USDA United States Department of Agriculture
Forest Service
Rocky Mountain Region
740 Simms Street
Golden, CO 80401
303-275-5350
FAX: 303-275-5366

File Code: 1570
15-02-00-0056-218B
Date: APR 02 2015

James Hodgens
1112 Wildlife Road
Rapid City, SD 57702

Dear Mr. Hodgens:

On January 19, 2015 you filed an Objection to the Teckla-Osage-Rapid City (T-O-RC) 230 kV Transmission Line project on the Black Hills National Forest (BHNF) and the Medicine Bow Routt National Forest (MBRNF) and Thunder Basin National Grasslands (TBNG). Your objection was timely and your objection to the Final Environmental Impact Statement (FEIS), Draft Records of Decision and project record was reviewed in accordance with 36 Code of Federal Regulations (CFR) 218. Your objection was combined with other objections. This letter is my written response to the combined objections as required by 36 CFR 218.11(b)(1).

Project Subject to Objection

The BHNF, MBRNF and TBNG propose the grant of a special use permit to Black Hills Power (BHP) to implement the T-O-RC project to construct and operate portions of a transmission line from the Teckla substation in Campbell County, Wyoming, through Weston County, Wyoming, to a substation near Rapid City, South Dakota.

Three alternatives were analyzed in the FEIS, including:

- Alternative A – No Action
- Alternative B – Proposed Action
- Alternative C – Proposed Action with Modifications also known as the Preferred Alternative

Objection Responses

Objection Issue 1: (Hodgens) The Proposed Alignment crosses over the viewing field for the Westberry Trails Scenic Turn-Out on the South Canyon Road. Relocation of the alignment or construction of a replacement turn-out interpretive area without this impact would be an appropriate mitigation measure.

> ***Objection Response:*** This issue was not identified in previous timely comments and is not based on new information. Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity, and attributed to the objector, unless the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8(c)).

Objection Issue 1.a: The alignment further adversely impacts the scenic integrity of the BHNF along the existing trail, whose trailhead is at that point.

> ***Objection Response:*** This issue was not identified in previous timely comments and is not based on new information. Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity, and attributed to the objector, unless the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8(c)).

Objection Issue 2: (Hodgens) Similar unmitigated impacts result from the unnecessary crossing of Sun Ridge Road that is required by the Forest Service (FS) allowing the line to enter forest property at the corner of Section 36.... The crossing of Sun Ridge Road and location of the alignment in the side or front yard of four homes does not appear to be justified when there are alternative alignments, such as what I have formerly suggested...While the FS does not control private impacts, the approval of the entrance point to the BHNF in the northeast (NE) corner of Section 36 results in the allowable impacts to these parcels...FS permission to enter Section 36 at the NE corner will adversely impact the public access to the BHNF at its closest public access point to Rapid City. Easement clearing, loss of visual resources, health endangerment from recreational activity in the resulting easement and the presence of multiple towers within sight of each other at this corner is not appropriate.

> ***Objection Response:*** The exact path along which the line would cross private land in this area is still subject to negotiations between BHP and private land owners. In areas adjacent to the private land parcels in question, a 1-mile wide area was analyzed along the section line, on National Forest System (NFS) land, to allow flexibility, depending upon line location negotiations between BHP and private landowners (FEIS, Section 3.7.2.2.1.1). A combination of the modifications 3g and 3j BHNF Draft Record of Decision (DROD) was chosen to avoid private land parcels to the greatest extent (BHNF DROD page 14). The private land portion of Modification 3j shown in the FEIS Chapter 2 is simply one illustration of a number of possible routes the line might take between the endpoints on NFS land. The FEIS analyzed and disclosed impacts regarding visuals in this area and fully considered those impacts in its draft decisions.

Objection Issue 3: (Hodgens) The proposal results in the loss of 595 acres of forest, most of which is on Forest Service Land...The project does not provide any mitigation for the 595 acres consumed by the project...The project applicant should be compelled to mitigate this loss by providing replacement acreage to the National Forest system...The fee for easement does not mitigate, or compensate the United States and its people for the tree loss or the thousands of tons of carbon dioxide that will no longer be sequestered due to the tree loss.

