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**Proceedings of the First Year  
White House Task Force  
on Energy Project Streamlining**

**December 2002**

White House Task Force on Energy Project Streamlining

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I am pleased to present the initial proceedings of the White House Task Force on Energy Project Streamlining. As directed in the National Energy Policy, the Council on Environmental Quality formed a results-oriented interagency group to address permitting and siting of energy-related projects in the context of meeting environmental compliance and stewardship objectives. Our citizens want and need environmentally sensible, domestically produced power – now more than ever. The group set about looking for federal process improvements for developing and transporting energy, while fostering better cooperation with other levels of government.

The Task Force was charged to "monitor and assist the agencies' efforts to expedite their review of permits or take other actions...while maintaining safety, public health, and environmental protections." The effort adhered strictly to the goals outlined in the NEP recommendation.

Sixty-eight projects were submitted to the Task Force for assistance in the areas of hydropower re-licensing, pipeline permitting, renewable energy production, electricity generation, transmission line siting, and onshore and offshore exploration and production. These specific projects were monitored and used to develop "case studies" in how to improve the system. Last spring, the Task Force coordinated the successful completion of an interagency agreement on the environmental review of interstate natural gas pipeline projects. More recently, the Task Force co-hosted an extremely successful Energy Right-of-Way Permitting Workshop with the Bureau of Land Management (BLM) on the legal and financial requirements, policies and timeframes associated with processing right-of-way applications for the use of Federal land.

Following its first year successes, the Task Force was extended for another year. Ongoing efforts will include implementation of a broad-based energy Memorandum of Understanding (MOU) with the Western Governors' Association, implementation of a similar MOU on transmission siting, and development of renewable energy on federal lands to help meet our nation's critical energy needs. To review Task Force documents and view public comments, please visit our website at <http://www.etf.energy.gov>.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Connaughton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Chairman James L. Connaughton

Council on Environmental Quality

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# Executive Summary

In October 2001, the White House Task Force on Energy Project Streamlining (the "Task Force") formally came into existence, charged with the responsibility to implement Executive Order #13212, issued by President George W. Bush in May 2001. Over the past 12 months, a small, dedicated group worked everyday guided by, and adhering to, a core set of principles established by the Chairman of the Council on Environmental Quality. This report summarizes the actions and initiatives undertaken over the past year to implement the Executive Order.

Throughout the Task Force's efforts, common themes emerged:

- Need for early and effective inter-agency coordination, while respecting the primacy of key State and Federal permitting entities.
- Need for more geographic consistency across regional and field offices.
- Need for deadlines and improved coordination and efficiency of NEPA document preparation and review process.
- Need to designate a lead agency with authority to coordinate multiple permitting processes.
- Need for adequate resources or prioritization of resources within the Federal Agencies.
- Need for more emphasis on conservation and environmental protection.

The consistency of the themes led the Task Force to undertake or participate in several initiatives to improve coordination on energy projects across the Federal government, and between States and the Federal government. The themes also affected the manner in which the Task Force interacted with Agencies in the ongoing permitting processes for specific projects. In both cases, the Task Force was careful to respect jurisdictional boundaries.

The U.S. possesses an array of domestic energy resources— oil, gas, nuclear, coal and renewables – that can be utilized to reduce dependence on foreign sources. The Administration believes that the U.S. can and should actively develop, produce and transport available resources while fostering environmental protection, public participation and multi-level government cooperation. The comments received from the public and the Task Force's involvement with the individual Agencies participating in the energy permitting process indicate that this country should be able to increase our use of domestic energy resources in an environmentally responsible manner. Improvements in the overall coordination process among Federal Agencies can be achieved under existing laws.

The Task Force has made progress in the past year in expediting individual projects and in encouraging Federal Agencies to improve communication and coordination on matters critical to the nation's use of its energy resources. The Task Force is poised to make even greater accomplishments in the year to come.

Additional information about the Task Force can be found at <http://www.etf.energy.gov>.

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# Introduction

On May 18, 2001, President George W. Bush signed Executive Order # 13212 (Actions to Expedite Energy-Related Projects) as recommended by the National Energy Policy Development Group. The Executive Order established an interagency task force headed by the Chairman of the Council on Environmental Quality (CEQ).

## Executive Order # 13212

**“Sec. 3. *Interagency Task Force.*** There is established an interagency task force (Task Force) to monitor and assist the agencies in their efforts to expedite their review of permits or similar actions, as necessary, to accelerate the completion of energy-related projects, increase energy production and conservation, and improve transmission of energy. The Task Force also shall monitor and assist agencies in setting up appropriate mechanisms to coordinate Federal, State, tribal, and local permitting in geographic areas where increased permitting activity is expected.”<sup>1</sup>

## Agency Participation

To implement the National Energy Policy’s recommendation and resulting Executive Order, the White House solicited information from the Agencies named in the Executive Order in early June 2001, on pre-existing and potential opportunities within the Agencies for streamlining energy-related permits.<sup>2</sup> The White House also sought potential opportunities for coordinating permitting efforts between Federal, State, tribal and local governments. The responses indicated that the following eight “core” Agencies had energy-related permitting responsi-

bilities: the Departments of Agriculture (USDA), Commerce (DOC), Defense (DOD), Energy (DOE), Interior (DOI), State (DOS), and Transportation (DOT), and the Environmental Protection Agency (EPA).

In July and August 2001, the CEQ chairman solicited further information from the “core” Agencies on their streamlining efforts, permitting program timelines, regional office roles in permitting activity, designation of high level policy liaison to assist with Agency cooperation, and recommendations for Agency representatives to serve full-time on the Task Force.

Based in part on these solicitations, the Departments of Agriculture, Energy, Interior, and the Environmental Protection Agency committed to provide Agency representatives to serve on the Task Force full-time. These Agency representatives formed the core day-to-day working group known as the White House Task Force on Energy Project Streamlining (the “Task Force”). Other key Agencies provided policy and staff liaisons, including, the Departments of Transportation, Commerce, and State, and the Army Corps of Engineers (COE). The Federal Energy Regulatory Commission (FERC), the Advisory Council on Historic Preservation (ACHP) and the Nuclear Regulatory Commission (NRC), although not named in the Executive Order, also have key roles in energy permitting and became part of the cooperative effort by providing policy liaisons to work closely with the Task Force.

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<sup>1</sup> Federal Register / Vol. 66, No. 99 / Tuesday, May 22, 2001 / Presidential Documents (pp. 28357-58).

<sup>2</sup> Requests for updates on the Agencies’ internal streamlining initiatives were sent by the Task Force in June 2002.

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# Operations

The Task Force spent its first four months gathering information, reaching out to stakeholders, and raising the awareness of its existence around the country with core constituencies. All of its subsequent activities were in direct response to information received during this initial period and in accordance with the goals and guiding principles established by our leadership.

## Goals

The Task Force operated according to the following goals, found in Executive Order #13212:

- Accelerate completion of energy-related projects;
- Monitor & assist the Agencies in their efforts; and
- Coordinate permitting in geographic areas of increased activity.

### **Guiding Principles**

- Expedite and coordinate decision-making in an “outcome neutral” fashion
- Ensure Federal Agency permitting and review efforts are effectively coordinated and integrated
- Ensure appropriate mechanisms for coordinated permitting in targeted geographic areas are established
- Operate openly and inclusively with all interested parties

## Request for Information

Through a Federal Register Notice published on August 20, 2001, CEQ solicited comments from interested parties to “provide basic information about major pending projects or major projects under development that may be relevant to Task Force efforts to streamline energy permitting decisions.”<sup>3</sup> The notice also requested “comment on the proposed nature and scope of Task Force activities and ... specific suggestions and examples of permitting or other decision making processes which should be improved or streamlined.”<sup>4</sup>

The Task Force received over 120 written comments. The comments consisted of approximately half project-specific and half general procedural comments. The projects submitted to the Task Force requested resolution of project-specific problems, while the general comments addressed broad policy and systemic issues. All comments can be found in their entirety on our website at <http://www.etf.energy.gov>.

The Task Force established communication with all parties submitting comments through a prompt acknowledgment letter and status memorandums to the Agencies with roles in the permitting process for project-specific submittals. See page 4 for the forms used for both documents. Responses to the memorandums helped determine what level of involvement might be warranted from the Task Force, and included the schedule for decisions, which allowed the Task Force to monitor the project’s progress.

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<sup>3</sup> Federal Register / Vol. 66, No. 161 / Monday, August 20, 2001 / Notices (pp. 43586-87).

<sup>4</sup> Ibid.

