



United States Department of the Interior

FISH AND WILDLIFE SERVICE
134 Union Blvd
Lakewood, Colorado 80228



In Reply Refer to:
FWS/IR05/IR07

October 27, 2021

President Rodney Bordeaux
Rosebud Sioux Tribe
P.O. Box 430
11th Legion Avenue
Rosebud, South Dakota 57570

Dear President Bordeaux;

I'm writing in response to the September 17, 2021 letter to Secretary of Interior Haaland from Ione Quigley, Tribal Historic Preservation Office, regarding the incidental take permit (ITP) issued for the R-Project Transmission Line (attached). The ITP has been vacated and we are now beginning coordination with the Nebraska Public Power District (NPPD) on their next steps associated with an updated ITP application and Habitat Conservation Plan for the proposed project. The U.S. Fish and Wildlife Service's (FWS) review of any ITP application requires the National Environmental Policy Act compliance and Government-to-Government consultation. The FWS recognizes the Rosebud Sioux Tribe's status as a sovereign nation, and communication of input opportunities will again be provided, and we look forward to Government to Government consultation.

The FWS recognizes that the Rosebud Sioux Tribe may have a deep spiritual, historical, and cultural connection to the project area and appreciates any information and input that you can provide. We look forward to working with you and the Tribal Council on this project. If you need further information, please contact Mark Porath, the Nebraska Project Leader at mark_porath@fws.gov or (308) 216-2077, or Steve Small, the Assistant Regional Director for Ecological Services, at (303) 236-4210. In addition, you may contact our Regional Native American liaison, Melissa Castiano at (303) 236-9898 or Melissa_Castiano@fws.gov to facilitate input from you or your Tribal agencies.

Sincerely,

Matthew Hogan
Acting Regional Director

INTERIOR REGION 5
MISSOURI BASIN

KANSAS, MONTANA*, NEBRASKA, NORTH DAKOTA,
SOUTH DAKOTA

*PARTIAL

INTERIOR REGION 7
UPPER COLORADO RIVER BASIN

COLORADO, NEW MEXICO, UTAH, WYOMING



Protecting the Land,
Cultural, and Tradition
for Heritage and for
future Generation

Tribal Historic Preservation Cultural Resource Management Office

*P.O. Box 809
Rosebud, South Dakota
Telephone: (605) 747-4255
Fax: (605) 747-4211
Email: rst.thpo@rst-nsn.gov*



Ione Quigley
Officer

Kathy Arcoren
Admin. Assistant

Deb Haaland
U.S. Secretary of the Interior
U.S. Department of the Interior
1849 C Street N.W.
Washington DC 20240

September 17, 2021

Dear Ms. Haaland

It was recently brought to our attention that the Nebraska Public Power District (NPPD) was planning to construct a new transmission line and substation within the historic territory of the Sicangu Lakota as a first step in developing wind farms across the Nebraska Sandhills. This is referred to as the R-Project Transmission Line. The location of this proposed project falls within the 1851 Fort Laramie Treaty area and within Article 11 of the 1868 Treaty area, within the area specifically inhabited by the Sicangu Lakota, now of the Rosebud Sioux Reservation. Multiple historic documents (Nicollet 1839, Warren 1855 & 1856, Bettelyoun and Waggoner 1999), Tribal Winter Counts (Mallery 1893, Cohen 1939), and Tribal oral histories describe the Nebraska Sandhills as the hunting grounds of the Sicangu (aka Brule) Lakota and many cultural sites significant to the Sicangu Lakota are located in this area. Winter counts describe Sicangu battles, catching wild horses and hunting in the Sandhills. The Lakota language has specific names for certain areas of this country and for important cultural plants unique to the Sandhills. The proposed project will have an adverse effect on this cultural landscape and this was not taken into consideration in the review process.

