From:	Reeves, Julie
To:	Abbott, Tyler
Subject:	Re: Several Mig Bird Related Docs Pertaining to BLM that you should have
Date:	Wednesday, September 04, 2013 1:01:30 PM
Attachments:	20130118_BLMToRockyMountainPower_GatewayWestMigratoryBirdMitigation.PDF WY12CPA0208_20120919_GWWMigBirdConsStrategyEOMOU.pdf

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Thanks, Tyler,

Here is the memo we sent to Walt George for Gateway West and the letter Walt sent to Rocky Mountain Power.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Julie (Proell) Reeves
Fish and Wildlife Biologist (Energy)
U.S. Fish and Wildlife Service
Wyoming Ecological Services Office
5353 Yellowstone Road, Suite 308A
Cheyenne, WY 82009
(307) 772-2374 x 232
(307) 772-2358 fax
Julie_Reeves@fws.gov

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A thing is right when it tends toward the integrity, stability, and beauty of the biotic community; it is wrong when it tends otherwise. ~Aldo Leopold

On Wed, Sep 4, 2013 at 12:13 PM, Abbott, Tyler <tyler_abbott@fws.gov> wrote:

> Julie, just so you have these for reference-- these are what I'm bringing with me to our meeting in FC.
>
> --
> Tyler Abbott, Deputy Field Supervisor
> U.S. Fish and Wildlife Service
> Wyoming Ecological Services Field Office
> 5353 Yellowstone Road, Suite 308A
> Cheyenne, WY 82009
> Office: (307) 772-2374 x 231
> Cell: (307) 286-7242
> tyler_abbott@fws.gov

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Wyoming State Office
P.O. Box 1828
Cheyenne, Wyoming 82003-1828

RECEIVED
2013 JAN 22 PM 12:51
US FISH & WILDLIFE SVC
CHEYENNE, WY

In Reply Refer To:
2800 (920George)
WYW-174598
IDI-35849
Gateway West Transmission Line

JAN 18 2013

Ms. Pam Anderson, Project Manager
Rocky Mountain Power
1407 West North Temple, NTO 275
Salt Lake City, UT 84116

Dear Ms. Anderson:

We recently corresponded with the U.S. Fish and Wildlife Service (FWS) regarding the adequacy of environmental analysis and mitigation for migratory birds associated with the Gateway West Transmission Line Project. A copy of our memorandum is attached.

We noted that the environmental impact statement for the project provides an adequate assessment of migratory bird habitat loss and fragmentation due to Project-related impacts, as required under the National Environmental Policy Act. Mitigation for migratory bird habitat associated with sagebrush vegetation types is being addressed in the Sage-grouse Mitigation Plan. However, mitigation, especially the details of the mitigation, for migratory bird habitat loss associated with forest vegetation types is not adequately addressed at this time.

We note that "Best Management Practices" and Environmental Protection Measures, including both Companies' Avian Protection Plans and a commitment to follow the Avian Power Line Interaction Committee's, "Suggested Practices for Avian Protection on Power Lines," are included in the current version of your Plan of Development (POD). Adhering to the POD will be a Term and Condition of the Bureau of Land Management (BLM) Right-of-Way Grant.

In order to fully comply with Executive Order 13168, "Responsibilities of Federal Agencies to Protect Migratory Birds" and a supporting Memorandum of Understanding between the BLM and FWS, signed on April 12, 2010, we must ensure that the preservation and enhancement of migratory bird habitat is satisfactorily addressed before the Gateway West Project can be approved. In order to comply with Washington Office Instruction Memorandum No. 2008-204, which states, ". . . the BLM may find it necessary to advise the applicant that the project proposal cannot be approved without . . . additional mitigation, including offsite mitigation," we are suggesting the Proponents submit, as a component of their POD, a Migratory Bird Conservation Plan that addresses mitigation for forested habitat loss and fragmentation as disclosed in the Final Environmental Impact Statement. Treatments to restore burned habitats or to rejuvenate

declining habitats are two of many mitigation measures that could be offered. We recommend locating mitigation actions as close as practicable to where the habitat disturbance occurs. If possible, this plan should be finalized before the Record of Decision for the project is signed. A coordination meeting or call between the FWS and the BLM at your earliest availability would ensure a correct beginning for the Plan preparation.