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## Meetings

The Task Force invited the public to participate in "open house" meetings during November and December 2001. Time slots were available to any individual, organization, group or Agency wanting to meet and discuss the Executive Order on any relevant topic of discussion. Notifications for the open house meetings were publicized through a CEQ press release, distributed through Agency stakeholder lists, and posted on the Task Force web site. The Task Force held 20 open house meetings with about 35 groups, and continued to receive comments and hold meetings upon request. Attendees at the open house meetings can be found on our website at <http://www.etf.energy.gov/activities>.

In addition, the Task Force members attended meetings, work groups, conferences, and workshops, served on panels, and conducted site visits both in Washington, DC, and around the country. These activities allowed Task Force members to hear directly from stakeholders.

### **Acknowledgement Letter Model**

Thank you for submitting comments to the Energy Streamlining Task Force established by Presidential Executive Order 13212, Actions to Expedite Energy-Related Projects. See 66 Fed. Reg. 28357 (May 22, 2001); 66 Fed. Reg. 43586 (August 20, 2001). During the coming months, all comments will be reviewed and considered by the Task Force. Your contribution, along with others received from the public, will play a crucial part in reviewing the permitting of energy-related projects, improving the public's understanding of the process, and expediting agency decision-making. We are planning for further public outreach to ensure that the Task Force is able to fulfill its mission of facilitating the increased production and transmission of energy in a safe and environmentally sound manner.

Sincerely,  
V.A. Stephens  
Associate Director, Energy & Transportation  
Council on Environmental Quality

### **Project Status Inquiry Memorandum Model**

**To:** [agency policy liaison]

**From:** VA Stephens

Director, White House Task Force on Energy Policy Streamlining

**Subject:** [project name]

**EXPEDITED RESPONSE NEEDED - PLEASE REPLY BY [date]**

**RESPONSIBLE ORGANIZATION:** [agency name]

**PROJECT DESCRIPTION:** [description]

**ACTION:** Please provide a status report on the described project to the contact person listed below. The status report should include, but not be limited to, the following information:

1. Description of the actions to be taken or decisions to be made by your organization
2. Identify headquarters and field staff contacts (include title, location and email address)
3. Proposed Schedule for actions or decisions.
4. List any unresolved internal issues.
5. List any unresolved external issues.
6. List any other organizations that have a role in the decision process, affecting the timing or completion of your decision or action.
7. Please reply to: [Task Force member & contact information]

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## **General Comments**

Seventy general comments were submitted to the Task Force for review. The general comments addressed both the “nature and scope of Task Force activities” and “specific suggestions and examples of permitting or other decision making processes which should be improved or streamlined.”<sup>5</sup> These general comments were carefully reviewed and a matrix was created that summarized each general comment recommendation by subject matter and specific topic. General comment recommendations were then grouped according to themes that also emerged during Task Force review of specific projects. The general comments and the summary matrix can be found at <http://www.etf.energy.gov>.

The themes listed below include descriptions of the issues *as raised in the comments submitted to the Task Force*. At this time, the Task Force is not making recommendations based on these themes, or definitive findings that all of the views described below are accurate. However, the Task Force found that each theme warrants further, detailed attention as it moves toward a final set of policy recommendations.

### **Theme 1: Need for Early & Effective Coordination among Federal Agencies and Development of More Efficient Permitting Processes for Review and Authorization of Energy-Related Projects**

- Considerable personnel, staff time and funds are being spent by project proponents to coordinate activities among the various Federal Agencies that may be responsible for authorizing, reviewing or permitting proposed energy projects. Various proponents

reported to the Task Force that it should be the responsibility of the Federal government to establish and maintain a coordinating mechanism to efficiently make decisions on energy-related applications. Suggestions for better coordination included development of a “one-stop-shopping” process or designating one office with an “ombudsman” role for all energy-related projects.

### **Theme 2: Need for Early & Effective Coordination between the States and Federal Agencies for Review and Authorization of Energy-Related Projects**

- State or even local governments, with some degree of Federal oversight, implement some Federal environmental permitting programs, such as, those under the Clean Air Act and the Clean Water Act. In these cases, overall management and coordination are not within the control of the Federal Agencies.
- The Federal Agencies, with oversight for activities delegated to the States, may not be involved early enough in the permit process to assure that Federal issues or concerns are identified and addressed, as early as possible, in the approval process. This can result in delays, additional and repetitive work, additional time and costs for State and Federal governments, and for the applicants.

### **Theme 3: Need for a More Efficient NEPA Document Preparation Process**

- The length of time Agencies are taking to prepare documents required under the National Environmental Policy Act (NEPA) is a concern to many applicants. This is a result of the NEPA and implementing regulations'

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<sup>5</sup> Federal Register / Vol. 66, No. 161 / Monday, August 20, 2001 / Notices (pp. 43586-87).

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not having specific timeframes for the Federal Agencies and Departments to make a decision.

- Federal Agencies involved in the permitting process are not fully engaged in the beginning of the NEPA process. All concerns should be identified and addressed early in the process, where possible, rather than causing delays and additional expenditures for both the applicant and the Federal government at later stages. In some instances, Federal Agencies have waited until near the end of the processing cycle to identify concerns, which may have caused additional delays and expense on the applicant's behalf.

#### **Theme 4: Need for Explicit Schedules in Energy Permit Review or Authorization Processes**

- Very few of the authorization or review processes of the Federal government contain statutory or regulatory deadlines for making decisions. At most, some elements of the process have standard timeframes (e.g., a minimum public comment period). Moreover, where deadlines do exist, the Agencies do not always meet the deadlines (e.g., the Task Force is aware of cases in which it took far more than the required 135 days to complete a biological opinion required under the Endangered Species Act), or the agencies may submit exceptions at the end of the timeline instead of at the beginning.

#### **Theme 5: Need for Adequate Resources and More Appropriate Distribution of Those Resources within Federal Government**

- Most Agencies do not have the staff resources to process energy permit applications in a timely manner. Generally, field offices where the applica-

tion documents are processed are not adequately staffed to perform the requisite tasks and Agencies lack the flexibility to quickly respond to increased workloads by moving staff resources to "hotspots," as needed.

#### **Theme 6: Need for More Geographic Consistency Regarding Requirements, Stipulations, Mitigation Measures, and Permit Processing**

- Companies that work in various geographic areas are finding inconsistencies among the local permitting field offices of Agencies when similar activities are proposed in similar habitats.

#### **Theme 7: Need for More Emphasis on Conservation and Environmental Protection**

- The Federal government should be researching and developing new and innovative ways to conserve the nations' energy resources and reserves. The government should not be willing to produce and develop short-term supplies of oil and natural gas at the expense of the nations' irreplaceable natural resources and wildlife.
- The Federal Government should be enhancing renewable energy programs to decrease our reliance on fossil fuels, nuclear energy, and hydropower.
- All the Federal land managing Agencies should dedicate additional resources to monitoring the construction, operation, and maintenance and termination activities associated with energy projects. These monitoring activities will ensure adherence to the stipulations in the authorizations designed to protect the public health, safety and the environment.

# Activities & Accomplishments: Accelerate Completion of Energy-Related Projects

A primary component of Task Force effort to date has been monitoring and facilitating energy-related projects submitted to the Task Force for review. This section provides an overview of the specific projects submitted to the Task Force and the types of actions taken during the course of the Task Force’s involvement with the projects. From the beginning, the Task Force has used a free-market (first come, first served) approach on specific projects.

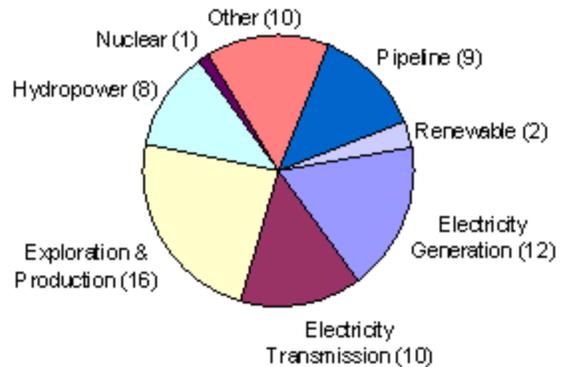
## Project-Specific Highlights

The Task Force prepared “project-specific highlights” for a select group of projects that demonstrate: 1) the ability of the Task Force to successfully accelerate completion of energy-related projects, or 2) potential, but common, stumbling-blocks in the permitting process for energy-related projects. These highlights are located in the Appendix, and include summaries of the projects, the reason they were brought to the Task Force’s attention, and Task Force action taken.

## Overview of Specific Projects

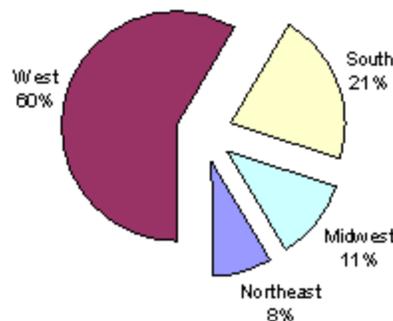
Sixty-eight energy-related projects were submitted to the Task Force for review. **Figures 1-3** show the projects submitted by functional category and geographic location. The Task Force received major energy-related projects for all requested categories except refineries.