An Environmental Impact Statement (EIS), titled *Final Environmental Impact Statement on Issuance of an Incidental Take Permit and Implementation of a Habitat Conservation Plan for the R-Project Transmission Line*, was completed without proper consultation with the Rosebud Sioux Tribe. Not only was the Rosebud Sioux Tribe not properly consulted, but we were not even included in the historic overview in the EIS. Our long history of use and occupation of the Sandhills was not even acknowledged. These omissions make it glaringly obvious that the writers of this document conducted sub-standard research. This EIS document is woefully inadequate in many ways and was undertaken in a way that neither follows the purpose nor the spirit of the National Historic Preservation Act or the National Environmental Policy Act (NEPA).

The purpose of an EIS under NEPA is to evaluate the effects a proposed project may have on the environment and historic sites and to determine if the location selected is suitable for the project. In this EIS, they describe the unique and fragile nature of the Nebraska Sandhills, how they are the largest area of native grass-stabilized dunes in the world and one of the largest intact native grasslands in North America and how they are prone to extreme erosion when the ground is disturbed. They describe how the project is located within the Central Flyway of cranes and other migratory birds, that make use of the unique interdunal lakes and wetlands in the Sandhills, and how these as well as eagles, hawks and other raptors are killed by these large transmission lines and wind turbines. They describe how sections of historic trails listed on the National Register of Historic Places will be negatively impacted by the proposed project. Then they declare that they are going to proceed with the proposed project anyway. They say that it is too late make changes to the proposed project locations to address these important environmental and cultural site issues. Making changes, based on the findings of an EIS, is the specific purpose of conducting an environmental review.

The National Historic Preservation Act (NHPA) requires the Federal Agency to take into account the effect of the proposed undertaking on any historic property including Traditional Cultural Properties. Traditional Cultural Properties (TCP) can only be identified under consultation with Tribes. The EIS states that a letter was sent to the President of the Rosebud Sioux Tribe in 2014 informing him that the Fish and Wildlife Service was planning to issue an incidental take permit to relocate an endangered species of burying beetle that will be affected by a transmission line project. This was very deceptive communication centering on the beetle take permit rather than the actual massive transmission line and wind farm project. No correspondence was ever sent to the Rosebud Sioux Tribe Historic Preservation Office (RST THPO) which was established in 2004. The cultural site survey methodology undertaken in this project, including tribal consultation, is completely inadequate and does not meet the requirements under the NHPA. Only 39% of the project area was surveyed and no TCP surveys were completed.

The EIS describes how the Elfgren archeological site (25BL110), representing over 10,000 years of repeated occupation with artifacts recovered that include Folsom, Archaic, Late Prehistoric, and Historic components, were exposed in a blowout just 550 feet away from the area of potential effect. They determined that because no artifacts were seen on the ground surface by their survey crew, the project would have no effect on pre-contact cultural resources in this area. Standard pedestrian surface surveys are not an appropriate methodology in this dynamic Sandhills landscape where the Kelso Site dated to 1160 years before present (BP) was buried under nine feet of sand, the Dismal River Ranch Site dated to 3000-4000 years BP was buried under 144 feet of sand, and the Warner Bridge Site dated to 3600 years BP was buried under three feet of sand. Pedestrian surface surveys are also not an adequate method to evaluate the impact this project may have on archeological resources considering that the construction of the transmission lines will involve digging down 25 to 45 feet for each pole and sites are known in the area to be deeply buried.

The Cultural Resource Survey conducted by POWER ENGINEERS, of Lakewood Colorado, in 2015, does not meet the NHPA requirements. The Rosebud THPO was not consulted and Traditional Cultural Properties were not even addressed in this cultural resource survey. The Rosebud Sioux Tribe Historic Preservation Office must be included in the evaluation of cultural and historic resources in this area and a TCP survey must be conducted to address areas of cultural concern to the Sicangu Lakota.

The Ogallala Aquifer underlies the entire project area and the effects of constructing a pole every 1,350 feet, which involves digging down into the sand 25 to 45 feet for each pole, and pouring concrete into each hole to support each massive tubular steel monopole, were not adequately considered in the EIS. To the Rosebud Sioux Tribe, water is a Traditional Cultural Property. Water is used in ceremony, water is medicine, water is life.