Sincerely,

Donald A. Simpson
State Director

Attachment
1 - Memo to U.S. Fish and Wildlife Service, 1/14/13

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Wyoming State Office
P.O. Box 1828
Cheyenne, Wyoming 82003-1828

In Reply Refer To:
2800 (920George)
WYW-174598
IDI-35849
Gateway West Transmission Line

JAN 15 2013

Memorandum

To: Mark Sattelberg, Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming

From: Donald A. Simpson
State Director, Wyoming

Subject: Gateway West Interstate Transmission Line Migratory Bird Impacts
Reply 06E 13000/WY 12CPA0208

The Bureau of Land Management Wyoming State Office (BLM) received a memorandum from the U.S. Fish and Wildlife Service (Service) on September 19, 2012 regarding impacts to and compensation for loss of migratory bird habitat for the Gateway West Transmission Line Project (Project). The Service acknowledges that the Project proponents have committed to measures necessary to avoid and minimize impacts to migratory birds. These measures, as well as additional conservation measures required by the cooperating agencies, are included in the environmental impact statement (EIS) in order to comply with the Migratory Bird Treaty Act 16 U.S.C. 703 (MBTA) and the Bald and Golden Eagle Protection Act 16 U.S.C. 668 (Eagle Act).

The Service expressed concern that mitigation related to loss and fragmentation of forested habitat for migratory birds and raptors has not been addressed. The Service requested the BLM to "(1) conduct an impact analysis in order to assess the amount of habitat lost and fragmentation due to Project-related impacts, and (2) develop and implement a mitigation plan in order to provide compensation for these losses."

Impact Analysis: Direct and indirect effects of Project activities on vegetation are presented in Section 3.6 of the Final EIS. Approximately four percent of the analysis area, involving Segments #1W, 2, 4, 5, 7, and 9, comprise forest and woodland vegetation (FEIS, Table 3.6-1). Section 3.6.2.2 addresses effects common to all alternatives and specifically addresses impacts to mature and old growth forests. Section 3.6.2.3 presents effects by segment and alternatives. Impacts to forest and woodland vegetation comprise approximately nine percent of the total vegetation impacts attributable to construction activities (1,784 acres out of a total of 19,293 acres). Approximately 50 percent of the impacted forest/woodland vegetation habitat is on federal land (891 acres).

Because forest clearing under the transmission line is necessary for safety and reliable operation, much of the forest/woodland habitat would not be fully reclaimed during the life of the Project. Approximately 38 percent of the operational disturbance would be in forest/woodland habitats (1,436 acres out of 3,744 acres). Approximately 58 percent of the long term forest/woodland habitat disturbance would be on federal lands (833 acres). These figures are located in Tables D.6-1 through D.6-6 of the Final EIS.

The effects of habitat fragmentation on wildlife are addressed in Section 3.10.2.2 of the Final EIS (see pages 3.10-20 through 3.10-22, page 3.10-25, and Tables D.10-3 through D.10-5). Regarding forest/woodland habitats, the FEIS estimates approximately six percent, or 337 new patches out of a total Project effect of 5,536 new patches in all vegetation types, would be created. The average reduction in patch size is eight acres. Project effects on migratory birds and raptors, including habitat fragmentation are addressed on pages 3.10-29 through 3.10.37. A discussion of habitat fragmentation by Project segment is found in Section 3.10.2.3. Habitat fragmentation effects on 13 migratory bird species are discussed in Section 3.11.

Based on this review, the BLM finds that the EIS provides an adequate assessment of migratory bird habitat lost and fragmentation due to Project-related impacts, as required under NEPA.

Mitigation Plan: The proponents declined to conduct a Habitat Equivalency Analysis (HEA) for migratory birds. They believe the proposed Project complies with the MBTA through their standard Best Management Practices (BMPs) and Project-specific Environmental Protection Measures (EPM) (proponents' letter dated August 1, 2012).

The BMPs and EPMs are included in the Proponent's Plan of Development (POD) and are fully enforceable by the BLM. Adhering to the POD will become a Term and Condition of the Right-of Way Grant. These provisions are designed to minimize take of regulated species and demonstrate intent to comply with the MBTA and Eagle Act.

Based on the April 12, 2010 MOU with the Service implementing EO 13168, and BLM Wyoming Instruction Memorandum (WY-IM-2013-005 Interim Management Guidance for Migratory Bird Conservation Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate), dated October 31, 2012, the BLM may require additional mitigation for migratory bird habitat. The Wyoming IM addresses BLM's compliance with the MOU and EO 13186 and specifies the circumstances which would require imposing stipulations or conditions of approval. This IM currently applies only to BLM-administered lands in Wyoming.

The BLM will rely on WO-IM-2008-204 Offsite Mitigation, when considering the need for offsite compensatory mitigation. The BLM will not approve a project inconsistent with its mission and objective. The proponents will be advised that a compensatory mitigation plan will be required to improve and enhance migratory bird habitat.

Given that there is not time in the schedule to allow for full development, discussion, revision, and inclusion of an approved Migratory Bird Plan in the EIS, the BLM will make the completion of an acceptable plan part of its consideration in the issuance of the ROD.