**Figure 1. Projects Submitted to the Task Force by Functional Category<sup>6</sup>**



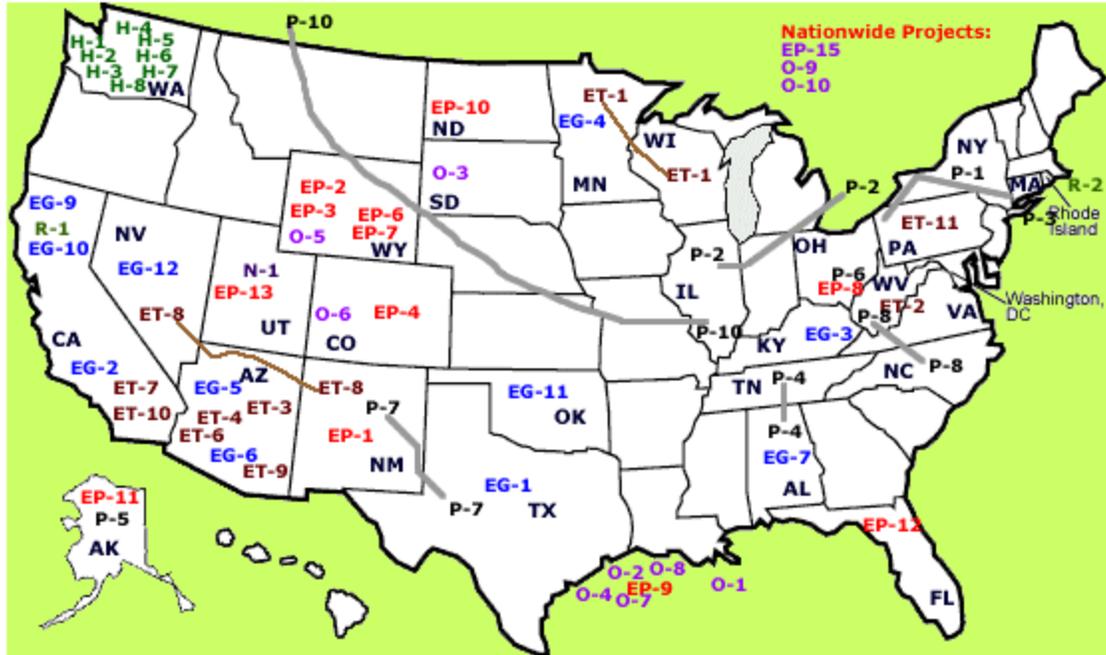
The geographic breakdown shows that most project submittals were in the West and South – areas having a high percentage of Federal lands, high growth, or both. Furthermore, most project proponents requested the Task Force to help resolve inter-Federal Agency coordination issues and issues involving disconnected priorities between the local offices of Federal Agencies or between local offices and Agency headquarters.

**Figure 2. Major Projects Submitted to the Task Force by Region**



<sup>6</sup> The “Exploration and Production” functional category was added in response to public comment.

Figure 3. Map of All Projects Submitted to the Task Force

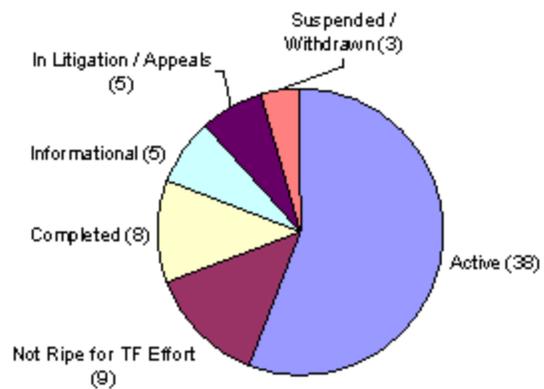


**H-Hydropower** **P-Pipelines** **EG-Electricity Generation** **ET-Electricity Transmission**  
**EP-Exploration and Production** **N-Nuclear** **R-Renewable** **O-Other**

\*Lines denote Interstate Projects

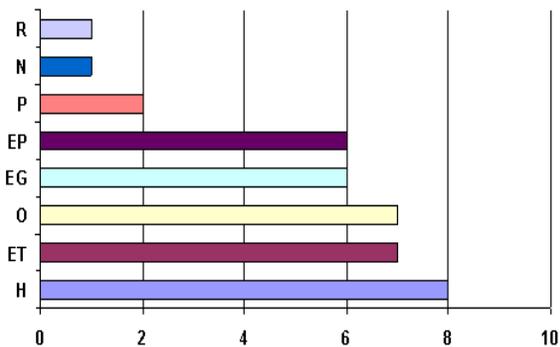
The Task Force adopted a free market, “first come, first served” approach with the projects submitted to the Task Force. The Task Force did not adopt project selection criteria but rather categorized projects once received based on their stage in the process. These categories included: *Active*, *Completed*, *In Litigation or Appeals*, *Not Ripe for Task Force Effort*, *Suspended or Withdrawn*, and *Informational Only*. **Figure 4** shows the distribution of all submitted projects by the status categories. Several projects have changed status since the time they were first submitted to the Task Force. For instance, the Task Force reassigned projects to the “Completed” category previously in the “Active” category once all the relevant decisions had been made or other Federal action had been taken.

Figure 4. Project Status for All Submitted Projects



**Active.** Thirty-eight of the projects submitted to the Task Force were given “Active” status, where Task Force monitoring and facilitation were most appropriate. Primary focus was placed on projects in this category. Distribution of “active” projects by functional categories is shown in Figure 5.

**Figure 5. Number of “Active” Projects by Functional Category (Including Completed Projects)**



**Completed.** Eight projects have been completed during the time since the Task Force first received the project to monitor. Task Force actions taken on the “completed” projects typically involved monitoring, facilitating meetings, and encouraging timely Agency response, where necessary.

**Not Ripe for Task Force Effort.** Nine projects were determined to not be ripe for Task Force effort because their permit applications had not yet been filed or other Federal actions had not yet occurred. Task Force monitoring and facilitation were not appropriate for these projects. However, the Task Force requested to be notified with project status updates from the proponents or permitting Agencies as milestones occurred.

**Informational.** Five projects had their permitting decisions made prior to receipt by the Task Force and did not require further monitoring. “Informational” projects were reviewed and evaluated as

case histories on the processes, timeframes, and decisions made as part of the Federal decision process for energy-related projects.

**Suspended or Withdrawn.** Three projects submitted to the Task Force have been suspended or withdrawn from the Federal permit process or Task Force review at the request of the applicant. Task Force monitoring and facilitation were not appropriate for these projects.

**In Litigation or Appeals.** The five projects in this category were under litigation in a State or Federal Court or were in a Federal administrative appeals process, and thus Task Force monitoring and facilitation were not appropriate for these projects. However, the Task Force requested to be notified with project status updates from the proponents or permitting Agencies as milestones occurred.

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As a result of the free-market nature of the Task Force’s approach to accepting projects, the Task Force is aware that the issues raised in the projects reviewed may or may not be entirely representative of the Federal energy-permitting processes. In addition, the Task Force understands that some project proponents and Agency staff were reluctant to come forward with projects for fear of Agency retribution or being blamed for other projects not getting priority attention. However, as described above, some consistent themes were raised by the projects that gave the Task Force comfort in the value of using individual projects as a basis for proposing systemic improvements in the overall process.

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# Activities & Accomplishments:

## Monitor & Assist Agencies in their Efforts

Another primary component of the Task Force efforts to date involved responding to the Task Force mandate to foster more effective and coordinated decision-making among the Agencies involved with reviewing requests for major energy-related projects. Key efforts in this area are outlined below.

The Task Force strove to facilitate decisions while respecting jurisdictional boundaries and not duplicating existing efforts. For instance, the Task Force participated in the pre-existing Interagency Hydropower Committee (IHC) rather than duplicating that effort with respect to the hydropower relicensing process. In addition, comments dealing with new source review (NSR) were forwarded to an existing interagency NSR work group and were not directly addressed by the Task Force.

### **1. *Interagency Agreement for Natural Gas Pipelines***

The Interstate Natural Gas Association of America (INGAA), an industry association representing major interstate natural gas transmission companies operating in North America, submitted a proposal to the Task Force that would implement an initiative intended to streamline the environmental review of interstate natural gas pipeline projects. This initiative proposed the use of a formalized interagency agreement (the "Agreement") to establish a cooperative approach to interagency coordination and collaboration. Comments received from the Interstate Oil & Gas Compact Commission (IOGCC), American Gas Association (AGA) and The Keystone Center recommended a similar approach.

