



THE STATE OF ARIZONA  
**GAME AND FISH DEPARTMENT**

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October 29, 2013

Ms. Julie A. Smith  
Mr. Christopher Lawrence  
Office of Electricity Delivery and Energy Reliability  
Mail Code: OE-20  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

**Re: Improving Performance of Federal Permitting and Review of Infrastructure Projects**

Dear Ms. Smith and Mr. Lawrence:

The Arizona Game and Fish Department (Department) has reviewed the Federal Register Notice Request for Information (RFI) on Improving Performance of Federal Permitting and Review of Infrastructure Projects. The Department is responsible for managing fish and wildlife public trust resources for current and future generations in the State of Arizona. Our comments and recommendations provided in this letter represent our concerns regarding the effect this process may have on our ability to manage those public trust resources.

The RFI asked for public input on two issues: (1) the Interagency Integrated Pre-application process and whether it meets the goals stated in the Presidential Memorandum on Transmission, if there should be mandatory attendance for all Federal agencies with applicable permitting authority; and (2) whether analogous integrated, interagency pre-application processes should be developed for permitting of other major infrastructure projects covered in section 2(a) of Executive Order 13604, what should be the highest priority sectors and what changes need to be made to the IIP for these sectors.

It appears this process was developed with no apparent review or input from State agencies which have jurisdiction over fish and wildlife resources on Federal and non-Federal lands. These lines will undoubtedly affect resources managed by State agencies. This is recognized in the Council on Environmental Quality discussion of the duties of the RRTT: "The RRTT aims to improve the overall quality and timeliness of electric transmission infrastructure permitting, review, and consultation by the Federal government on both Federal and non-Federal lands through..." as well as in the Presidential Memorandum on Transmission, Section 1(vi) "design energy corridors to minimize impacts on environmental and cultural resources to the extent practicable, including impacts that may occur outside the boundaries of federal lands..."

The process as described determines that State agencies will be categorized as a Non-Federal Entity. The Department has several concerns with the process as currently drafted, in particular the role and responsibility of Non-Federal Entities. These concerns are listed below:

- The Project Proponent is the one identifying Non-Federal Entities to participate in the IIP process. State agencies are frequently not recognized by industry/developers as having jurisdiction over fish and wildlife resources. Most State agencies already experience problems with not being contacted regarding project developments in their state.
- Only Federal Entities are involved in review of the Initiation Request and review of the information provided in the Meeting Requests.
- There is a substantial difference in time between when the Federal Entities receive the Initiation Request, subsequent Meeting Requests and when that information is provided to the Non-Federal Entities.

Federal Entities are responsible for those trust resources under their jurisdiction, which may not always include the majority of fish and wildlife resources that will be impacted by the project(s). Therefore, it is important to recognize the jurisdiction and valuable role of State agencies when developing processes for large scale projects such as electric transmission. The National Environmental Policy Act (NEPA) recognizes the value of State agency involvement: Section 101 "...it is the continuing policy of the Federal Government, in cooperation with State and local governments..." in §1501.1(d)(2) requires early coordination appropriate State agencies, §1501.5(b) gives State agencies the ability to be joint lead agency, §1501.7(a)(1) discusses participation of affected State agencies.

It appears the purpose of this IIP process is to prepare the permit review under NEPA to be more efficient, effective and predictable in order to produce a permit in a shorter timeframe. To ensure that outcome the same entities that would be involved in a NEPA process should also be involved in the IIP process. Involvement of State agencies early and at all stages of the IIP process will reduce the potential for issues to be overlooked and be raised during the permit review process, and reduce the possibility of unintended consequences of permit delay.

To address the concerns listed above, the Department has following recommended changes to the IIP process:

- State agencies should be by definition a Non-Federal Entity and invited to every IIP process and the Project Proponent should be required to contact the State agency. The respective State agency will then decide whether to participate.
- State agencies should be provided the Initiation Request at the same time as Federal Entities and be given the same amount of review time to provide input. State agencies should also be involved in the review process for each Meeting Request.
- The Project Proponent should provide information to the Federal Entities and State agencies at the same time. This will enable State agencies to provide comments back to the Lead Agency regarding fish and wildlife resources

potentially impacted by the project. This would make the Meetings more timely and productive by requesting the Project Proponent to bring all the information needed to the project meeting(s) to address both Federal and State agency issues, instead of the delaying until the actual meeting to discover State agency concerns. This will also allow State agencies time to schedule attendance and/or travel.

The Department believes there should be early and equal State agency involvement for the IIP process to "efficiently meet the goals stated in the Presidential Memorandum on Transmission". State agencies are partners with Federal agencies in the management and conservation of the fish and wildlife resources throughout the United States. These State agencies are committed to working in a collaborative relationship to assist their Federal partners in infrastructure project development while still fulfilling the responsibility of their public trust doctrines. Therefore, the IIP process should be amended to include the recommendations provided. If you have any questions regarding our comments, please contact feel free to contact me at (623) 236-7606 or [GRitter@azgfd.gov](mailto:GRitter@azgfd.gov).

Sincerely,



Ginger Ritter

Project Evaluation Program Specialist, Habitat Branch

cc: Laura Canaca, Project Evaluation Program Supervisor  
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