The Rosebud Sioux Tribe is requesting that the Incidental Take Permit, issued by the U.S. Fish and Wildlife Service, be revoked until the NEPA and NHPA process is completed properly.

Thank You,



Ione Quigley
Tribal Historic Preservation Officer

Jennifer Galindo
Archaeologist

Ben Young
Section 106 Compliance Officer

Tanner Haukaas
Recording Clerk

Peter Gibbs
Archivist/ Researcher

Lea Rattling Leaf
Archivist/Research Assistant



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Nebraska Field Office
9325 South Alda Road
Wood River, Nebraska 68883

February 24, 2016

Mr. Cyril Scott, President
Rosebud Sioux Tribe
PO Box 430
Rosebud, SD 57570

**SUBJECT: Agency Coordination, Draft Environmental Impact Statement,
Nebraska Public Power District, R-Project Transmission Line**

Dear President Scott,

The Nebraska Public Power District (NPPD) is applying for a Federal Incidental Take Permit (Permit) to authorize the take of the federally endangered American burying beetle (ABB) resulting from the construction, operation, and maintenance of a 225-mile-long, 345-kilovolt transmission line and associated infrastructure (R-Project) in Nebraska. In response, the U.S. Fish and Wildlife Service (Service) is drafting an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act, to inform our decision on whether to issue the Permit (proposed action) and disclose to the public the potential impacts of doing so on the ABB and the natural and human environment. As part of the Permit application, NPPD is also required to prepare a Habitat Conservation Plan, which outlines actions to avoid, minimize, and mitigate for potential impacts to the ABB.

The purpose of the R-Project is three-fold: (1) reduce electrical congestion within the existing transmission system; (2) enhance system reliability; and (3) encourage development of renewable resources (i.e., wind projects). The R-Project starts at NPPD's Gerald Gentleman Station near Sutherland, Nebraska and extends northward crossing the North and South Platte Rivers and Birdwood Creek. From Birdwood Creek, the project runs eastward to Highway 83, then north to a substation east of Thedford, Nebraska. From the Thedford substation, the R-Project extends 125 miles east across the Sandhills to Clearwater, Nebraska, and terminates at a substation where it interconnects to a Western Area Power Administration (WAPA) transmission line (see attached map). A considerable amount of the 225-mile-long project extends across remote areas of the Nebraska Sandhills. Additional information about the R-Project is also available on NPPD's website at <http://www.nppd.com/rproject/>.

The Service previously published a Notice of Intent to prepare an EIS in the Federal Register on October 30, 2014, and held three public scoping meetings at Sutherland, Thedford, and Burwell, Nebraska from November 18–20, 2014. A total of 54 public comments were received and these can be accessed online at <http://www.regulations.gov/#!documentDetail;D=FWS-R6-ES-2014-0048-0001>.

A significant number of the public comments received suggested the development of an alternative R-Project route that would be located along existing road right-of-ways (ROWS) and other disturbed areas to avoid disturbance to the Sandhills and impacts to migratory birds. In response, we are including several additional alternative routes (northern, southern, and central alternative routes), for comparison with the final route selected by NPPD (see attached map). Each of these routes crosses portions of the Sandhills but many extend across disturbed areas and follow existing road ROWs. Additional route alternatives are also suggested in the area near Gerald Gentlemen Station; these alternative routes avoid large concentrations of migratory birds at the North and South Platte Rivers and Birdwood Creek (see attached map). These alternative routes may be evaluated in the EIS. Other alternatives under consideration in the EIS include NPPD's final R-Project route and the no action alternative (i.e., non-issuance of a Permit).

The Service is now in the process of developing the Draft EIS (DEIS). We request your input including data, comments, new information, or suggestions that will help inform the DEIS, particularly concerning the following: (1) direct, indirect, and cumulative effects of the proposed action on endangered, threatened, or other species (e.g., migratory birds and bald and golden eagles); (2) potential impacts that the NPPD-final route may have on sensitive resources under your jurisdiction; (3) other reasonable routing alternatives to the proposed action that may have less impact on sensitive resources; (4) relevant biological data and information concerning the ABB; (5) current or planned activities in the area and possible impacts on the ABB; (6) presence of historical/cultural sites in the R-Project area including potential impacts to the viewshed; (7) sensitive areas including wetlands, native grasslands, and streams; (8) scope of covered activities, including potential avoidance, minimization, and mitigation measures for incidental take of the ABB; (9) monitoring and adaptive management provisions that should be included as part of the DEIS, and (10) any other environmental issues that should be considered regarding the proposed action.