FERC took a lead role in working with the Task Force to draft and implement this agreement. The Agreement was signed in May 2002 by the Deputy Secretaries of the Department of the Army, USDA, DOC, DOI, DOT, DOE, the EPA Deputy Administrator, and the Chairs of ACHP, FERC and CEQ. An Implementation Plan is currently being developed with the input of the participating Agencies (including regional and field offices).

The participating Agencies and industry representatives support this initiative because it will help eliminate redundancy and inconsistencies in the environmental review process and avoid the revisiting of environmental analyses and Agency decisions made earlier in the process. It could also shorten the overall time required for project analysis and decisions. While maintaining full compliance with existing laws and regulations, including environmental laws, these measures could accomplish significant Agency resource savings. The interagency agreement and related materials have been posted on our website at <http://www.etf.energy.gov/htmls/activities.html>.

### **2. *Interagency Group on Cross-border Issues***

During Task Force facilitation of a coordinated approach on the Intergen North Baja cross-border transmission project, the Task Force identified a need for better coordination among the Federal Agencies during the cross-border Presidential Permit application and review process. Initially the Task Force identified a need for the different Agencies involved in reviewing applications for crossborder projects to better under-

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stand the role and the process of other Agencies. The Task Force also heard a need to identify NEPA and historic review concepts that could benefit from clarification or guidance (internally or by CEQ and ACHP). Furthermore, the Task Force found that it is important to identify programs and forums through which general concerns that are difficult to address in the context of individual permits can be effectively addressed.

As a result, in April 2002, the Task Force convened an interagency working group on cross-border issues composed of representatives from the Departments of State, Energy, Transportation, Agriculture, and Interior, and EPA, ACHP, FERC, and CEQ to address the coordination issues.

As part of this effort, the Task Force held a series of meetings during the spring of 2002. These meetings resulted in the development of a document describing the role of each of the participating Agencies in the review of applications for presidential permits. A summary of this document can be found at <http://www.etf.energy.gov/htmls/activities.html>. The meetings also facilitated the exchange of information between the participating Agencies on NEPA and historic review concepts that could benefit from clarification or guidance as well as regarding programs and fora through which general concerns that are difficult to address in the context of individual permits can be effectively addressed.

### **3. *Interagency Hydropower Committee***

In July 2001, the Interagency Hydropower Committee (IHC) was formed as part of the recommendations of the Interagency Task Force on Improving Hydroelectric Licensing Process. The Task Force was invited to participate on this committee as it pursued the development of a new

hydropower licensing process. In September 2002, the FERC published a "Pre-Notice" of Proposed Rulemaking in the Federal Register, which included the IHC proposed hydropower license process. The Task Force actively participated and provided support to this interagency effort.

### **4. *Proposed Legislation for Authorizing Certain Offshore Facilities***

The Task Force worked closely with DOI on its preparation of proposed legislation in support of the Administration's National Energy Policy to simplify permitting for energy-related project approvals that occur on the outer continental shelf (OCS). Applicants seeking to conduct activities on the OCS that are not specifically related to exploration or production currently have no guidance or clear direction by which to ascertain which Federal Agency or Agencies must be consulted in order to obtain the necessary permits to further the development of projects on the OCS. Comments submitted to the Task Force from the American Petroleum Institute, Marathon Oil, Shell Exploration & Production Co. and Cape Wind Associates raised similar OCS permitting issues.

The legislation would amend the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. § 1331, *et seq.*) to authorize the Secretary of the Interior to grant easements and rights-of-way for energy projects, among other things. This authority would function in much the same way that the Secretary currently oversees the development of oil and gas activities on the OCS.

Draft legislation, whose language had been approved by all Federal Agencies, was transmitted to Congress for consideration in July 2002. The Task Force facilitated interagency meetings to assure a cooperative and collaborative working relationship among the Federal Agencies.

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The Task Force will continue to monitor and help facilitate enactment of the legislation.

### **5. Major Right-Of-Way Workshop**

The Task Force received comments at open house meetings and through submitted written comments that identified the need for the Federal permitting agencies to play a greater role in educating stakeholders to improve their general level of knowledge of Agency-specific permitting requirements and processes. This role seems especially critical for energy infrastructure projects that involve Federally held public lands.

The Task Force developed and co-hosted an Energy Right-of-Way Permitting Workshop with the Bureau of Land Management (BLM) to educate industry, public interest groups, and State, local and tribal governments on the legal and financial requirements, policies and time frames associated with processing right-of-way applications for the use of Federal land.

The Workshop was held on Oct. 8-9, 2002 at the BLM training center in Phoenix, AZ. Topics included "Federal Agency Roles and Responsibilities", "DOE's National Transmission Grid Study", "National Environmental Policy Act", "Protests, Appeals and Litigation", and panels on processing applications for natural gas pipelines, petroleum and petroleum products pipelines, and electric transmission lines. Presenters included BLM, US Corps of Engineers, FERC, NMFS, DOE, USDOT Office of Pipeline Safety, USFS, USFWS, Defenders of Wildlife, the AZ Corporation Commission, with a keynote presentation by CEQ. Initial feedback indicates that this workshop seemed successful due to a very specific subject-matter focus; a diverse design team; specific guidance to presenters; and a motivated and interested audience. Docu-

ments related to the Workshop have been posted on our website at <http://www.etf.energy.gov/htmls/activities.html>.

### **6. DOI and USDA Land Use Planning Efforts**

The Task Force received four comments that specifically identified the difficulty in applying for the use of public and National Forest Service lands for energy production and transportation purposes on a project-specific basis. These lands contain a wealth of energy and other resources that require the stewardship of the Federal government. The Task Force has identified a need for regional analyses of energy resources, their availability for development including transportation factors, and impediments to that development. Most importantly, the Task Force identified a need for a coordinated effort among the Federal land managing agencies to ensure the policies and goals of the President's National Energy Plan (NEP) are recognized and evaluated in their land use planning efforts.

As a member of the BLM's Land Use Planning Board of Directors, the Task Force encouraged the BLM to identify, analyze and designate utility corridors, where appropriate. Public lands with potential for energy development have been identified in the various land use plans. The Task Force worked closely with BLM to ensure that unwarranted impediments to energy development were avoided while maintaining safety, public health and environmental protections.

The Task Force communicated with the Forest Service the desired need to better integrate energy and energy-related project development (e.g., utility corridor designation) needs into that agency's land and resource management planning process. Because many National Forest System lands are adjacent to BLM admin-

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istered public lands, the Task Force has encouraged the two agencies to coordinate their land use planning processes, especially those associated with the identification, analysis and designation of right-of-way corridors.

The Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, requires the Forest Service to promulgate regulations that set out the process for developing, amending, revising land and resource management plans. Such planning regulations currently exist; however, the Forest Service intends to publish a revision to its planning regulations in the fall of 2002. Task Force inquiries to the Forest Service indicate that the agency intends to integrate more fully policy direction on energy development upon finalization of the planning rule. The Task Force intends to review and provide comment on the planning rule, if necessary and appropriate, to ensure that energy development concerns are addressed.

Task Force activities associated with the land use planning efforts of both the BLM and the Forest Service has focused upon ensuring that a transparent planning process is conducted, complete with participation from state, local and tribal governments, resource users and public interests groups. The Task Force has invested considerable time and resources bringing additional "partners" to the planning process, including the Western Governors Association and the Council of Energy Resource Tribes. The Task Force is fully committed to ensuring that land use decisions allow development and the transmission of energy resources in a manner that maintains or enhances environmental protections and protect ecological, wildlife and cultural values, while maintaining public health and safety. Additionally, the Task Force will work with the agencies and the other participants in the planning process to

participants in the planning process to encourage the establishment of open access, user-friendly monitoring systems to observe and judge the effectiveness of the land use planning decisions.

### ***7. Streamlining the Department of the Interior Administrative Appeals Processes***

Due to a number of circumstances, appeals of Federal decisions have historically taken a significant amount of time to be resolved and have resulted in an appreciable backlog of cases. Increased time to reach a decision on energy-related activities have lead to increased costs to project proponents (and subsequently the American Public), delay in providing needed public energy resources, and delay in generating valuable revenues from public energy resources for the U.S. Treasury. Calpine Corporation, for example, identified the need to address the backlog of appeals at the Department of the Interior's Interior Board of Land Appeals (IBLA) and the need to set limits on the appeals process length of the Environmental Protection Agency's Environmental Appeals Board. Concerns about the administrative review process for energy-related projects were also raised by Edison Electric Institute, the National Hydropower Association, and Shell Exploration & Production Co.

