiffs.
- Upon the Effective Date of the settlement agreement, the agencies will initiate development of a plan to study use of the section 368 corridors. The agencies will complete the work plan within twelve months of the Effective Date of the settlement agreement. The study will be completed within twelve months of completion of the work plan. The workgroup will report progress on the study quarterly to the plaintiffs.

III. EFFECT OF SETTLEMENT

A. Subject to Defendants' compliance with the terms of Paragraphs II.A. and II.B. of this Agreement, Plaintiffs release all claims in *The Wilderness Society, et al. v. United States Department of the Interior, et al.*, No. 3:09-cv-03048-JW (N.D. Cal.).

B. Subject to the provisions of paragraph F below, upon signing the settlement agreement, plaintiffs will stipulate to the dismissal with prejudice of their amended complaint in *The Wilderness Society, et al. v. Department of the Interior, et al.*, No. 03:09-cv-03048 JW (N.D. Cal.). However, the Court shall retain jurisdiction over this action for the limited purpose of resolving settlement implementation disputes pursuant to the provisions of Paragraph F, below, until each of the following events has occurred: (1) 24 months have elapsed following execution of the MOU in accordance with Section II.A.1, above; and (2) the following undertakings have been completed: (a) new guidance has been developed in accordance with Section II.A.2, above; (b) training materials have been revised in accordance with Section II.A.3, above; (c) the Corridor Study has been completed in accordance with Section II.A.4, above; and (d) IM 2010-169 is revised in accordance with Section II.A.5, above.

C. The Federal Defendants, through the BLM and the FS, shall pay Plaintiffs the sum of $30,000.00, in full settlement and satisfaction of all of Plaintiffs' claims for attorneys' fees, costs, and other expenses in the above-captioned case. Payment shall be accomplished by electronic fund transfer. Within 5 business days of the date this Settlement Agreement is filed, Plaintiffs shall submit (if not already submitted) the account information and other information necessary for the Federal Defendants to process payment. The BLM and the FS shall undertake the procedures for processing payment within 20 days after this Settlement Agreement is filed or Plaintiffs submit the required payment information, whichever is later.

1. Release: Plaintiffs will accept the sum of $30,000.00 in full settlement and satisfaction of all of their claims for attorneys' fees, costs, and other expenses in this matter and release the Federal Defendants from any liability for attorneys' fees, costs, and other expenses incurred or claimed, or that could have been claimed, for work performed on this case, under the

Equal Access to Justice Act, 28 U.S.C. § 2412, or under any other federal or state statute or common law. Plaintiffs or their counsel shall submit confirmation of receipt of payment in the above amount to counsel for Federal Defendants, within 14 days of receipt of payment.

2. Payee: Plaintiffs represent that the proper entity to receive payment pursuant to this Settlement Agreement is Earthjustice (tax ID is 94-1730465). Payment shall be made to Earthjustice by Electronic Funds Transfer payable to:

Mechanics Bank
725 Alfred Nobel Drive
Hercules, California 94547
Bank Routing #121102036
ACCT # 040-882578

Plaintiffs and their attorneys agree that the Federal Defendants' responsibility in discharging the payment obligation provided in this Settlement Agreement consists only of making the payment to Earthjustice in the manner set forth herein.

D. Any term set forth in this Agreement (including deadlines and other terms) may be modified by written agreement of the Parties.

E. Except as expressly provided in this Agreement, neither of the Parties waives or relinquishes any legal rights, claims, or defenses it may have.

F. In the event of a disagreement among the Parties concerning the performance of any aspect of this Agreement, the dissatisfied party shall provide the other party with written notice of the dispute and a request for negotiations. The Parties shall meet and confer in order to attempt to resolve the dispute within 30 days of the date of the written notice, or such time thereafter as is mutually agreed. If the Parties are unable to resolve the dispute within 90 days after such meeting, then any Party may apply to the Court for resolution. In resolving such dispute, the Court's review shall be limited to determining: (1) whether the Federal Defendants have reasonably complied with the performance deadlines set forth in Section II.B; (2) whether the MOU required by Section II.A.1 contains the terms required by this Agreement; (3) whether the guidance issued in accordance with Section II.A.2 contains the terms required by this Agreement; (4) whether the training developed by the agencies addresses the issues identified in

Section II.A.3; (5) whether the study prepared by the agencies contains the terms set forth in Section II.A.4; and (6) whether IM 2010-169 has been revised in accordance with Section II.A.5. The Parties agree that any challenge to a final decision concerning amendments or revisions to land use plans, as well as to final decisions concerning revisions, deletions, or additions to Section 368 corridors, must take the form of a new civil action under the judicial review procedures of the Administrative Procedure Act, 5 U.S.C. §§ 701–706. The parties will not seek the remedy of contempt for any alleged violation of the settlement agreement.

G. Any notices required or provided for under this Agreement shall be in writing, shall be effective upon receipt, and shall be sent to the following:

For Plaintiffs:

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For Defendants:

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H. Upon written notice to the other party, either party may designate a successor contact person for any matter relating to this Agreement.

I. The undersigned representatives of each party certify that they are fully authorized by the parties they represent to bind the respective Parties to the terms of this Agreement. This Agreement shall become effective upon signature on behalf of all of the Parties set forth below and upon the Court's entry of an order of dismissal in accordance with Section III.B above (the "Effective Date"). This Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that party has signed all other counterparts.

ON BEHALF OF ALL PLAINTIFFS

DATED: July 3, 2012

/s/James S. Angell

JAMES S. ANGELL
(Admitted *pro hac vice*)
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Counsel for Plaintiffs, The Wilderness Society, Bark; Center for Biological Diversity; Defenders of Wildlife; Great Old Broads for Wilderness; Klamath-Siskiyou Wildlands Center; National Parks Conservation Association; National Trust for Historic Preservation; Natural Resources Defense Council; Oregon Natural Desert Association; Sierra Club; Southern Utah Wilderness Alliance; Western Resource Advocates; Western Watersheds Project; County of San Miguel, CO

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Counsel for Plaintiffs, Center for Biological Diversity; The Wilderness Society; Klamath-Siskiyou Wildlands Center; and San Miguel County, Colorado

FOR THE FEDERAL DEFENDANTS:

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Assistant Attorney General

DATED: July 3, 2012

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ATTORNEY ATTESTATION OF CONCURRENCE

I hereby attest that I have obtained concurrence in this filing and for affixing the signature of Plaintiffs' counsel, indicated by a "conformed" signature ("/s/"), to this e-filed document, in accordance with General Order 45.X.

Dated: July 3, 2012

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Exhibit A
To
Settlement Agreement,
The Wilderness Society et al. v. United States Department of the Interior et al.,
3:09-cv-03048 JW (N.D. Ca.)

Per Section II.A.1. of the above-captioned Settlement Agreement, "corridors identified by plaintiffs as having specific environmental issues" are listed below, along with plaintiffs' concerns over affected resources as identified by plaintiffs in the above-captioned lawsuit. Corridor numbers in boldface correspond to those set forth in Appendix A of the Programmatic Environmental Impact Statement, *Designation of Energy Corridors on Federal Land in the 11 Western States* (DOE/EIS-0386, November 2008) and in the Records of Decision issued by the Bureau of Land Management and U.S. Forest Service in January 2009.