> ***Objection Response:*** This issue was not identified in previous timely comments and is not based on new information. Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity, and attributed to the objector, unless the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8(c)).

Objection Issue 4: (Hodgens) Effects on Health from electromagnetic fields (EMF). This is an acknowledged concern with the number of impacted residents reduced through the DEIS process from 102 to 90 within the desired 500 foot separation zone. Why is it not desirable to restrict access to the BHNF away from the neighbors at the NE corner of section 36 and reduce the number of impacted residence/residence sites by another 4? The proposed action increases the number within this 500 foot separation by two!

Objection Response: Transmission line operation would result in the creation of Electromagnetic Fields (EMF) in immediate proximity to the Right-Of-Way (ROW). In order to evaluate impacts to public health, an indicator was established for analysis that considered proximity to residential dwellings (Hazardous Materials/Public Health and Safety Technical Report, Page 4). Analysis of EMF is included in the Hazardous Materials/Public Health and Safety effects analysis, which discloses the existing condition, direct, indirect, and cumulative effects of EMF for all the alternatives (FEIS Section 3.16). These impacts were fully considered in developing the draft decision for this permit.

Objection Issue 5: (Hodgens) Previously, public comment has resulted in a route modification to avoid private residences and reduce visual impacts. The Decision of Record claims that this is "to the greatest extent possible." This is not correct. It is not to the greatest extent possible!

Objection Response: The FS responded to this comment in the DEIS response to comments, and modifications were made to the FEIS. Modifications were made after consideration of comments, and are disclosed (FEIS Section 2.2.3). Both DRODs disclose the rationale for route modification on issues including scenic integrity, visual resources, and effects on private property. The impact of the route has been analyzed and disclosed, and considered in the draft decisions.

Objection Issue 6 : (Larsen) There was no mention in the DEIS of the 62,000-plus acre Oil Creek Fire…The FEIS included a tepid reference to the Oil Creek Fire…but no explanation why it was ignored in the DEIS.

Objection Response: The FS received several comments on the DEIS that requested more information regarding the Oil Creek Fire. Private landowners were concerned that additional power lines would increase wildfire risk. In response to comments received, the Oil Creek Fire was added to Table 3-29. The Oil Creek Fire is referenced in the Fire/Fuels analysis in the (FEIS Section 3.3).

Discussion of the Oil Creek fire was added to Section 3.3.1.2.1 of the FEIS. The National Environmental Policy Act (NEPA) process includes distribution of a DEIS for public comment in order to insure that appropriate consideration is given to potential environmental consequences. The improved analysis in the FEIS reflects public comments on fire, including the Oil Creek Fire.

Objection Issue 7: (Larsen) The abandoned line site is NOT a legal ROW…any old ROW in place does not translate into a legal current larger ROW. Please admit this and put this in the record.

Objection Response: The objection does not refer to any specific parcel of land. The location and placement of an easement across private land is not an FS decision. That easement would

involve an agreement between the proponent and the landowner. The status of a ROW across private land may be recorded by the county or other local jurisdiction. BHP maintains rights to the easement/ROW for the unused transmission line (FEIS Section 2.2.2).

Objection Issue 8: (Larsen) While discussing ROW and location issues, why was no analysis submitted about putting the new project along the existing line that runs Osage to Newcastle? Factors may make this option inadvisable…but there should at least be some discussion about this route.

> ***Objection Response:*** This issue was not identified in previous timely comments and is not based on new information. Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity, and attributed to the objector, unless the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8(c)).

Objection Issue 9: (Larsen) There is a small reference in the FEIS to Phil Geenen, Fire Investigator for South Dakota but is does not include the findings of Mr. Geenen's report. Rather it says the agencies have reviewed the report and a copy is in the project file. These facts need to be aired in any EIS that discusses risk of transmission line induced fire. The DEIS and FEIS falsely assume BHP follows industry standards of fire prevention, whereas the facts in the Oil Creek Fire case demonstrates [otherwise]. As a result you must change the risk analysis for power line-caused fires when the lines are owned and maintained by BHP. Our comments of poor BHP line maintenance were basically ignored.