As a result, the Task Force worked with DOI to develop both a strategic plan to set into place appropriate time limits on appeal decisions for new cases filed with the IBLA, and a tactical plan to significantly reduce the existing backlog of appeals at IBLA. Both plans have identified appropriate resources needed to assure success. The Task Force has continued to develop Strategic and/or Tactical plans and begun to implement the plans. More information can be found on the website.

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The processes developed to streamline the IBLA administrative appeals process can serve as a model for streamlining other agencies administrative appeals processes. The Task Force will consider discussing these approaches with EPA, for example, to see if similar strategies would be appropriate for improving the timelines of its Environmental Appeals Board actions.

### **8. *Protecting Power Lines from Wildfires***

Western fires resulted in utilities and transmission providers being forced to take lines out of service due to fire threat. This placed existing pressure on an already strained system, increasing the likelihood of power outages, brown-outs and price spikes to western consumers. Properly maintained rights of way under transmission lines on federal lands is a key preventive measure the federal government could take to reduce fire risk. The letter was sent to encourage relevant agencies to take such appropriate steps to protect transmission lines. A copy of the letter can be found at <http://www.etf.energy.gov/htmls/activities.html>.

### **9. *NEPA Task Force***

Copies of written comments submitted to this Task Force relating to NEPA and its implementation were forwarded to CEQ's recently established National Environmental Policy Act (NEPA) Task Force for consideration. The NEPA Task Force "will initially evaluate six areas to produce case studies and best practices and to identify current practices that may require additional CEQ guidance: (1) information management and security, (2) Federal and inter-governmental collaboration, (3) programmatic analysis and tiering, (4) adaptive management and monitoring, (5) categorical exclusions, and (6) additional areas such as environ-

mental assessment documentation."<sup>7</sup> More information about the NEPA Task Force, including comments submitted to the NEPA Task Force, can be found at <http://ceq.eh.doe.gov/ntf>.

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<sup>7</sup> Council on Environmental Quality, NEPA Task Force. *Synopsis and Frequently Asked Questions and Answers*. Available online at: <http://ceq.eh.doe.gov/ntf/faqs.html>.

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# Activities & Accomplishments:

## Coordinate Permitting in Geographic Areas of Increased Activity

A final component of the Task Force effort to date involved responding to the Task Force mandate to establish mechanisms that coordinate project review in targeted geographic areas. The Task Force efforts here are outlined below.

### **1. Memorandum of Understanding on Energy with the Western Governors' Association**

In August 2001, the Departments of Energy, Interior, Agriculture, the Environmental Protection Agency, and the Council on Environmental Quality signed a memorandum of understanding (MOU) with the Western Governors' Association (WGA). This MOU commits the signatories to work collaboratively on energy development and conservation issues facing the Western United States and establishes a framework for cooperation and coordination among the Federal Agencies and the Western States. The framework was designed to help address immediate energy shortages, as well as, to develop and coordinate strategies for addressing long-term energy issues facing the Western States. Since August 2001, the Task Force has actively promoted the agreement and been closely involved with the signatories in their efforts to coordinate activities along the lines envisioned in the MOU. The MOU can be found at <http://www.etf.energy.gov>.

### **2. Implementation of the Western Regional Corridor Study**

In an effort to fully implement the WGA MOU, the Task Force communicated to the BLM, U.S. Forest Service (FS) and WGA the need to implement to the greatest

extent practical the purpose and intent of the Western Regional Corridor Study<sup>8</sup> (the "Study"). Identification and designation of utility corridors in Federal, State, local and tribal land use plans have the potential to significantly reduce the processing time for future energy transportation projects. In addition, comments received from California ISO and the Western Utility Group (WUG) identified the need to implement the Study.

The Task Force worked with the relevant Federal Agencies and the WGA, communicating to them the importance of the Study and the Task Force goals. The Task Force encouraged and supported the activities of the BLM, FS and WUG to update the Study and make it available on the Internet, and to ensure the information contained in the Study is considered in the Agencies' land use plans and project-specific siting studies.

In addition, the Task Force assumed a leadership role in the drafting of the "Protocol among the Members of the Western Governors' Association, the U.S. Department of the Interior, the U.S. Department of Agriculture, the U.S. Department of Energy, and the Council on Environmental Quality Governing the Siting and Permitting of Interstate Electric Transmission Lines in the Western United States." The protocol was signed on June 23, 2002 and is available at <http://www.etf.energy.gov/htmls/activities.html>. The Task Force envisions the successful implementation of the protocol as essential to successful right-of-way

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<sup>8</sup> Western Utility Group, Prepared by Michael Clayton & Associates. *Western Regional Corridor Study*. Sierra Pacific Power Company, 1992.

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(ROW) corridor planning and successful implementation of the corridor study.

### ***3. Pilot Program for a Northern Rocky Mountains Energy Policy Group***

The Northern Rocky Mountain area will likely be a significant contributor to this Nation's increasing demand for energy, especially natural gas. Affordable and dependable supplies of natural gas and other energy form the cornerstone of the daily life of all Americans. The Federal government can—and should—play a leadership role in the environmentally responsible management of these important energy resources. It is also important that Federal decisions on public lands not be made in a vacuum and that effective institutional partnerships be formed with the States and tribes, so that, policies and regulations on energy development, project oversight, and environmental protection be made in concert, for the benefit of the local, regional, and national populations.

Written comments submitted by concerned parties and verbal comments in various meetings indicated that there were concerns about the effectiveness of overall coordination among the Federal and State agencies responsible for authorizing, reviewing, or commenting on energy project proposals.

It was also expressed that Federal energy resources were not being managed with a longer-term, geographically broader regional or national perspective, where consideration was given not only to local leasing and development but also transmission to distant markets. It was also indicated that various field offices appeared to be more efficient at processing permit requests and it was thought that a broader, multiple-agency management strategy for energy resources would allow benchmarking these high-performing

offices and transfer of these lessons learned to other field offices.

To that end, the Task Force proposed a pilot project in July 2002, to build a broad coalition of decision makers to develop an integrated process for effective management of public and tribal energy resources in the Northern Rocky Mountains.

The intent of the pilot is not to just be reactive to energy projects and issues that come up, but to be proactive in identifying energy issues that will face the region in the future. The resulting plan would form a roadmap for State and Federal Agencies to use in a logical and streamlined energy development program for the northern Rocky Mountains.

### ***4. Identify Best State Practices***

Multiple permitting processes exist at Federal, State and local levels, with overlapping Federal and State roles. In "delegated" environmental programs, in particular, the coordination can be confusing and result in disruptions to the permitting process. The Task Force is especially interested in this issue because for power plants, refineries and similar facilities, the States play the lead roles in the permitting process, while Federal involvement is necessary to complete the regulatory requirements and bring the new energy facilities online. The information the Task Force received in comments and meetings underscores the need to ensure better coordination in the permitting process. The goals of the NEP and Executive Order # 13212 cannot be accomplished without improvements in Federal-State coordination.

To date, the Task Force has had conceptual discussions with staff members of the Environmental Council of the States (ECOS) and the National Governors Association (NGA) about undertaking a joint

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effort focused on improved Federal-State coordination. The staff of these organizations has expressed interest in working with the Task Force but because of other commitments of these entities, further discussions to develop this concept have not occurred.

The Task Force intends to work with State organizations to identify those approaches that appear to be most effective in streamlining permitting at the State level, and to encourage other States to adopt those approaches. The Task Force, in working with the States, will also explore whether there are ways of improving coordination between State-level permitting authorities and Federal Agencies.

#### ***5. Streamlining & Coordinating Energy Siting & Permitting Activities***

On February 12, 2002, representatives of various Federal, State and local Agencies, tribes, businesses, and community groups convened at the U.S. Environmental Protection Agency in San Francisco, California.

The agenda included presentations by industry experts and community representatives, followed by a wide-ranging discussion among the Agency representatives. The discussion touched on a va-

riety of subjects pertaining to the energy permitting process, and breakout groups tackled each subject in a round-robin/brainstorming fashion. The following issues, identified during the presentations (either by the presenters or in audience responses), shaped the afternoon discussions:

- interagency coordination
- public participation
- resource issues at regulatory Agencies
- consultation under section 7 of the Endangered Species Act (ESA)
- general policy issues
- solutions for streamlining

Lists of comments and suggestions regarding each issue were prepared and agreed upon at the meeting. The group decided to use a pilot project approach to implementation of the streamlining and coordination suggestions. Under this approach, the State Agency would identify a project to test and then contact other relevant Agencies for early consultation and planning.

#### **Next Steps**

Originally chartered for one year, the Task Force has now been extended for another year. The focused, results-oriented effort of the Task Force will continue with its commitment to overriding goals and principles. The free-market approach to projects will continue, as will the assistance in multi-jurisdictional coordination. The oversight of systemic improvements will be an important component of the Task Force's effort over the next year. Ongoing efforts will include implementation of a broad-based energy MOU with the Western Governors' Association, implementation of a similar MOU on transmission siting, implementation of Section 16 of the recently-passed pipeline safety legislation, and development of renewable energy on federal lands to help meet our nations' critical energy needs.

