



June 20, 2025

U.S. Department of the Interior
Office of the Solicitor
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Response to DOI Request for Information Docket No. DOI-2025-0005
Re: Reasonable Limits on Bureau of Land Management Notices to Proceed

Grid Action appreciates this opportunity to provide input on the U.S. Department of the Interior (“DOI”) Request for Information (“RFI”) in Docket No. DOI-2025-0005. Grid Action is a not-for-profit public interest advocacy organization that brings together a diverse coalition of stakeholders focused on the need to expand, integrate, and modernize the high-voltage grid in the United States.¹ Grid Action is submitting this RFI response in support of DOI’s efforts to identify regulations that can be modified or repealed “to ensure that DOI administrative actions . . . advance American energy independence.” Specifically, Grid Action submits this response to urge DOI to reform how Bureau of Land Management (“BLM”) uses Notices to Proceed (“NTP”) in granting rights-of-way (“ROW”). To address the project delays caused by NTPs, Grid Action recommends that DOI do the following:

- Require that an NTP be issued *no longer than 90 days* after BLM grants a ROW unless otherwise required by Federal law or requested by the applicant;
- Ensure that any NTP terms, conditions, and stipulations are readily capable of completion within *90 days* following NTP issuance unless otherwise required by Federal law;
- Restrict NTP terms, conditions, and stipulations to the minimum required by law; and
- Deem approved any documentation submitted in furtherance of an NTP if BLM

¹ Grid Action is supported by a diverse coalition of stakeholders focused on the need to expand, integrate, and modernize the high-capacity grid in the United States. Grid Action includes multi-state utilities and merchant transmission owners that develop, own, and operate; transmission trade groups that include transmission owners and transmission equipment manufacturers among their members; renewable energy trade groups and advocates; environmental advocacy organizations; buyers and consumers of energy; and energy policy experts. Grid Action seeks to educate the public, opinion leaders, and public officials about the needs and potential of the transmission grid. These comments do not necessarily reflect the views of individual members.

either fails to issue the NTP or fails to request additional information within 15 days of receiving the documentation.

Ideally, DOI would clarify these requirements in BLM's Federal Land Policy Management Act ROW regulations in 43 C.F.R. Part 2800. However, DOI could also immediately implement these recommendations without a regulatory change. In addition to these specific recommendations, Grid Action urges DOI, as it reviews other comments and information submitted in response to this RFI, to consider how implementation of any recommendations could impact critically needed linear infrastructure development, like transmission lines, which are necessary for American energy independence.

I. Background

To achieve greater security, reliability, affordability, and sustainability of electric power service and to facilitate the Administration's goal of unleashing American energy, we must expand the U.S. electric transmission grid.² Despite the critical need for new transmission, construction of new electric transmission lines has slowed to a trickle over the last decade, from an average of 1,700 miles of new high-voltage transmission miles installed per year in the first half of the 2010s to just 55 new miles in 2023.³

One reason for the lack of large-scale transmission expansion is that transmission projects take too long to permit. Generally, a transmission project undergoes years of studies and community engagement before even beginning the permitting process. Once the permitting process is underway, it can take years to complete, especially for large-scale transmission, where federal, state, and local permits are often required for a single transmission project. Further frustrating electric transmission development, litigation can cause additional expenses and delays.

Among the permitting challenges is the manner in which BLM uses NTPs—the very last step in the permitting process for many transmission projects. Once BLM issues a ROW grant for the use of BLM-managed land, the ROW grant holder can proceed with using the ROW subject to the ROW terms and conditions unless the ROW grant has an NTP stipulation. BLM uses NTPs when there is a requirement that has yet to be met prior to BLM issuing the ROW (e.g., approval of management plans, fulfillment of mitigation commitments, and compliance with other applicable laws and regulations). Generally, ROWs for electric transmission development contain

² See Executive Order 14154 “Unleashing American Energy” (Jan. 20, 2025); Executive Order 14156 “Declaring a National Energy Emergency” (Jan. 20, 2025) (explicitly including “the transmission of electricity” and noting that “insufficient energy production, transportation, refining, and generation . . . constitutes an unusual and extraordinary threat to our Nation’s economy, national security, and foreign policy”); DOE Secretarial Order (Feb. 5, 2025), <https://www.energy.gov/articles/secretary-wright-acts-unleash-golden-era-american-energy-dominance> (declaring that DOE “will identify and exercise all lawful authorities to strengthen the nation’s grid, including the backbone of the grid, our transmission system”).