WASHINGTON
102-105: numerous "suitable" segments under Wild & Scenic Rivers Act, borders designated Wilderness, Northwest Forest Plan critical habitat and late-successional/ adaptive management reserves, crosses Pacific Crest Trail, tracks America's Byway within 1 mile, National Register of Historic Places property.
244-245: conflicts with Northwest Forest Plan, critical habitat, tracks America's Byway.

OREGON
7-24: 3 citizen-proposed wilderness areas, sage-grouse habitat, pygmy rabbit habitat, Steens Mountain Cooperative Management Area, and proposed Sheldon Mountain National Wildlife Refuge.
230-248: critical habitat, National Register of Historic Places property, Pacific Crest Trail, Clackamas Wild & Scenic River and other "eligible" segments under Wild & Scenic Rivers Act, conflicts with Northwest Forest Plan critical habitat and late-successional/ adaptive management reserves.
24-228 (also in Idaho): sage-grouse habitat, National Register of Historic Places property.
4-247 – not close enough to QRA, old-growth forests, critical habitat, late-successional reserves, riparian reserves.

IDAHO
24-228 (also in Oregon): sage-grouse habitat, pygmy rabbit habitat.
229-254 (also in Montana - 3 segments – regular, (N) and (S)): critical habitat, National Register of Historic Places properties, "suitable" segment under Wild & Scenic Rivers Act.

WYOMING
Any in core areas are prohibited for transmission use by BLM guidance.
78-255: sage-grouse core area and habitat.
79-216: sage-grouse core area and habitat, National Register of Historic Places properties, National Historic Trail.
121-221: sage-grouse core area and habitat, National Historic Trail, BLM special management area.

MONTANA
229-254 (also in Idaho - 3 segments – regular, (N) and (S)): critical habitat, National Register of Historic Places properties, "suitable" segment under Wild & Scenic Rivers Act, Continental Divide Trail, USFS Inventoried Roadless Area.

CALIFORNIA
18-23: Areas of Critical Environmental Concern, Inventoried Roadless Areas, BLM Wilderness Study Areas, CA Boxer Wilderness, CA-proposed Wilderness, NV-proposed Wilderness, sage-grouse habitat, redundant to 18-224.
23-106: National Conservation Area, Area of Critical Environmental Concern.
23-25: critical habitat, National Conservation Area, Area of Critical Environmental Concern.
264-265: critical habitat, National Conservation Area, citizen-proposed Wilderness, USFS Inventoried Roadless Area.
107-268: National Forest, citizen-proposed Wilderness.
101-263: critical habitat; WSR; CA-proposed Wilderness, citizen-proposed Wilderness, USFS Inventoried Roadless Area.

NEVADA
17-35: access to coal plant, impacts to sage-grouse habitat.
16-24: Wilderness, National Conservation Area, National Historic Place, BLM Wilderness Study Area (in Oregon).
16-104: BLM Wilderness Area.
44-110: sage-grouse habitat.
110-233: sage-grouse habitat.
110-114: sage-grouse habitat, undisturbed, USFS Inventoried Roadless Area.
223-224: Areas of Critical Environmental Concern, Desert National Wildlife Refuge.
39-113, 39-231: Pahranagat National Wildlife Refuge, Rainbow Gardens ACEC, near proposed Gold Butte National Conservation Area, Black Mountain tortoise habitat.

UTAH
110-114: much undisturbed, National Historic Place, BLM Wilderness Study Area, UT-proposed Wilderness.
66-259: access to coal plant, impacts to USFS Inventoried Roadless Area.
66-212: access to coal plant, impacts to National Historic Places, America's Byways, Old Spanish Trail, BLM Wilderness Study Area, UT-proposed Wilderness, critical habitat, adjacent to Arches National Park.
116-206: undisturbed, monument, Old Spanish Trail, UT-proposed Wilderness, near USFS Inventoried Roadless Area.
68-116, Grand Staircase National Monument, Paria River.
126-258: access to coal plant.

COLORADO
130-274 and 130-274(E): access coal, directly or indirectly impacts Gunnison sage-grouse conservation areas, occupied Gunnison sage-grouse habitat, CO-proposed Wilderness, USFS IRA.
87-277: coal, Wilderness, sage-grouse habitat; National Historic Places.
144-275: coal, wilderness, National Historic Places.

ARIZONA
68-116: access to coal, impacts to Grand Staircase-Escalante National Monument, Wild & Scenic Rivers, scenic byway.
62-211: access to coal, impacts to citizen-proposed and designated Wilderness, National Historic Place, Wild & Scenic Rivers, Mexican spotted owl critical habitat.
47-231: desert tortoise and bonytail critical habitat, Area of Critical Environmental Concern, Lake Mead National Recreation Area.
41-47: impacts to Black Mountain population for desert tortoise.
41-46: impacts to Black Mountain population for desert tortoises.
46-270: Wild & Scenic river, Southwestern willow flycatcher critical habitat.
46-269: proposed and designated Wilderness areas, Wild and Scenic Rivers, Three Rivers Area of Critical Environmental Concern.

NEW MEXICO
81-272: Sevilleta National Wildlife Refuge, National Conservation Areas.

SECTION 368 INTERAGENCY WORKGROUP MEMBERS
AND
AGENCIES' PRINICPAL CONTACTS

Agency	Name	Title	Member/Contact
Bureau of Land Management (BLM)	**Michael D. Nedd**	**Assistant Director, Minerals and Realty Management**	**Principal**
BLM	Kim Berns	Division Chief	Workgroup
BLM	Lucas Lucero	Branch Chief	Workgroup
BLM	Beth Ransel	Program Lead	Workgroup
BLM	Beth Wenstrom	Supervisory Cartographer	Workgroup
BLM	Brian Mueller	GIS Specialist	Workgroup
BLM	Kate Winthrop	Senior Archaeologist	Workgroup
BLM	Andrew Strasfogel	Senior Planning & Environmental Analyst	Workgroup
BLM	Kerry Rodgers	Planning & Environmental Analyst	Workgroup
BLM	Maryanne Kurtiniatis	Realty Specialist	Workgroup
BLM	Emily Orler	Realty Specialist	Workgroup
BLM	Mike Sarich	Realty Specialist	Workgroup
Department of Interior	Michael Smith	Solicitor	Workgroup
Department of Energy (DOE)	**Jon Worthington**	**Deputy Assistant Secretary**	**Principal**
DOE	Brian Mills	NEPA Compliance Officer	Workgroup
DOE	Lamont Jackson		Workgroup
Forest Service (FS)	**Leslie A. C. Weldon**	**Deputy Chief, National Forest System**	**Principal**
FS	Gary Schiff	Assistant Director	Workgroup
FS	Reggie Woodruff		Workgroup
FS	Steve Dodds	Program Manager	Workgroup
FS	Milo Booth		Workgroup
Department of Agriculture	Ellen Hornstein	General Counsel	Workgroup

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Attorneys for Federal Defendants

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

THE WILDERNESS SOCIETY, *et al.*, Plaintiffs, v. U.S. DEPARTMENT OF THE INTERIOR, *et al.*, Defendants.	No. 3:09-cv-03048 JW NOTICE OF MOTION AND JOINT MOTION TO DISMISS CASE PURSUANT TO FED. R. CIV. P. 41(a)(2) Date: July 9, 2012 Time: 9:00 a.m. Courtroom 9, 19th Floor Hon. James Ware