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# Springerville Expansion

## Project-Specific Highlight: Electricity Generation

### **Project Status**

Complete

### **Project Proponent**

Tucson Electric Power Company (TEP)

### **Project Timeline**

- Installation permit issued to TEP for Springerville facility by Arizona Department of Health Services (ADHS) – August 20, 1977
- TEP received Prevention of Significant Deterioration (PSD) permit and approval to construct from EPA Region IX with commercial operating dates for Unit 1 at 1985 and Unit 2 at 1987 – December 1977
- TEP submitted application for expansion – spring 2001
- AZ Congressional Delegation writes EPA Administrator Whitman expressing support for the project – May 2001
- Project submitted to the Task Force – September 2001
- Proposed PSD/Title V permit issued by Arizona DEQ – October 2001
- EPA submits objections to draft PSD/Title V permit – February 2002
- EPA objections were resolved and the PSD/Title V permit issued – April 2002
- Grand Canyon Trust (GCT) petitions the EPA Administrator to review the permit decision – June 2002
- EPA has been working with TEP, GCT, and the State to facilitate an amicable resolution of this matter.

### **Brief Description of Project**

Springerville facility was originally sited for four units in 1977, two of which have been built; the proposed expansion would add 760 MW of new base load electric energy for Arizona; application includes significant voluntary reductions in SO<sub>2</sub> and NO<sub>x</sub> emissions from the two existing units, which combined with removal levels for two new units, would result in no additional SO<sub>2</sub> and NO<sub>x</sub> emissions from the facility (“net out” of PSD for SO<sub>2</sub> & NO<sub>x</sub>).

### **Consulting and Approving Agencies**

#### **Federal:**

Environmental Protection Agency (EPA), Region IX  
National Park Service (NPS)  
Forest Service (FS)

#### **State:**

Arizona Department of Environmental Quality (DEQ)  
New Mexico Department of Environmental Quality

### **Reason for Bringing Project to Task Force's Attention**

TEP believed Region IX was using the permitting process for expansion to reexamine the 1977 permit and apply more stringent emissions standards for those units. Region IX was concerned that TEP should have met the more stringent standards, given when construction of the initial phases would be completed. After EPA objected to the permit issued by the State, TEP, EPA and Arizona DEQ negotiated permit terms that would result in a reduction in emissions from current levels.

### **Task Force Action & Results**

The Task Force facilitated communications between EPA—Headquarters, EPA—Region IX, the Arizona DEQ, the Arizona Governor’s office, and TEP to find a reasonable solution to the issues presented. Ultimately, an agreement was reached among the parties and the permit was issued in April 2002. Issuance of the permit was announced in a press conference at which Arizona Governor Hull was joined by EPA Region IX Administrator Wayne Nastri, DEQ Director Jackee Schafer, and TEP Chairman Jim Pignatelli.

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# North Baja Transmission Line

## Project-Specific Highlight: Electricity Transmission

### **Project Status**

Complete

### **Project Proponent**

InterGen (through affiliate Baja California Power, Inc.)

### **Project Timeline**

- Right-of-way application filed with BLM - February 26, 2001
- Presidential Permit filed with DOE - February 27, 2001
- Draft Environmental Assessment (EA) issued by DOE - September 18, 2001
- Project submitted to the Task Force - November 2001
- Presidential Permit issued by DOE - December 5, 2001
- BLM Right-of-Way grant issued - December 28, 2001
- Construction began - January 2002
- Construction completed - May 2002
- Line Energized - Summer 2002
- Reclamation period scheduled - November 2002 to February 2003

### **Brief Description of Project**

This project involves the construction of a double circuit 230-kV transmission line to connect new natural gas-fired electric generating facilities in Mexicali, Baja California, Mexico with an Imperial Valley substation owned and operated by San Diego Gas and Electric Company in El Centro, California. A new pipeline to provide the natural gas for the generating facilities is being permitted separately at the Federal Energy Regulatory Commission (FERC).

### **Consulting and Approving Agencies**

#### **Federal:**

Department of Energy (DOE)  
Bureau of Land Management (BLM)  
Departments of State and Defense  
International Boundary and Water Commission (IBWC)  
Army Corps of Engineers (COE)

#### **State:**

California Regional Water Quality Control Board (RWQCB)  
California Public Utilities Commission (CPUC)  
State Historic Preservation Office (SHPO)

### **Reasons for Bringing Project to Task Force's Attention**

- 1) Optimal construction time is mid-November 2001 to late February/early March 2002 (dormant period of desert flat-tailed lizard) so delays may prevent having online by summer 2002 peak season;
- 2) Interagency differences on scope of NEPA review for the project: EPA submitted comments on the draft EA suggesting that the proposed transmission line and the proposed pipeline should be considered together in one NEPA document. FERC disagreed with the EPA position.

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## **Task Force Action & Results**

1) DOE & EPA – The Task Force began monitoring the project in October 2001. When DOE’s General Counsel and EPA’s Region IX raised questions as to whether the existing NEPA analysis was appropriate or whether it should also include impacts from a related pipeline project pending before the FERC, the Task Force facilitated for a series of meetings between CEQ, DOE, and EPA. After in-depth consultations with CEQ and EPA, DOE concluded that the existing analysis was appropriate and it issued a Presidential Permit on December 5, 2001.

2) BLM – As a result of its monitoring of the project, the Task Force was invited by BLM to participate in a meeting regarding the project. At the meeting, the Task Force became aware that some of the same questions that were raised in the DOE context regarding “connected” actions were now being raised by BLM. The Task Force offered to act as the contact point for bringing the appropriate DOE and BLM personnel together to facilitate the exchange of information necessary so that DOE’s analysis in the EA satisfied BLM’s needs. After working together on issues raised by DOI, the EA analysis was broadened to satisfy BLM’s needs. BLM issued its right-of-way grant on December 28, 2001.

3) IBWC – As a result of its monitoring of the project, the Task Force was invited by DOE to participate in a meeting regarding the project where the IBWC was present. At the meeting, the Task Force became aware of concerns raised by IBWC. The Task Force offered to act as the point of contact for bringing the appropriate DOE and IBWC personnel together to facilitate the exchange of information necessary so that DOE’s analysis in the EA also satisfied IBWC’s needs. After working together on issues raised by IBWC, the IBWC issued a letter on November 15, 2001, stating that its concerns regarding the construction of the transmission line had been addressed.

4) CPUC – Although DOE made the EA available to the CPUC as soon as it became final and the BLM field office (at the urging of the Task Force) called to urge the CPUC to consider the project application as soon as possible in order to protect endangered species during the construction period. The CPUC has issued the necessary permit and the transmission line has been constructed.

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# Atlantic Rim Coal Bed Methane Project

## Project-Specific Highlight: Exploration & Production

### **Project Status**

Active

### **Project Participants**

Petroleum Development Corporation (Pedco); Anadarko Petroleum Corporation; Double Eagle Petroleum & Mining Company; Merit Partners LP; Julander Energy Company; Yates Petroleum Corporation

### **Project Timeline**

- Pedco submitted first four Federal APDs – August 10, 2000
- Eight additional APDs submitted for fee wells – October 3-4, 2000
- ROW applications submitted to BLM for access to fee wells – October 23, 2000
- First four Federal APDs approved – October 27, 2000
- WOGCC approved APDs for the fee wells – December 27, 2000
- ROW into fee wells granted – April 24, 2001
- Pedco submits proposals to BLM for development in area; BLM determines significant impacts will occur and EIS necessary – May 24, 2001
- Interim Drilling Policy approved – June 1, 2001
- Scoping out for EIS – June 15, 2001
- EIS due – November 2003

### **Brief Description of Project**

Right-of-Way (ROW) across BLM surface to access private surface and minerals; BLM authority to perform environmental inventories on private surface; BLM red tape restricts operators from completing obligations on fee mineral leases and farm-out agreements; BLM releasing data obtained through EIS process on private surface; Two-thirds of the project is the Colorado River drainage and falls under the compact of drainage states; State of Wyoming regulates ground water with guidance from NEPA, but BLM is continually interjecting authority; Land owners in the area have a need for the water and should be given first option for beneficial use; Treatment and discharge is a superior solution to re-injection where possible; BLM leases have wildlife stipulations attached but are continuously being revised during process; Status of non-listed species are affecting planning process even though they may never be listed; Historic Trails legislation, the Overland Trail runs through project area; BLM district office staffing, management, and performance problems; The successful development of project will require new commitments for additional infrastructure such as pipelines and overhead electricity.