Your participation in this process will help us fully evaluate the potential impacts of the proposed action and any alternatives to it. Additionally, you may request that your agency be a cooperating agency in the preparation of the EIS. Should you have any questions or comments and/or wish to be a cooperating agency, please respond in writing by March 30, 2016, to Mr. Robert Harms. Mr. Harms can be reached via mail at the address above, by phone (308.382.6468 ext. 208) or by e-mail Robert_Harms@fws.gov.

Sincerely,



Eliza Hines
Nebraska Field Supervisor

Enclosure



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region

IN REPLY REFER TO:
FWS/R6
ES

MAILING ADDRESS:
P.O. Box 25486, DFC
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Boulevard
Lakewood, Colorado 80228-1807

OCT 24 2014

President Cyril Scott
Rosebud Sioux Tribe
P.O. Box 430
Rosebud, South Dakota 57570

Dear President Scott:

We, the U.S. Fish and Wildlife Service (Service), are offering you the option to consult with us on a government-to-government basis under Executive Order 13175 and Secretarial Order 3206 regarding a proposed Habitat Conservation Plan (HCP) for Nebraska Public Power District's (NPPD) proposed 220 mile-long transmission line project, herein referred to as the R-project. The project is proposed for the Sandhills region of Nebraska. NPPD is preparing a draft HCP as part of an application to the Service for an incidental take permit (Permit) under Section 10 of the Endangered Species Act of 1973, as amended, for the federally endangered American burying beetle (*Nicrophorus americanus*). The HCP must include measures to minimize and mitigate the effects of the take of the species to the maximum extent practicable and meet other requirements before a permit can be issued. The permit would authorize a specified amount of take resulting from construction, operation, and maintenance of the R-project.

Tribal or aboriginal lands may occur within the R-project footprint, locations designated for species conservation in the HCP, or those areas that should be avoided. Actual use of Tribal lands will be based upon future arrangements between your Tribe, NPPD, and/or the Service.

We also intend to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 to evaluate the potential impacts on the human environment from implementation of the HCP and issuance of the permit. We must include environmental effects to Tribal lands in our EIS analysis; thus, we welcome your input with respect to concerns or information relevant to the proposed HCP on both Tribal and aboriginal lands.

In addition to consultation, we request your assistance in identifying Tribal cultural and spiritual sites and interests in the planning area for the HCP in accordance with the National Historic Preservation Act; this will ensure that these sites and interests are taken into account and protected during project planning.

As part of the first stage of preparing a draft EIS, the Service is opening a public scoping period (see enclosed Notice of Intent). We are holding three public scoping meetings at Sutherland, Nebraska; Thedford, Nebraska; and Burwell, Nebraska. The public scoping meetings will be in an open-house format. We invite you to attend the public meetings. However, to fully meet the intent of government-to-government consultation, we would be happy to meet with the Tribe individually.

We are accepting comments at the public scoping meetings and during a 60-day public comment period. However, for the government-to-government consultation with your Tribe, we will accept comments throughout the process of preparing the draft EIS and draft HCP. We will continue this consultation throughout the finalization of the EIS and HCP, which is expected in December 2016.

The Service appreciates any information you can provide and we look forward to working with you on this project. You may direct any questions regarding this project to Eliza Hines (308- 382-6468, ext. 18; Eliza_Hines@fws.gov) or Amelia Orton-Palmer (303-236-4211; Amelia_Orton-Palmer@fws.gov). In addition, you may contact our Regional Native American Liaison, (Ivy Allen (303-236-4575; Ivy_Allen@fws.gov), to facilitate input from you or your Tribal agencies.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin E. Walsh", is written over the typed name.

Regional Director

Enclosure