Please contact Walter George, Project Manager at 307-775-6116 if you have any questions about this response.

cc:
Deputy State Directory, Idaho (ID-930)

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
5353 Yellowstone Road, Suite 308A
Cheyenne, Wyoming 82009

In Reply Refer To:
06E13000/WY12CPA0208

SEP 19 2012

Memorandum

To: Walt George, Program Manager, Bureau of Land Management, Cheyenne, Wyoming

From: For Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming

Subject: Gateway West Interstate Transmission Line Migratory Bird Impacts

In a meeting on July 9, 2012, the U.S. Fish and Wildlife Service (Service) notified the Bureau of Land Management Wyoming State Office (BLM) and the project proponents for Gateway West Interstate Transmission Line—Rocky Mountain Power and Idaho Power—of the need to address impacts to migratory birds. In particular, the Service noted that there was a portion of the preferred alternative routed through forested habitats for which impacts to migratory birds, including raptors and eagles, had not yet been addressed. The Service suggested that the project proponents conduct a Habitat Equivalency Analysis (HEA) on this portion of the project in order to address this concern.

In response to the Service's request, we received a letter from Rocky Mountain Power on August 1, 2012, stating that they believe that "…the HEA is unnecessary and would provide no further protection [to] migratory birds than is already being applied." The Service acknowledges that the project proponents have committed to follow Avian Power Line Interaction Committee guidelines in order to avoid and minimize electrocutions and collisions with tall structures associated with electrical transmission, and that conservation measures and best management practices (BMPs) to facilitate avoidance and minimization of take to migratory birds are included in the Draft EIS in order to comply with the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703 and the Bald and Golden Eagle Protection Act (BGEPA), 16 U.S.C. 668.

The Service believes that the HEA conducted within the sage-steppe habitat for the greater sage-grouse is an appropriate mechanism to address potential impacts to migratory birds occupying these habitats. However, the Service remains concerned that fragmentation within the forested habitat and loss of this habitat for migratory birds and raptors remains unaddressed. Executive

Order (EO) 13186 (66 Fed. Reg. 3853, January 17, 2001), entitled "Responsibilities of Federal agencies to Protect Migratory Birds," states that "Each Federal agency taking actions that have, or are likely to have, a measurable negative effect on migratory bird populations is directed to develop and implement…a Memorandum of Understanding (MOU) with the …Service that shall promote the conservation of migratory bird populations."

The Service and BLM entered into a MOU to Promote the Conservation of Migratory Birds on April 12, 2010, which states that both parties agree that "it is important to...focus on habitat restoration and enhancement where actions can benefit specific ecosystems and migratory birds dependent on them." Additionally, the MOU states that both parties shall, "as practicable, protect, restore, and conserve habitat of migratory birds, addressing the responsibilities in Executive Order 13186." Furthermore, the MOU states that, "At the project level, [BLM shall] evaluate the effects of the BLM's actions on migratory birds during the National Environmental Policy Act (NEPA) process, if any, and identify where take reasonably attributable to agency actions may have a measurable negative effect on migratory bird populations, focusing first on species of concern, priority habitats, and key risk factors. In such situations, BLM will implement approaches lessening such take." Finally, the BLM has committed to "restore and enhance the habitat of migratory birds, as practicable," pursuant to its MOU.

Consequently, the Service is asking BLM to uphold and implement the EO 13186 and MOU in the context of this project, and to require the project proponent to address the impacts to migratory birds and eagles as appropriate. While the Service is not committed to having the project proponents conduct an additional HEA for forested habitats, we believe it is possible for the project proponents to address these impacts by: (1) conducting an impacts analysis in order to assess the amount of habitat lost and fragmentation due to project-related impacts, and (2) develop and implement a mitigation plan in order to provide compensation for these losses.

In accordance with EO 13186 and the MOU, we recommend that this analysis and mitigation plan be combined with all other avoidance, minimization, restoration, monitoring, adaptive management and compensatory mitigation associated with migratory birds and their habitats into one comprehensive migratory bird conservation strategy separate from the sage-steppe HEA. This will make it significantly easier for the Service, as well as the broader public during the NEPA review process, to review and understand potential impacts of the proposed project to migratory birds. This also will facilitate communication, in a clear and transparent manner, the proposed conservation measures and mitigation developed to offset those impacts.

If you have any questions regarding this matter, please contact Tyler Abbott at (307) 772-2374 extension 231. Thank you.

cc: WGFD, Statewide Habitat Protection Coordinator, Cheyenne (M. Flanderka)
WGFD, Non-Game Coordinator, Lander (B. Oakleaf)