### **Consulting and Approving Agencies**

#### **Federal:**

Bureau of Land Management (BLM)

#### **State:**

Wyoming Oil & Gas Compact Commission (WOGCC)

### **Reason for Bringing Project to Task Force's Attention**

A number of issues were raised on the development of the Atlantic Rim coalbed methane project in Carbon County. The issues included ROW access across public land to access private surface and minerals; red tape issues surrounding fee mineral leases and farm-out agreements; release of sensitive private data during the Federal NEPA process; and water issues resulting from coalbed methane production.

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## **Task Force Action & Results**

The Task Force held a number of meetings with representatives of the Bureau of Land Management and Department of the Interior on many of the issues surrounding CBM development in both Wyoming and Montana. Two environmental impact statements (EISs) are due to be published in November 2002, allowing a Record of Decision (ROD) to be issued on coalbed methane development in these two States.

The concerns and Federal decision process difficulties stemming from CBM development issues were also catalysts leading to the Task Force recommendation that a Northern Rocky Mountains Energy Council be formed to develop Federal, State and tribal partnerships to address and prioritize energy issues in this geographic area.

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# Rocky Reach Hydroelectric Relicensing

## Project-Specific Highlight: Hydropower

### **Project Status**

Active

### **Project Proponent**

Public Utility District No. 1 of Chelan County (Chelan PUD)

### **Project Timeline**

- Chelan PUD is currently conducting studies the results of which will help prepare a preliminary draft environmental assessment (EA) to be filed with the application.
- The Task Force hosted a meeting on with Chelan PUD, DOC, DOI and EPA - April 23, 2002
- Application due to be filed with FERC - June 2004

### **Brief Description of Project**

Proponent is pursuing FERC's alternative relicensing process (ALP) for project but intends to build on ALP using Rocky Reach as a pilot project for an "outcome-based standards" approach; State of Washington agreed to use for the State component of the hydroelectric relicensing in June 2001; intend to pursue similar agreement with Federal relicensing agencies

### **Consulting and Approving Agencies**

#### **Federal:**

- Department of Commerce (DOC)
- Department of the Interior (DOI)
- Environmental Protection Agency (EPA)
- Federal Energy Regulatory Commission (FERC)

#### **State:**

- Washington

### **Reason for Bringing Project to Task Force's Attention**

Proponent wanted the Task Force to pursue Federal agreement with Chelan PUD to implement proposal; requested Task Force help in setting up a meeting with Federal Agencies to discuss and work toward an agreement on outcome-based performance standards.

### **Task Force Action & Results**

Outcome of the April 23,2002 meeting was that all parties voiced willingness to provide a memo supporting a pilot study of outcome-based performance standards at Rocky Reach. The Task Force sent a memo to DOI, DOC and EPA requesting letters be sent in support of the approach. Letters from the Agencies were received by Chelan PUD in August 2002. The settlement agreement appears to be feasible.

The Task Force is also participating in the Interagency Hydropower Committee (IHC) process to develop a streamlined FERC pre-application process for hydropower projects.

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# Offshore LNG Re-Gasification Terminal

## Project-Specific Highlight: Other (Offshore)

### **Project Status**

Active

### **Project Proponent**

Texaco, Inc.

### **Project Timeline**

- Texaco announces near completion of study on LNG terminal – May 15, 2001

### **Brief Description of Project**

Liquefied Natural Gas (LNG) terminal can initially receive an LNG carrier (with 3 billion cubic feet of gas) every three days, which is sufficient to fuel 6500 MW of generation; located 30 to 40 miles offshore in the vicinity of existing producing platforms and pipeline systems, the receiving facility will be connected to shore through existing underutilized offshore pipelines, and will connect onshore to the extensive network of existing intra and interstate pipeline systems, including to Texaco's Henry Hub in Louisiana; well-studied and should have no adverse environmental impact; operational in four to five years.

### **Consulting and Approving Agencies**

This is uncertain until the proposed legislation is passed.

### **Reason for Bringing Project to Task Force's Attention**

Proponent wanted the Task Force to help clarify authorities to permit offshore facilities such as these.

### **Task Force Action & Results**

An inquiry was sent to the Department of the Interior (DOI). Apparently, no clear authorities exist to permit, inspect, and enforce some facilities offshore, including LNG terminals. Work on this project is progressing along two paths. The first is to amend the Deep Water Ports Act to include "natural gas" in the authorities along with oil and the second is to amend the Outer Continental Shelf Lands Act (OCSLA) to allow additional authorities for offshore facilities supporting the offshore oil and gas industry, which would include offshore LNG terminals.

The Task Force facilitated an interagency meeting to discuss the needed offshore authorities for these facilities and DOI drafted proposed legislation to amend the authorities under the OCSLA. The legislation supports the Administration's National Energy Policy initiative to simplify permitting for energy production in an environmentally sound manner. This would be accomplished by establishing a uniform permitting process, coordinated among all of the appropriate Federal agencies, for energy-related project approvals that occur on the OCS. The Task Force worked with DOI to review the proposed legislation and worked to facilitate its review within the Administration.

The Task Force also worked extensively with Texaco to keep both options on track and not in competition, facilitating meetings and helping to marshal Administration review of the OCSLA amendments. Both bills have been introduced in Congress and are waiting congressional action.

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# Powder River Basin Railroad Project

## Project-Specific Highlight: Other (Railroad)

### **Project Status**

Active

### **Project Proponent**

Dakota, Minnesota & Eastern Railroad Corp.  
(DM&E)

### **Project Timeline**

- Application Filed - February 1998
- Draft environmental impact statement (EIS) Scope - June 1998
- Transportation merits approved - December 1998
- Final EIS (FEIS) Scope - August 1999
- Draft EIS Published - October 2000
- Public Comments Finalized - March 2001
- The Surface Transportation Board has received the FEIS and issued decision - January 30, 2002
- City of Rochester filed suit against STB - February 6, 2002
- Minnesota SHPO raised concerns about bridgework and public participation provisions - February 2002

### **Brief Description of Project**

Involves rehabilitation of over 1,000 miles of existing track and construction of 260 miles of rail line to connect existing rail line to Powder River Basin mines; would create independent line running east/west into basin, which would decrease rail congestion in PRB area & farther east; new tracks are designed for independent access to each mine to relieve congestion at mouth of mine.

### **Consulting and Approving Agencies**

#### **Federal:**

Surface Transportation Board (lead agency for EIS purposes) - issues permit to construct/operate rail extension

Army Corps of Engineers (COE) - issues Section 404 Wetlands & Stream Crossing permits for new construction & rebuilding existing lines

Forest Service (FS) - issues easement/permit to cross FS lands in SD & WY

Bureau of Land Management (BLM) - issues easement/permit to cross BLM lands in SD & WY

Bureau of Reclamation (BOR) - issues easement/permit to cross BOR administered lands & project easements within Angastora irrigation district in SD

U.S. Coast Guard - issues permit to upgrade/replace existing rail bridges crossing Missouri River & James River

Environmental Protection Agency (EPA), Fish & Wildlife Service (FWS), and National Parks Service (NPS) - involved with design, writing, rewriting & review of EIS

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## **Reason for Bringing Project to Task Force's Attention**

Because of a limited construction season from late April to October and the basic requirement of 8-9 months preparation for construction after receiving the final permit, DM&E requested consensus from various agencies as to a schedule for issuing the permits (ideally so could start construction in 2002 and not lose another construction season).

## **Task Force Action & Results**

The Task Force has been working with the Surface Transportation Board (STB) staff and the company to clarify information needs and monitor the project. The STB staff was very effective in organizing and streamlining the decision process that was under the control of the STB on this very complicated project and should be commended for their efforts. Information from the STB was well organized, comprehensive, and shared with all parties involved in the review or authorization process. However, the project itself was a major undertaking, involved several States and local governments, and called upon the authorities of a number of Federal Agencies for permitting action.

The Task Force submitted project inquiries to all of the involved Federal Agencies on the status, unresolved issues, and information needs of those Agencies. The Task Force also met with the company to discuss the agency responses and to facilitate, where possible further company and Agency actions.

However, the decision by the STB to allow construction and expansion of the railway has been challenged and is currently in litigation. In addition, developing a consensus among the various State Historic Preservation Officers, the Advisory Council on Historic Preservation, and the STB on how to approach evaluation of cultural resources (specifically the hundreds of railway bridges that will need to be modified to safely handle the proposed railway traffic) has proven to be a challenge that has also contributed to delay on finalizing decisions on the project.

Briefs on the litigation have been submitted by the petitioners of the STB decision and STB is currently reviewing the comments in the brief. The STB has until November 19, 2002, to submit briefs to the Court and the Petitioners have until December 23, 2002, to submit replies. No date has been set for oral arguments to the Court.