NOTICE OF MOTION

Plaintiffs The Wilderness Society, BARK, Center for Biological Diversity, Defenders of Wildlife, Great Old Broads for Wilderness, Klamath-Siskiyou Wildlands Center, National Parks Conservation Association, National Trust for Historic Preservation, Natural Resources Defense Council, Oregon Natural Desert Association, Sierra Club, Southern Utah Wilderness Alliance, Western Resource Advocates, Western Watersheds Project, and County of San Miguel, Colorado (collectively "Plaintiffs") and Federal Defendants U.S. Department of Energy ("DOE"), U.S. Department of the Interior ("DOI"), U.S. Bureau of Land Management ("BLM"), U.S. Department of Agriculture ("USDA"), and U.S. Forest Service ("USFS")[1] hereby serve notice that on July 9, 2012, at 9:00 a.m., they shall bring on for hearing before the Hon. James Ware, in Courtroom 9 a joint motion for dismissal of this action pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure in accordance with Paragraph III.B and subject to Paragraphs III.B and F of the Settlement Agreement attached hereto as Attachment A.

Intervenor-Defendants American Gas Association, American Public Power Association, Chamber of Commerce of the United States of America, Edison Electric Institute, National Association of Manufacturers, and National Rural Electric Cooperative Association have indicated that they likely do not oppose this motion, but will provide their response separately. A courtesy copy of this motion was provided to the Intervenor-Defendants on June 27, 2012.

MEMORANDUM OF POINTS AND AUTHORITIES

I. ISSUE TO BE DECIDED

Whether this action should be dismissed with prejudice in accordance with Paragraph III.B and subject to Paragraphs III.B and F of the Settlement Agreement attached hereto as Attachment A.

II. DISCUSSION

A. Factual Overview

Section 368 of the Energy Policy Act of 2005 ("EPAct"), 42 U.S.C. § 15926, directed the

[1] The complaint also names in their official capacities Steven Chu, Secretary of Energy; Ken Salazar, Secretary of Interior; Tom Vilsack, Secretary of Agriculture; Tom Tidwell, Chief of the USFS (an agency within USDA); and Mike Pool, Acting Director of BLM (an agency within DOI).

Secretaries of the Interior, Agriculture, Commerce, Defense, and Energy to "(1) designate, under their respective authorities, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the eleven western States . . . (2) perform any environmental reviews that may be required . . . and (3) incorporate the designated corridors into the relevant agency land use and resource management plans or equivalent plans." To carry out this direction, BLM, DOE, and the USFS prepared a programmatic environmental impact statement ("PEIS") to support the designation of energy corridors across Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. On September 28, 2005, the Agencies published in the Federal Register a Notice of Intent to prepare the PEIS, amend relevant agency land use plans, and conduct public scoping meetings. The Agencies published a Notice of Availability of the draft PEIS in the Federal Register on November 16, 2007, inviting the public to comment on the draft PEIS until February 14, 2008. The final PEIS was made available in November 2008.

On January 14, 2009, DOI approved amendments to 92 BLM land management plans to designate energy corridors on the public lands governed by these plans. The designation includes approximately 5,000 miles of corridors. On the same day, the USFS amended 38 land use plans, designating 957 miles of energy corridors on public lands it administers.

B. Procedural History

Plaintiffs filed this action on July 7, 2009, challenging the PEIS and associated energy corridor designations. Plaintiffs bring claims under EPAct against all the Agencies, challenging their compliance with that statute. Plaintiffs also bring claims under the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321–4370h, against DOI, BLM, USDA, and USFS, alleging deficiencies in the PEIS prepared for the corridor designations. Plaintiffs further challenge the Records of Decisions ("RODs") issued by DOI and BLM to incorporate the relevant corridor designations into the Resource Management Plans ("RMPs") governing management under the Federal Land Policy and Management Act ("FLPMA"), 43 U.S.C. §§ 1701–1787, of the affected units of BLM-administered lands. Finally, Plaintiffs challenge compliance with the requirements of section 7 of the Endangered Species Act ("ESA"), 16 U.S.C. § 1536, alleging that DOI, BLM, USDA, and USFS failed to ensure that the corridor

designations would not jeopardize the existence, or adversely modify the critical habitat, of species listed under that Act.

On September 28, 2009, the Court granted the parties' motion to stay proceedings to accommodate ongoing settlement discussions. That stay has remained in place and has allowed the parties to negotiate a satisfactory settlement. On March 9, 2011, the court granted the motion to intervene of Intervenor-Defendants.

C. Description of Settlement

The proposed Settlement Agreement has four principal components: an interagency Memorandum of Understanding ("MOU") addressing periodic corridor reviews; agency guidance; training; and a corridor study.[2] The MOU, described in Section II.A.1 of the Settlement Agreement, will govern the Agencies' future review of corridors identified in the PEIS to address environmental concerns. That review will take account of siting principles identified in the Agreement, as well as the need for the periodic review and updating of appropriate mitigation measures. The siting principles are consistent with EPAct, FLPMA, and regulations implementing FLPMA. Revision of any PEIS corridors would occur (1) during the normal course of the land use planning process, (2) during environmental review of a particular site-specific project that occasions reconsideration of a particular corridor, or (3) during land use plan revisions proposed specifically to address potential corridor changes.

The agency guidance, described in Section II.A.2 of the Agreement, will embody principles enunciated in the Agreement and will address the need for site-specific NEPA analysis for individual projects.

Finally, the Settlement Agreement will provide for updating the BLM's and the USFS's training materials to incorporate the principles set forth in the Agreement, as well as a corridor study to assess whether the PEIS corridors are achieving their purposes to promote efficient and environmentally

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[2] In addition, BLM will delete portions of a superseded agency guidance document concerning the siting of electric transmission corridors, IM 2010-169, and will issue a new guidance memorandum consistent with the Settlement Agreement. *See* Section II.B.5 of the Agreement. The Plaintiffs and Federal Defendants have also agreed on a settlement of Plaintiffs' claim for attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412.

sensitive corridor-siting decisions. *See* Section II.A.3 & 4 of the Agreement.

The Agreement contains Dispute Resolution provisions, Section III.B & F, allowing for the resolution of disagreements concerning compliance with the terms of the agreement.

In return for the Agencies' undertakings, the Plaintiffs agree to dismiss their action with prejudice and will release the claims raised therein. Sections III.A & B. In accordance with that agreement, the Plaintiffs and Federal Defendants jointly move at this time for dismissal of the complaint, with prejudice, subject to the provisions of Paragraphs III.B and F of the Agreement.

Because the Intervenors will be filing a separate response to this motion, dismissal by stipulation pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) is not available.

III. CONCLUSION

The attached settlement represents a fair and reasonable resolution of this litigation and accommodates in a compromise document the competing concerns of the Plaintiffs and Federal Defendants as reflected in the PEIS and RODs and in Plaintiffs' challenge thereto. *See Ahern v. Central Pac. Freight Lines*, 846 F.2d 47, 48 (9th Cir. 1988) (Ninth Circuit committed to rule favoring settlement of litigation); *California Dep't of Toxic Subs. Contr. v. Waymire Drum Co., Inc.*, No. C-98-03834 PJH, 1999 U.S. Dist. LEXIS 3814, *5 (N.D. Cal. Mar. 19, 1999) (same).