> ***Objection Response:*** (Please see response to Issue 6 for additional information). The FS received several comments on the Draft EIS asking for more information on the Oil Creek Fire to be included in the EIS. The FS understood commenters to say that a BHP transmission line had started the Oil Creek Fire, that private land had been damaged, and they were wary of another BHP line in the area. As a result, the FS listed the fire in (FEIS Table 3-29), and mentioned it several times in the Fire/Fuels analysis (FEIS Section 3.3). BHP will be required to comply with applicable requirements in law, regulation, industry practices, and relevant terms and conditions of any special use authorization and operating plan.

Objection Issue 10: (Larsen) Our comment T-4 was passed off with a reference to response 5-7 preceding it. Response 5-7 does not begin to cover our [comment]…[if] a longer construction period would involve increased emissions from the construction equipment there must be a quantification to give this argument any validity…Please fully respond to the rest of comment T-4.

> ***Objection Response:*** The FS assumes that a longer construction period would result in a proportionally greater amount of gaseous emissions from the tailpipes of construction equipment engines. The statement presumes equal project emissions per unit time, as compared over shorter and longer periods, and simply expresses a direct proportional relationship. The FEIS analyzed and disclosed impacts regarding emissions and considered those impacts in the draft decisions.

Objection Issue 11: (Larsen) Our comment T-5 raised the issue of fatal aircraft collisions with BHP transmission lines. There was an inadequate response in the FEIS. These statistics are still

missing in the FEIS. Table 3-29 does not include the fire cause in 2010, when an Air Tractor aircraft spraying grasshoppers struck the Osage-Newcastle BHP power line. The FEIS missed this one not only as a recent airplane/power line collision, but also as a fire within five miles of the proposed project area.

> ***Objection Response***: Airports in the analysis area are discussed in the Transportation and Travel Management section (FEIS Sections 3.14.1.1.2 and 3.14.1.2.5). It is disclosed that the presence of the line could potentially create a hazard to small aircraft, particularly during takeoff and landing, where the line would be close to airstrips (FEIS Section 3.14.2.2.2.1.2). There has been a previous aircraft collision with a transmission line in the Wyoming portion of the Project area. There are no public airports near the proposed Project alignment in Wyoming; however, there are some private airstrips in the area. The line would meet FAA requirements for height and marking, and the proponent would work with private landowners as needed to mitigate potential impacts to air traffic near these strips. The disclosure of previous aircraft collisions was added to the FEIS, but specifics as to lives and aircraft lost in previous collisions with BHP power lines were not listed; those details are in the project. The EIS analyzed and disclosed the impact of possible airplane collisions with the line.

Objection Issue 12: (Larsen) Throughout the DEIS and FEIS there were numerous references to the "need" for the proposed project. The Wyoming Public Service Commissioner met on December 15, 2014 where they heard BHP's application for a Certificate of Public Convenience and Necessity. After hearing input from various people the Commission decided unanimously not to grant the CPCN at this time. This renders the entire concept of "need" as an unresolved issue in this case and negates the FEIS position of need for this project.

> ***Objection Response***: This issue was not identified in previous timely comments and is not based on new information. Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity, and attributed to the objector, unless the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8(c)).

Objection Issue 13: (Larsen) You must examine financial incentives for leaving out any reference that might case BHP in a negative light.

1) Who wrote the DEIS and FEIS for the FS?

2) Were ENValue and Power Engineering, Inc., the only outside third parties used by the FS to produce the FEIS and DEIS?

3) Did BHP offer to pay the costs of the DEIS or FEIS through any reimbursement scheme?

4) What were the total costs of producing the DEIS and FEIS and to whom were these costs paid and by whom were they paid?

5) Do the answers to Question 4 above raise issues of conflict of interest?

6) Please analyze the ramifications of the reimbursement scheme detailed in http://puc.sd.gov/commission/dockets/electric/2014/EL14-061/appendixe.pdf and how this

adversely affects any claim of objectivity by ENValue and Power Engineers, Inc., in preparing the DEIS and FEIS.

Objection Response: This issue was not identified in previous timely comments and is not based on new information. Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity, and attributed to the objector, unless the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8(c)).