In addition, the Advisory Council on Historic Preservation has requested that the STB reopen the Programmatic Agreement on cultural resources that was developed last year among the various SHPO's, the ACHP, and STB for additional provisions.

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# Millennium Pipeline

## Project-Specific Highlight: Pipeline (Natural Gas)

### **Project Status**

Active

### **Project Proponent**

Millennium Pipeline Company, LP

### **Project Timeline**

- Application for authorizations under the Natural Gas Act filed at FERC - December 22, 1997
- Application for authorizations under the CWA & the Rivers & Harbors Act filed at COE - November 16, 1998
- Application for authorizations under the CZMA filed at New York Department of State - November 16, 1998
- NYSDEC & PA DEP granted CWA authorizations - December 8, 1999 & March 29, 2000
- PA DEP granted CZMA authorizations - April 6, 2000
- NMFS provided comments to COE public notice - May 2, 2000
- NMFS issued a no-jeopardy biological opinion and ITS - September 14, 2001
- Final EIS issued by FERC - October 2001
- Interim Order & Presidential Permits granted by FERC with conditions - December 19, 2001
- CZMA application was denied by NYS-DOS after a determination that the project is inconsistent with the State's coastal management program - May 9, 2002
- FERC's Order issuing certificate published - September 19, 2002

### **Brief Description of Project**

The objective of the Project is to provide the additional natural gas infrastructure that is required to meet the Northeast's energy needs and satisfy electric power plants' escalating requirements for clean-burning natural gas. The 442-mile pipeline will extend from the Canadian border across the southern tier of New York State to New York City. The \$700 million Project will be constructed and operated by a partnership of four major North American energy companies - Columbia Gas Transmission Corporation, MCN Energy, Inc., TransCanada PipeLines Limited, and Westcoast Energy (U.S.) Inc. Most of the Project's capacity has already been subscribed under contracts with nine gas marketers, producers, distribution companies, and end users. It would alleviate peak-period energy shortages, promote a cleaner environment, reduce energy prices, improve the reliability of the natural gas delivery network, and reduce reliance on foreign oil.

### **Consulting and Approving Agencies**

#### **Federal:**

Federal Energy Regulatory Commission (FERC) - lead agency; issues authorizations under Natural Gas Act

Army Corps of Engineers (COE) - issues authorizations under the Clean Water Act and the Rivers Harbor Act

National Marine Fisheries Service (NMFS) and Fish & Wildlife Service (FWS) - consulting agencies under the Endangered Species Act

#### **State:**

New York Department of Environmental Conservation (NYSDEC) - issues water quality certifications under section 401 of the Clean Water Act

New York Department of State & New York Office of Parks, Recreation, and Historic Preservation & Pennsylvania Department of Historic Preservation - consultations under the National Historic Preservation Act

Pennsylvania Department of Environmental Protection (PA DEP) - issues authorizations under Clean Water Act and Coastal Zone Management Act

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## **Task Force Action & Results**

1. FERC – in November 2001, the Task Force learned through its routine “project monitoring memorandum” addressed to agencies involved in projects being monitored by the Task Force that EPA was planning to file strong objections in the FERC docket. The Task Force was successful at coordinating meetings and exchange of data and information between the project proponents and the EPA that led EPA to withdraw its objections and instead file a positive letter on the docket. The Task Force was also successful at negotiating an extension of time with the FERC to accept EPA’s comments and, therefore, allow time for the parties to exchange information.

The FERC continues to be the lead Agency in overseeing different regulatory and conditional aspects with which the Project has to comply before starting construction, including the Endangered Species Act (ESA), Essential Fish Habitat (EFH), and section 106 of the National Historic Preservation Act (NHPA). Currently, the Task Force is closely monitoring the process to identify opportunities for Task Force coordination, if appropriate and helpful, including with the COE, FWS, NMFS, SHPOs and State and local authorities and communities. The NMFS expects the FERC to implement the reasonable and prudent measures and terms and conditions as outlined in the ITS and would be ready to take action if it believes the measures are not adequately being implemented. FERC’s Order issuing certificate was published on September 19, 2002.

2. COE – Since January 2002, the Task Force has been actively implementing and coordinating a management plan with the Project proponents, the COE and other involved agencies, including FWS, designed to expedite the reviews required for COE to make a decision as to the Project’s application for a permit. The management plan has focused on facilitating communications and the flow of information between the agencies and the Project. The Task Force’s work has led to the preparation of updated inspection plans and wetland mitigation plans as requested by COE and agreed to by the Proponent.

Pending: The EPA, FWL, and NMFS all initially requested that the COE permit be denied pursuant to the Clean Water Act. The EPA subsequently removed its objections because of the Task Force’s efforts and NMFS issued a biological opinion and ITS which would permit the project to proceed if acceptable mitigation measures are implemented. The FWS is requesting an alternatives analysis that, from the COE perspective, was settled by the FERC’s conditional order. Despite the FERC’s order and COE opinion, the FWS or NMFS may still chose to request elevation that could hold the COE’s permit in abeyance during the time taken to resolve the elevation request issues. The Task Force is working to identify needs and facilitate coordination, if appropriate, that would avoid further need for elevation. It appears that the COE’s action is delayed owing to the denial of Millennium’s application by the New York Department of State and the associated appeal.

3. FWS – The Task Force has worked to coordinate communication and flow of information between the FWS and the Project Proponent. Because of this coordination, the FWS recently issued its final endangered species approval. The approval letter, when coupled with the other ESA coordination letters, gives Millennium the clearance it needs for this aspect of the project. However, it does not resolve other objections raised by the FWS in particular those relating to the COE’s permitting process. With the Task Force help, Millennium has established communication with the appropriate FWS Region Office and is engaged in discussions for resolution of all issues.

4. SHPO – The Task Force has consulted informally with FERC (on a generic non name basis) as to what is allowed under the law and regulations and as a matter of practice. FERC confirmed that COE could, and does as a matter of practice, proceed with provisional permits under these circumstances. The Task Force has communicated this to the COE who has requested guidance from ACHP. Therefore, the Task Force is currently engaged in efforts to set up a meeting between COE and ACHP on this subject.

5. The denial of the application by the New York Department of State may present the Task Force with opportunities to facilitate coordination between the State of New York and the DOC. The Task Force has alerted the DOC and will be working to set up a meeting to discuss coordination soon.

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# Shell's New Mexico Products Pipeline

## Project-Specific Highlight: Pipeline (Petroleum Products)

### **Project Status**

Active

### **Project Proponent**

Shell Pipeline Company LP

### **Brief Description of Project**

Proposed extension of both ends of an existing 406-mile crude oil pipeline. New extensions to be built from existing terminal in Odessa, Texas to Jal, New Mexico (60-mile extension), and from existing truck loading terminal at Bloomfield, New Mexico to Bisti, New Mexico (33-mile extension). Project also includes construction of new stations and transmission lines. Pipeline would have maximum capacity of 80,000-90,000 barrels per day.

### **Project Timeline**

- Project initiation - November 15, 2001
- EIS Scoping Meetings - January 15-25, 2002
- Draft EIS filed with EPA - July 29, 2002
- Public Comment Period - August 5-September 19, 2002
- Public Hearings (scheduled) - September 2-13, 2002
- Preliminary Final EIS to be submitted to BLM and cooperating agencies - October 10, 2002
- Final EIS to be filed with EPA - November 26, 2002
- Target date for BLM's Record Of Decision - December 27, 2002

### **Consulting and Approving Agencies**

#### **Federal:**

Bureau of Land Management (BLM)  
Office of Pipeline Safety (OPS)  
Fish & Wildlife Service (FWS)  
Forest Service (FS)  
Bureau of Indian Affairs (BIA)  
U.S. Army Corps of Engineers (COE)  
Bureau of Reclamation (BOR)

#### **State:**

New Mexico State Land Department  
New Mexico State Historic Preservation Office (NM SHPO)  
New Mexico Department of Transportation  
Texas Department of Transportation

#### **Tribal:**

Sandia Pueblo; Zia Pueblo; Navajo Nation; Santa Ana

### **Reason for Bringing Project to Task Force's Attention**

New Mexico market could benefit from more rigorous supply competition; project would have less environmental impacts than constructing entirely new pipeline.

### **Task Force Action & Results**

Following Task Force coordination, Shell agreed to consolidate all of the existing grants into a single new grant for administrative purposes. The Task Force worked with BLM regional office and DOI solicitor's office to clarify legal standards for determining whether amendment to right-of-way is necessary and level and scope of NEPA review. The BLM and Shell have agreed, in principle, on the scope of the proposed action and the scope of the NEPA analysis. The Task Force also worked with OPS to clarify their role in NEPA review, and on this project in particular.