Accordingly, the Plaintiffs and Federal Defendants respectfully request that the Court grant this motion and dismiss this action with prejudice, in accordance with and subject to Paragraphs III.B and F of the attached Settlement Agreement.

Respectfully submitted,

FOR THE PLAINTIFFS

DATED: July 3, 2012

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FOR THE FEDERAL DEFENDANTS

DATED: July 3, 2012

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ATTORNEY ATTESTATION OF CONCURRENCE

I hereby attest that I have obtained concurrence in this filing and for affixing the signature of Plaintiffs' counsel, indicated by a "conformed" signature ("/s/"), to this e-filed document, in accordance with General Order 45.X.

Dated: July 3, 2012

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CERTIFICATE OF SERVICE

I, David B. Glazer, hereby certify that I have caused the foregoing to be served upon counsel of record through the Court's electronic service system.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 3, 2012

/s/*David B. Glazer*
David B. Glazer

SETTLEMENT AGREEMENT

Plaintiffs The Wilderness Society, BARK, Center for Biological Diversity, Defenders of Wildlife, Great Old Broads for Wilderness, Klamath-Siskiyou Wildlands Center, National Parks Conservation Association, National Trust for Historic Preservation, Natural Resources Defense Council, Oregon Natural Desert Association, Sierra Club, Southern Utah Wilderness Alliance, Western Resource Advocates, Western Watersheds Project, and County of San Miguel, Colorado ("Plaintiffs"), and Federal Defendants United States Department of the Interior ("DOI"), Kenneth L. Salazar, Secretary of the Interior; United States Bureau of Land Management ("BLM"); Robert Abbey, Director, BLM; United States Department of Agriculture; Tom Vilsack, Secretary of Agriculture; United States Forest Service ("FS"); Tom Tidwell, Chief of the Forest Service; United States Department of Energy ("DOE"); and Steven Chu, Secretary of Energy ("Defendants") (collectively the "Parties"), by and through their undersigned counsel, hereby agree and stipulate as follows:

WHEREAS, on July 7, 2009, Plaintiffs filed the Complaint in *The Wilderness Society, et al. v. United States Department of the Interior, et al.*, No. 3:09-cv-03048-JW (N.D. Cal.), which Plaintiffs amended on September 14, 2009;

WHEREAS Plaintiffs' Amended Complaint alleges violations of the Energy Policy Act of 2005, P.L. 109-58 ("EPAct"), the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq*. ("NEPA"), the Federal Land Policy and Management Act, 43 U.S.C. § 1763 *et seq*. ("FLPMA"), the Endangered Species Act, 16 U.S.C. § 1531 *et seq.* ("ESA"), and the Administrative Procedure Act, 5 U.S.C. § 551 *et seq*. ("APA");

WHEREAS Section 368 of the EPAct, 42 U.S.C. § 15926(a), directs the Secretaries of Agriculture, Commerce, Defense, Energy, and Interior, in consultation with the Federal Energy Regulatory Commission, States, tribal or local units of government as appropriate, affected utility industries, and other interested persons, to designate corridors for oil, gas, and hydrogen

pipelines and electricity transmission and distribution facilities on federal land, beginning with 11 western States ("section 368 Corridors");

WHEREAS Section 368 of the EPAct further directs the Secretaries of Agriculture, Commerce, Defense, Energy, and Interior to "perform any environmental reviews required to complete the designation" of the corridors and to formalize the designations by "incorporat[ing] the designated corridors into the relevant agency land use and resource management plans or equivalent plans," 42 U.S.C. §§ 15926(a)(2) and 3;

WHEREAS, on November 20, 2008, Defendants issued a Final Programmatic Environmental Impact Statement for the section 368 Corridors, 73 Fed. Reg. 72,521 (Nov. 28, 2008);

WHEREAS, on January 14, 2009, the Deputy Assistant Secretary, Land and Minerals Management, signed a Record of Decision, amending 92 BLM land use plans to incorporate designation of the Section 368 Corridors;

WHEREAS, on January 14, 2009, the Undersecretary of the Department of Agriculture signed a Record of Decision amending 38 National Forest Land Management plans to incorporate designation of the Section 368 Corridors;

WHEREAS the Parties wish to implement this Settlement Agreement to resolve Plaintiffs' Amended Complaint in *The Wilderness Society, et al. v. United States Department of the Interior, et al.*, No. 3:09-cv-03048-JW (N.D. Cal.), and thereby avoid protracted and costly litigation and preserve judicial resources;

WHEREAS the Parties have agreed to a settlement of these matters without any adjudication or admission of fact or law by any party; and

WHEREAS the Parties believe that this Agreement is in the public interest;

the Parties now agree as follows:

I. SCOPE OF AGREEMENT

A. This Agreement shall constitute a complete and final settlement of Plaintiffs' Amended Complaint in *The Wilderness Society, et al. v. United States Department of Interior, et al.*, No. 3:09-cv-03048-JW (N.D. Cal.).

B. This Agreement in no way affects the rights of the United States as against any person not a party hereto.

C. Nothing in this Agreement shall constitute an admission of fact or law by any party. This Agreement shall not be used or admitted in any proceeding against a party over the objection of that party.

D. This Settlement Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties and supersedes all prior agreements and understandings, whether oral or written, concerning the subject matter hereof. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Settlement Agreement or the settlement it represents, nor shall it be used in construing this Settlement Agreement. It is further expressly understood and agreed that this Agreement was jointly drafted by the Parties. Accordingly, the Parties agree that any and all rules of construction to the effect that ambiguity is construed against the drafting party shall be inapplicable in any dispute concerning the terms or interpretation of this Agreement.

E. This Agreement shall be governed by and construed under federal law.

F. Nothing in this Settlement Agreement shall constitute, or be construed to constitute, a waiver of sovereign immunity by the United States. Nothing in the terms of this Agreement shall be construed to limit or modify the discretion accorded Defendants by the APA, the EPAct, NEPA, FLPMA, the ESA, or by general principles of administrative law.

G. The Parties agree that Defendants' obligations under this Settlement Agreement are contingent upon the availability of appropriated funds and that nothing contained in this Settlement Agreement shall be construed as a commitment or requirement that Defendants

obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. §1341, or other applicable law.

II. SPECIFIC PROVISIONS

A. This Agreement consists of the following five provisions: an interagency Memorandum of Understanding ("MOU") addressing periodic corridor reviews; agency guidance; training; corridor study; and IM 2010-169. The objectives of these settlement provisions are to ensure that future revision, deletion, or addition to the system of corridors designated pursuant to section 368 of EPAct consider the following general principles: location of corridors in favorable land-scapes, facilitation of renewable energy projects where feasible, avoidance of environmentally sensitive areas to the maximum extent practicable, diminution of the proliferation of dispersed rights-of-way ("ROWs") crossing the landscape, and improvement of the long-term benefits of reliable and safe energy transmission. In addition, revisions, deletions, or additions to section 368 corridors are to be made through an open and transparent process incorporating consultation and robust opportunities for engagement by tribes, states, local governments, and other interested parties.