Objection Issue 14: (Mark) The FS Purpose and Need for Action [is based on] BHP declared claims [and is] unsubstantiated in both the DEIS and FEIS. We provided explicit comments and recommendations on these elements in the DEIS and asked for substantiating quantitative summary information…none of this was addressed in the FEIS…. (T)he USFS was remiss in not citing [any available studies]…by date, author and document number.

Objection Response: The FS Purpose and Need was developed to respond to an application for a special use permit submitted by BHP (FEIS Section 1.5.1). The National Energy Reliability Council (NERC) Transmission Planning Reliability Standards requirement that BHP plan the transmission system to supply projected customer demands (customer load), and firm transmission services (bulk energy transfers) under Category C outage conditions (loss of any two transmission elements), is described and disclosed (FEIS Section 1.6). Compliance with this standard is assumed as part of the BHP proposal. Pertinent studies and summary information would be available directly from BHP, and do not change the impact or effects analysis of the proposed project.

Objection Issue 15: (Mark) Wyoming Public Service Commission (WY PSC) Denial of BHP Corp. T-O-RC CPCN – The determination of project need rests solely with the States of Wyoming and South Dakota. The FS statement of need has been neutralized by the WY PSC, who expressed serious concern about the lack of landowner dialogue and further questioned BHP representatives about the necessity for the project and what the project urgency was. This WY State decision challenges and negates the FS omnibus statement of need claims made in the FS FEIS.

Objection Response –The FS Purpose and Need responds to the application submitted by BHP (FEIS Section 1.4.1). The FS alternative development and impact analysis responds only to the application for a special use permit to use NFS, and is separate from any application process or approval from state Public Utility Commissions (FEIS Section 1.5.1).

Objection Issue 16: (Mark) USFS Representation of BHP Energy Rate Impact is Unsubstantiated. It is specious and naïve to conclude, within the Black Hills zone BHP customer base of 70,000 people…that BHP construction costs of $62 million would have "negligible direct effects" and "rates would not be affected." Energy rate increases for project cost recovery are a regular annualized practice of BHP, contrary to the cited claims by the USFS in the EIS.

Objection Response: This issue was not identified in previous timely comments and is not based on new information. Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity, and attributed to the

objector, unless the issue is based on new information that arose after the opportunities to comment. (36 CFR 218.8(c)).

Objection Issue 17.b: Additionally, the cultural resources of the Cheyenne-Deadwood stage coach route and the Beaver Creek Loop Tour cross the proposed action area on our property (LRO3). Our proposed re-alignment significantly conceals visual disturbance of these cultural resources. These cultural resources were explicitly identified in our DEIS comments and received no acknowledgement or treatment in the EIS.

Objection Response: The effects to cultural resources were considered and an overview of the management of cultural resources for the entire project, including the procedures used to identify and evaluate cultural resource, are disclosed (EIS Section 3.12.1).

The Beaver Creek Loop Tour is a tourist route promoted by Newcastle, WY Chamber of Commerce, in which sites of local interest may be visited and/or viewed. The Cheyenne-Deadwood stage route is part of this Loop Tour. Comments on the DEIS address the Beaver Creek Loop Tour (Project Record, Volume C, Document 75).

An overview of the authorities that govern the management of cultural resources, a brief summary of the procedures used to identify and evaluate cultural resources for this proposal, and a short discussion of the area of potential effect are discussed (FEIS Section 3.12.1).

A programmatic agreement (PA) (Project record, Volume C, Document 74) was developed to address effects to cultural resources. This agreement between the FS, Bureau of Land Management, South Dakota and Wyoming State Historic Preservation Officer and Advisory Council on Historic Preservation, and BHP was developed because the effects of the project cannot be fully determined prior to signing the RODs (36 CFR 800.14 (b) (1) (ii)). The FEIS disclosed the procedure required upon discovery of cultural resources.

Based upon the review of your objection, the EIS, and project record, I find no violation of law, regulation or policy. Your remedies and recommendations are denied.

Sincerely,

MARIBETH GUSTAFSON
Deputy Regional Forester
Reviewing Officer

cc: Craig Bobzien, Dennis Jaeger, Edward Fischer, Melissa Martin