1. Interagency MOU: The BLM, FS, and DOE (the "Agencies") will periodically review the section 368 corridors, as provided in Section 1.a.-c. below, on a regional basis to assess the need for corridor revisions, deletions, or additions. The agencies will establish an MOU describing the interagency process for conducting these reviews, the types of information and data to be considered, and the process for incorporating resulting recommendations in BLM and FS land use plans. DOE's role will be limited to providing technical assistance in the areas of transmission adequacy and electric power system operation, as needed. As part of the periodic review process, the BLM and the FS will re-evaluate those corridors identified by plaintiffs as having specific environmental issues, attached as Exhibit A.[1] The BLM and the FS

[1] Corridors of Concern: The corridors identified by plaintiffs are referred to here as "corridors of concern."

will also concurrently review their existing Interagency Operating Procedures ("IOPs") to identify any revisions, deletions, and additions necessary.

These items will comprise the elements of an interagency MOU to establish a process for periodic review of section 368 corridors and the IOPs.

a. Interagency Workgroup:

- The agencies will establish an interagency workgroup composed of national office and field personnel, as appropriate.
- The workgroup will identify new relevant information (below at b.) that is pertinent to the consideration of section 368 corridors.
- The workgroup shall examine this new relevant information, review the corridors based on this information, and develop recommendations for any revisions, deletions, or additions to the section 368 corridors.
- The BLM and the FS shall ensure that recommendations are conveyed to appropriate agency managers and staff and that these recommendations are fully considered, as appropriate under applicable law, regulations, and agency policy and guidance.
- The BLM and the FS shall ensure that the siting principles (below at c.) are fully considered and public, tribal, and governmental involvement commitments (below at f.) are fully met.

b. Review materials: The new relevant information that the workgroup will review includes, but is not limited to:

- Results of the joint studies of electric transmission needs and renewable energy potential currently being conducted by the Western Electricity Coordinating Council ("WECC") and the Western Governors' Association ("WGA"), and funded by the DOE;
- Results of BLM's eco-regional assessments that characterize the ecological values across regional landscapes;

- Agency Corridor Study of current use of section 368 corridors and IOPs (below at Section 4.);
- Other on-going resource studies, such as the WGA wildlife corridor study, the BLM's National Sage-Grouse Habitat Conservation Strategy, and the State of Wyoming's sage grouse strategy; and
- Current studies and other factors, such as states' renewable portfolio standards, that address potential demand, source, and load with particular regard to renewable energy.

c. Corridor Siting Principles: The Agencies shall review the following areas to ensure that the general principles listed here were considered in siting the current corridors, especially with regard to efficient use of the landscape: (i) northeastern California and northwestern Nevada, (ii) southern California, southeastern Nevada, and western Utah, and (iii) southern Wyoming, northeastern Utah, and northwestern Colorado. The BLM and the FS will make future recommendations for revisions, deletions, and additions to the section 368 corridor network consistent with applicable law, regulations, agency policy and guidance, and will also consider the following general principles in future siting recommendations:

- Corridors are thoughtfully sited to provide maximum utility and minimum impact to the environment;
- Corridors promote efficient use of the landscape for necessary development;
- Appropriate and acceptable uses are defined for specific corridors; and
- Corridors provide connectivity to renewable energy generation to the maximum extent possible while also considering other sources of generation, in order to balance the renewable sources and to ensure the safety and reliability of electricity transmission.

d. Interagency Operating Procedures: The BLM and the FS shall review the IOPs adopted in their respective Records of Decision designating energy corridors (January 2009). The BLM and the FS shall review the current utility of the IOPs and pertinent new data and shall actively solicit suggestions from stake-holders for changes to the IOPs. The BLM and FS shall consider new IOPs submitted by Plaintiffs for specific resources including, but not limited to, wildlife, wilderness characteristics, and special areas. The BLM and the FS shall develop recommendations for updating the IOPs concurrently with their periodic review of section 368 corridors.

e. Implementation of Workgroup Recommendations: Workgroup recommendations for section 368 corridor revisions, deletions, or additions will be considered for implementation through the BLM and the FS land use planning and environmental review processes. There are three circumstances when such consideration may occur:

- During the normal course of land use plan(s) revisions;
- During an amendment to a land use plan(s) caused by a specific project proposal that does not conform to a land use plan, or when issues within a designated section 368 corridor necessitate review of an alternative corridor path; or
- During an amendment to individual land use plans specifically to address corridor changes.

BLM and FS will adopt recommended changes to the IOPs (additions, revisions, deletions) through internal guidance or manuals or handbooks.

f. **Stakeholder Participation:** There will be two significant opportunities for stakeholder participation:

- The workgroup will provide information to and solicit comment from the public regarding its periodic review of corridors and consequent

recommendations, and also engage in consultation with other federal agencies, tribes, states, local governments, and other interested persons through an active exchange of information and opinion during review and before the workgroup makes a recommendation(s). Workgroup members will use this same process in their periodic review of BLM and FS IOPs and recommendations therefor. The MOU will outline appropriate means for conducting outreach, which may include listening sessions/information sharing, web postings/comments, or other appropriate means.

- Any land use plan amendments that consider workgroup recommendations will require evaluation under NEPA in accordance with applicable law, regulations, and agency policy and guidance. The agencies agree to a robust public involvement process and will ensure that:
    - The NEPA process follows agency procedures, including all applicable opportunities for stakeholder, tribal, state, and local government participation;
    - All potentially interested parties are provided opportunities to participate in scoping and the environmental review process as required by agency procedures;
    - Opportunities for full involvement of minority populations, low-income communities, and tribes are promoted and provided by the agencies.

g. Agency Responsibilities:

- BLM, FS, and DOE will each identify an official responsible for implementation of this settlement agreement.
- The DOE shall provide technical review, advice, and assistance regarding:
    - The need for proposed energy transport facilities;
    - The practical functionality of section 368 corridors;

- The impact on reliability and electric system operation for facilities located outside section 368 corridors; and
- Other technical factors relevant to siting energy transport facilities.

- The BLM and the FS will make recommendations for revisions, deletions, and additions to section 368 corridors and ensure that these recommendations are considered, consistent with applicable law, regulations, agency policy and guidance, and this Agreement.

h. Working Group Duration: The interagency workgroup will convene upon signing the MOU and remain in effect until any of its participating agencies determines that the workgroup no longer serves a purpose, but no less than two years following the signing of the MOU. The workgroup shall provide a brief annual report to each agency's MOU signatory, assessing the effectiveness of the workgroup, progress on the settlement agreement commitments, and the current utility of the group. The report will be made available to the public along with a summary of any revisions, deletions, or additions to the section 368 corridors completed at that time.

2. Agency Guidance: The BLM and the FS agree to issue internal guidance to managers and staff regarding use and development of the section 368 corridors. As part of this guidance, the agencies will provide direction on using corridors of concern and will identify known conflicts within these corridors. The BLM and the FS will also issue direction, consistent with applicable NEPA regulations, on how to use the Final Programmatic Environmental Impact Statement ("FPEIS"), *Designation of Energy Corridors on Federal Land in the 11 Western States (DOE/EIS-0386)*, when preparing site-specific NEPA documents.

The BLM and the FS shall develop coordinated guidance for agency managers regarding use of section 368 corridors, and the guidance shall include the following elements:

a. Corridor Use: BLM and FS managers will: encourage project proponents to locate projects within designated corridors or adjacent to existing rights-of-

way; notify project proponents of any section 368 corridor segments that are corridors of concern; and consider alternative locations if a proposed project would be located within a section 368 corridor of concern segment. The agencies recognize that siting projects within corridors will require site-specific environmental analysis, as well as review of land use plans, as required by applicable law, regulations, and agency policy and guidance.

b. Corridors of Concern: BLM and FS managers will be notified of those corridors of concern set forth by the plaintiffs at Exhibit A and the concerns identified there. Managers and the public will be notified that siting projects within these corridors will likely lead to heightened public interest and concern and may:

- Be challenged;
- Involve significant environmental impacts;
- Involve substantially increased or extensive mitigation measures such as off-site mitigation to compensate for impacts to sensitive resources;
- Include preparation of an environmental impact statement;
- Include consideration of alternatives outside the corridor and consideration of an alternative that denies the requested use; and
- Include amendment of the applicable land use plan to modify or delete the corridor of concern and designate an alternative corridor.

c. Use of the FPEIS:

- BLM and FS will be reminded that site-specific projects in a section 368 corridor will require individual NEPA analysis. The scope of that NEPA review will include analysis of whether the use of that corridor identified in the FPEIS is appropriate in the context of the site-specific project and/or whether additional analysis should be undertaken to modify or delete the corridor and designate an alternative corridor.

- BLM and FS will encourage "incorporation by reference" of data and studies in the FPEIS and other relevant documents, as appropriate for individual projects and consistent with NEPA regulations, in order to reduce bulky and redundant studies.
- BLM and FS managers will be directed that tiering to the FPEIS is not a substitute for site-specific analyses of any project proposed within a section 368 corridor and that environmental reviews of projects within section 368 corridors are subject to this settlement agreement and the NEPA regulations at 40 C.F.R. § 1502.20 and 40 C.F.R. § 1508.28.

d. Implementation of IOPs: Guidance will include:

- Procedures for periodic review and update of IOPs, based on the principles of adaptive management and including stakeholder engagement;
- Use of IOPs outside designated corridors on Federal lands; and
- Adoption of IOPs considered and approved by the agencies, particularly with reference to wilderness characteristics, wildlife, and special areas.

e. Corridor Changes: Guidance will remind managers that revisions, deletions, and additions to section 368 corridors must (at a minimum) meet the requirements specified for these corridors in section 368 of the EPAct and must consider the siting principles identified in section 1.c. above.

3. Training: The BLM and the FS agree to incorporate environmental concerns into agency training regarding the processing of applications for pipeline and electricity transmission ROWs, and to invite participation from representatives of environmental groups, tribes, and industry in such courses. The BLM and the FS agree to review existing training materials and incorporate an increased emphasis on environmental considerations when siting and permitting pipelines and transmission lines. Specifically these courses are the BLM's Electric Systems Short Course offered once annually at the BLM National Training Center in Phoenix, Arizona; the BLM's Pipelines Systems Course offered once annually in Durango, Colorado; and the

National Lands Training for Line Officer and Program Managers, which is jointly offered by the BLM and FS once annually in various locations.

4. Corridor Study: The BLM and the FS agree to study section 368 corridors in order to assess their overall usefulness with regard to various factors, including their effectiveness in reducing the proliferation of dispersed ROWs crossing the landscape of federal lands.

The agencies will study the section 368 corridors to assess their efficient and effective use and record practical lessons learned. The interagency workgroup will develop a corridor monitoring plan to support this study. The study is anticipated to involve an identification of the types and numbers of projects within the corridors, as well as the widths and lengths of existing ROWs within the corridors. The study would also identify where corridors are being over- or underutilized and would evaluate use of the IOPs in order to recommend potential new or modified IOPs. The study will inform the periodic review of section 368 corridors and IOPs (above at 1.b.) and be made public upon completion.

5. IM 2010-169**:** BLM agrees to delete a section, entitled "Environmental Review and Energy Corridors," from Instruction Memorandum No. 2010-169, dated July 28, 2010, upon issuance of a new BLM instruction memorandum setting forth guidance for the siting and construction of electric transmission infrastructure in section 368 corridors. BLM Instruction Memorandum No. 2010-169, dated July 28, 2010, is entitled "Implementation Guidance for the Interagency Transmission Memorandum of Understanding." The memorandum of understanding referred to was entered into by nine federal agencies in October 2009 to expedite the siting and construction of qualified electric transmission infrastructure in the United States. IM 2010-169 contains a three-paragraph section entitled "Environmental Review and Energy Corridors," which addresses section 368 corridors and directs BLM managers to tier to the environmental analysis in the FPEIS to the extent the FPEIS addresses anticipated issues and concerns associated with individual qualifying projects.

B. **Time Line for Implementation of Agreement**

The agencies agree to make every effort to meet the timelines identified below. Should the agencies be unable to meet these internal timelines for any reason, the BLM Assistant Director for Minerals and Realty Management will notify the plaintiffs and explain the circumstances causing the delay.

- Upon the Effective Date (see Section III.I) of the settlement agreement, the provisions of section II.A.2.c. shall apply.
- Upon the Effective Date of the settlement agreement, the agencies will complete a MOU within twelve months. Progress on completion of the MOU will be reported quarterly to the plaintiffs. The final MOU will be made available to the public. Upon signing the MOU, the agencies will commence a periodic review of section 368 corridors, with recommendations due twelve months thereafter.
- Upon the Effective Date of the settlement agreement, the BLM and the FS will initiate a review of current guidance. New guidance will be developed concurrently with the MOU and will be completed within twelve months. Progress on completion of guidance will be reported quarterly to the plaintiffs. New guidance will be made available to the public.
- Upon the Effective Date of the settlement agreement, the BLM and the FS will initiate a review of current training materials, instructors, and outreach efforts. Within three months the BLM and the FS will identify representatives to be invited to participate in future training. Within twelve months training courses will be revised. Progress on completion of training revisions will be reported quarterly to the plaintiffs.
- Upon the Effective Date of the settlement agreement, the agencies will initiate development of a plan to study use of the section 368 corridors. The agencies will complete the work plan within twelve months of the Effective Date of the settlement agreement. The study will be completed within twelve months of completion of the work plan. The workgroup will report progress on the study quarterly to the plaintiffs.

III. EFFECT OF SETTLEMENT

A. Subject to Defendants' compliance with the terms of Paragraphs II.A. and II.B. of this Agreement, Plaintiffs release all claims in *The Wilderness Society, et al. v. United States Department of the Interior, et al.*, No. 3:09-cv-03048-JW (N.D. Cal.).

B. Subject to the provisions of paragraph F below, upon signing the settlement agreement, plaintiffs will stipulate to the dismissal with prejudice of their amended complaint in *The Wilderness Society, et al. v. Department of the Interior, et al.*, No. 03:09-cv-03048 JW (N.D. Cal.). However, the Court shall retain jurisdiction over this action for the limited purpose of resolving settlement implementation disputes pursuant to the provisions of Paragraph F, below, until each of the following events has occurred: (1) 24 months have elapsed following execution of the MOU in accordance with Section II.A.1, above; and (2) the following undertakings have been completed: (a) new guidance has been developed in accordance with Section II.A.2, above; (b) training materials have been revised in accordance with Section II.A.3, above; (c) the Corridor Study has been completed in accordance with Section II.A.4, above; and (d) IM 2010-169 is revised in accordance with Section II.A.5, above.

C. The Federal Defendants, through the BLM and the FS, shall pay Plaintiffs the sum of $30,000.00, in full settlement and satisfaction of all of Plaintiffs' claims for attorneys' fees, costs, and other expenses in the above-captioned case. Payment shall be accomplished by electronic fund transfer. Within 5 business days of the date this Settlement Agreement is filed, Plaintiffs shall submit (if not already submitted) the account information and other information necessary for the Federal Defendants to process payment. The BLM and the FS shall undertake the procedures for processing payment within 20 days after this Settlement Agreement is filed or Plaintiffs submit the required payment information, whichever is later.

1. Release: Plaintiffs will accept the sum of $30,000.00 in full settlement and satisfaction of all of their claims for attorneys' fees, costs, and other expenses in this matter and release the Federal Defendants from any liability for attorneys' fees, costs, and other expenses incurred or claimed, or that could have been claimed, for work performed on this case, under the

Equal Access to Justice Act, 28 U.S.C. § 2412, or under any other federal or state statute or common law. Plaintiffs or their counsel shall submit confirmation of receipt of payment in the above amount to counsel for Federal Defendants, within 14 days of receipt of payment.

2. Payee: Plaintiffs represent that the proper entity to receive payment pursuant to this Settlement Agreement is Earthjustice (tax ID is 94-1730465). Payment shall be made to Earthjustice by Electronic Funds Transfer payable to:

Mechanics Bank
725 Alfred Nobel Drive
Hercules, California 94547
Bank Routing #121102036
ACCT # 040-882578

Plaintiffs and their attorneys agree that the Federal Defendants' responsibility in discharging the payment obligation provided in this Settlement Agreement consists only of making the payment to Earthjustice in the manner set forth herein.

D. Any term set forth in this Agreement (including deadlines and other terms) may be modified by written agreement of the Parties.

E. Except as expressly provided in this Agreement, neither of the Parties waives or relinquishes any legal rights, claims, or defenses it may have.

F. In the event of a disagreement among the Parties concerning the performance of any aspect of this Agreement, the dissatisfied party shall provide the other party with written notice of the dispute and a request for negotiations. The Parties shall meet and confer in order to attempt to resolve the dispute within 30 days of the date of the written notice, or such time thereafter as is mutually agreed. If the Parties are unable to resolve the dispute within 90 days after such meeting, then any Party may apply to the Court for resolution. In resolving such dispute, the Court's review shall be limited to determining: (1) whether the Federal Defendants have reasonably complied with the performance deadlines set forth in Section II.B; (2) whether the MOU required by Section II.A.1 contains the terms required by this Agreement; (3) whether the guidance issued in accordance with Section II.A.2 contains the terms required by this Agreement; (4) whether the training developed by the agencies addresses the issues identified in

Section II.A.3; (5) whether the study prepared by the agencies contains the terms set forth in Section II.A.4; and (6) whether IM 2010-169 has been revised in accordance with Section II.A.5. The Parties agree that any challenge to a final decision concerning amendments or revisions to land use plans, as well as to final decisions concerning revisions, deletions, or additions to Section 368 corridors, must take the form of a new civil action under the judicial review procedures of the Administrative Procedure Act, 5 U.S.C. §§ 701–706. The parties will not seek the remedy of contempt for any alleged violation of the settlement agreement.

G. Any notices required or provided for under this Agreement shall be in writing, shall be effective upon receipt, and shall be sent to the following:

For Plaintiffs:

BARK
Alex Brown, Executive Director
PO Box 12065
Portland, OR 97212
205 SE Grand, Suite 207
Portland, OR 97214
alex@bark-out.org
503-331-0374

Center for Biological Diversity
Amy R. Atwood
P.O. Box 11374
Portland, OR 97211-0374
Tel: (503) 283-5474
Fax: (503) 283-5528
Email: atwood@biologicaldiversity.org

Defenders of Wildlife
Erin Lieberman
1130 17th Street, NW
Washington, DC 20036-4604
202-772-3273
ELIEBERMAN@defenders.org

Great Old Broads for Wilderness
Veronica Egan
P.O. Box 2924
Durango, CO 81302
Phone: 970-385-9577
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Ronnie@greatoldbroads.org

Klamath Siskiyou Wildlands Center
George Sexton, Conservation Director
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gs@kswild.org

National Parks Conservation Association
David Nimkin, Senior Director,
Southwest Region
307 West 200 South, Suite 5000
Salt Lake City, Utah 84101
801 /521-0785
801 / 359-2367 fax
dnimkin@npca.org

National Trust For Historic Preservation
Betsy Merritt
1785 Massachusetts Ave, NW
Washington, DC 20036
T: 202-588-6026|Fax: 202-588-6272
betsy_merritt@nthp.org

Natural Resources Defense Council
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Oregon Natural Desert Association
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Sierra Club
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415-977-5646

Southern Utah Wilderness Alliance
PO Box 968
Moab,UT 84532
Phone: 435.259.5440
FAX: 435.259.9151
liz@suwa.org

Attn: Liz Thomas, Attorney

The Wilderness Society
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The Wilderness Society
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Nada_culver@tws.org
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Western Resource Advocates
Gary Graham
Staff Attorney, Energy Transmission
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PH: 303-444-1188 ext. 244
FX: 303-786-8054
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Western Watersheds Project
Michael J. Connor, Ph.D
Western Watersheds Project
P.O. Box 2364
Reseda, CA 91337-2364
mjconnor@westernwatersheds.org
(818) 345-0425

For Defendants:

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Environment and Natural Resources Division
U.S. Department of Justice
301 Howard Street, Suite 1050
San Francisco, California 94015
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Meredith L. Flax
U.S. Department of Justice
Environment and Natural Resources Division
Wildlife and Marine Resources Section
Ben Franklin Station, P.O. Box 7369
Washington, D.C. 20044-7369
Tel.: 202-305-0404
E-mail: meredith.flax@usdoj.gov

H. Upon written notice to the other party, either party may designate a successor contact person for any matter relating to this Agreement.

I. The undersigned representatives of each party certify that they are fully authorized by the parties they represent to bind the respective Parties to the terms of this Agreement. This Agreement shall become effective upon signature on behalf of all of the Parties set forth below and upon the Court's entry of an order of dismissal in accordance with Section III.B above (the "Effective Date"). This Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that party has signed all other counterparts.

ON BEHALF OF ALL PLAINTIFFS

DATED: July 3, 2012

/s/James S. Angell

JAMES S. ANGELL
(Admitted *pro hac vice*)
Earthjustice
1400 Glenarm Place, Suite 300
Denver, CO 80202
Tel: (303) 623-9466
Fax: (303) 623-8083
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GREGORY C. LOARIE
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Counsel for Plaintiffs, The Wilderness Society, Bark; Center for Biological Diversity; Defenders of Wildlife; Great Old Broads for Wilderness; Klamath-Siskiyou Wildlands Center; National Parks Conservation Association; National Trust for Historic Preservation; Natural Resources Defense Council; Oregon Natural Desert Association; Sierra Club; Southern Utah Wilderness Alliance; Western Resource Advocates; Western Watersheds Project; County of San Miguel, CO

AMY R. ATWOOD
(Admitted *pro hac vice*)
Center for Biological Diversity
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E-mail: atwood@biologicaldiversity.org

Counsel for Plaintiffs, Center for Biological Diversity; The Wilderness Society; Klamath-Siskiyou Wildlands Center; and San Miguel County, Colorado

FOR THE FEDERAL DEFENDANTS:

IGNACIA S. MORENO
Assistant Attorney General

DATED: July 3, 2012

/s/ David B. Glazer
DAVID B. GLAZER
Natural Resources Section
Environment and Natural Resources Div.
United States Department of Justice
301 Howard Street, Suite 1050
San Francisco, California 94105
Telephone: (415) 744-6491
Facsimile: (415) 744-6476
e-mail: david.glazer@usdoj.gov

ATTORNEY ATTESTATION OF CONCURRENCE

I hereby attest that I have obtained concurrence in this filing and for affixing the signature of Plaintiffs' counsel, indicated by a "conformed" signature ("/s/"), to this e-filed document, in accordance with General Order 45.X.

Dated: July 3, 2012

/s/*David B. Glazer*
DAVID B. GLAZER
Natural Resources Section
Environment and Natural Resources Division
United States Department of Justice
301 Howard Street, Suite 1050
San Francisco, California 94105
Telephone: (415) 744-6491
Facsimile: (415) 744-6476
E-mail: david.glazer@usdoj.gov

Exhibit A
To
Settlement Agreement,
The Wilderness Society et al. v. United States Department of the Interior et al.,
3:09-cv-03048 JW (N.D. Ca.)

Per Section II.A.1. of the above-captioned Settlement Agreement, "corridors identified by plaintiffs as having specific environmental issues" are listed below, along with plaintiffs' concerns over affected resources as identified by plaintiffs in the above-captioned lawsuit. Corridor numbers in boldface correspond to those set forth in Appendix A of the Programmatic Environmental Impact Statement, *Designation of Energy Corridors on Federal Land in the 11 Western States* (DOE/EIS-0386, November 2008) and in the Records of Decision issued by the Bureau of Land Management and U.S. Forest Service in January 2009.

WASHINGTON
102-105: numerous "suitable" segments under Wild & Scenic Rivers Act, borders designated Wilderness, Northwest Forest Plan critical habitat and late-successional/ adaptive management reserves, crosses Pacific Crest Trail, tracks America's Byway within 1 mile, National Register of Historic Places property.
244-245: conflicts with Northwest Forest Plan, critical habitat, tracks America's Byway.

OREGON
7-24: 3 citizen-proposed wilderness areas, sage-grouse habitat, pygmy rabbit habitat, Steens Mountain Cooperative Management Area, and proposed Sheldon Mountain National Wildlife Refuge.
230-248: critical habitat, National Register of Historic Places property, Pacific Crest Trail, Clackamas Wild & Scenic River and other "eligible" segments under Wild & Scenic Rivers Act, conflicts with Northwest Forest Plan critical habitat and late-successional/ adaptive management reserves.
24-228 (also in Idaho): sage-grouse habitat, National Register of Historic Places property.
4-247 – not close enough to QRA, old-growth forests, critical habitat, late-successional reserves, riparian reserves.

IDAHO
24-228 (also in Oregon): sage-grouse habitat, pygmy rabbit habitat.
229-254 (also in Montana - 3 segments – regular, (N) and (S)): critical habitat, National Register of Historic Places properties, "suitable" segment under Wild & Scenic Rivers Act.

WYOMING
Any in core areas are prohibited for transmission use by BLM guidance.
78-255: sage-grouse core area and habitat.
79-216: sage-grouse core area and habitat, National Register of Historic Places properties, National Historic Trail.
121-221: sage-grouse core area and habitat, National Historic Trail, BLM special management area.

MONTANA
229-254 (also in Idaho - 3 segments – regular, (N) and (S)): critical habitat, National Register of Historic Places properties, "suitable" segment under Wild & Scenic Rivers Act, Continental Divide Trail, USFS Inventoried Roadless Area.

CALIFORNIA
18-23: Areas of Critical Environmental Concern, Inventoried Roadless Areas, BLM Wilderness Study Areas, CA Boxer Wilderness, CA-proposed Wilderness, NV-proposed Wilderness, sage-grouse habitat, redundant to 18-224.
23-106: National Conservation Area, Area of Critical Environmental Concern.
23-25: critical habitat, National Conservation Area, Area of Critical Environmental Concern.
264-265: critical habitat, National Conservation Area, citizen-proposed Wilderness, USFS Inventoried Roadless Area.
107-268: National Forest, citizen-proposed Wilderness.
101-263: critical habitat; WSR; CA-proposed Wilderness, citizen-proposed Wilderness, USFS Inventoried Roadless Area.

NEVADA
17-35: access to coal plant, impacts to sage-grouse habitat.
16-24: Wilderness, National Conservation Area, National Historic Place, BLM Wilderness Study Area (in Oregon).
16-104: BLM Wilderness Area.
44-110: sage-grouse habitat.
110-233: sage-grouse habitat.
110-114: sage-grouse habitat, undisturbed, USFS Inventoried Roadless Area.
223-224: Areas of Critical Environmental Concern, Desert National Wildlife Refuge.
39-113, 39-231: Pahranagat National Wildlife Refuge, Rainbow Gardens ACEC, near proposed Gold Butte National Conservation Area, Black Mountain tortoise habitat.

UTAH
110-114: much undisturbed, National Historic Place, BLM Wilderness Study Area, UT-proposed Wilderness.
66-259: access to coal plant, impacts to USFS Inventoried Roadless Area.
66-212: access to coal plant, impacts to National Historic Places, America's Byways, Old Spanish Trail, BLM Wilderness Study Area, UT-proposed Wilderness, critical habitat, adjacent to Arches National Park.
116-206: undisturbed, monument, Old Spanish Trail, UT-proposed Wilderness, near USFS Inventoried Roadless Area.
68-116, Grand Staircase National Monument, Paria River.
126-258: access to coal plant.

COLORADO
130-274 and 130-274(E): access coal, directly or indirectly impacts Gunnison sage-grouse conservation areas, occupied Gunnison sage-grouse habitat, CO-proposed Wilderness, USFS IRA.
87-277: coal, Wilderness, sage-grouse habitat; National Historic Places.
144-275: coal, wilderness, National Historic Places.

ARIZONA
68-116: access to coal, impacts to Grand Staircase-Escalante National Monument, Wild & Scenic Rivers, scenic byway.
62-211: access to coal, impacts to citizen-proposed and designated Wilderness, National Historic Place, Wild & Scenic Rivers, Mexican spotted owl critical habitat.
47-231: desert tortoise and bonytail critical habitat, Area of Critical Environmental Concern, Lake Mead National Recreation Area.
41-47: impacts to Black Mountain population for desert tortoise.
41-46: impacts to Black Mountain population for desert tortoises.
46-270: Wild & Scenic river, Southwestern willow flycatcher critical habitat.
46-269: proposed and designated Wilderness areas, Wild and Scenic Rivers, Three Rivers Area of Critical Environmental Concern.

NEW MEXICO
81-272: Sevilleta National Wildlife Refuge, National Conservation Areas.