³ Nathan Shreve, Zachary Zimmerman, & Rob Gramlich, Grid Strategies LLC, *Fewer New Miles: The U.S. Transmission Grid in the 2020s*, at 4 (July 2024), https://cleanenergygrid.org/wp-content/uploads/2024/07/GS_ACEG-Fewer-New-Miles-Report-July-2024.pdf.

an NTP stipulation. In those cases, the ROW holder cannot begin specified activities in the ROW (generally begin construction or surface-disturbing activities) until BLM issues a written NTP authorization.

II. Projects Harmed by BLM's Use of NTPs

In recent years, there are several examples of electric transmission projects being directly harmed by the unduly burdensome application of NTPs by BLM. The below examples are intended to be illustrative, and not an exhaustive list, of projects and ways in which BLM's use of NTPs can delay projects.

Boardman to Hemingway ("B2H")

B2H is a long-distance transmission project in the West that has been in the works for *19 years*. BLM issued the Record of Decision ("ROD") granting the project a ROW to cross BLM lands in November 2017. The ROD did not authorize construction until the applicant received a final NTP from BLM, including compliance with the National Historic Preservation Act ("NHPA") Programmatic Agreement.⁴ In 2024, the project was prepared to break ground when BLM decided to audit the extensive and comprehensive cultural work on the project. BLM decided to do so based on issues discovered on an unrelated solar project in Washington State. After a nine-month delay related to the audit, B2H received an NTP from BLM. The NTP contained preconditions related to approval of NHPA Section 106 documents originally submitted as far back as 2021. Since the conclusion of the audit, Idaho Power has been resubmitting and requesting the approval of these documents. In order to meet the 2027 in-service date necessary to ensure Idaho Power and PacifiCorp can meet load requirements, B2H must break ground in June 2025.

SunZia

SunZia is a transmission project that would extend approximately 500 miles between central New Mexico and central Arizona. SunZia applied for a ROW for crossing BLM lands in 2008, *17 years ago*. BLM issued the ROD granting SunZia a ROW in January 2015. The ROD included a condition that construction on the project could not begin until the project received an NTP from BLM. Further, the ROD provided that the ROW grant was subject to the terms, conditions, and stipulations in the ROD (including those set forth in the NHPA Programmatic Agreement). In 2023, eight years after issuing the ROD for the project ROW, BLM issued limited NTPs authorizing project construction, including through the San Pedro Valley. In January 2024, tribes and environmental advocacy groups ("Plaintiffs") filed a complaint alleging BLM violated

⁴ B2H, ROD, Appendix 2, at B-2 (Nov. 2017), https://eplanning.blm.gov/public_projects/nepa/68150/125239/152686/ROD_Appendix_B_Mitigation_Monitoring_Requirements.pdf.

the NHPA by issuing the limited NTPs before completing NHPA obligations. The district court granted BLM's motions to dismiss the case. Plaintiffs appealed, and the U.S. Court of Appeals for the Ninth Circuit remanded to the district court, holding there was a plausible claim that BLM violated the NHPA Programmatic Agreement.⁵ This late-stage litigation around the NHPA and limited NTPs will further delay a project needed to deliver power that is critical to meeting growing demand in the West and maintaining grid reliability.

Energy Gateway South

Energy Gateway South is a transmission project that would extend between south central Wyoming, across northwest Colorado, to a planned substation in Utah. The project applied for and received a ROW for crossing BLM lands in a 2016 ROD. *Six years* later, BLM issued an NTP for the developer to begin only *non-surface disturbing, pre-construction* work in the ROW.⁶ The NTP noted that several segments of the transmission line were excluded from the NTP. BLM has not yet issued NTP authorization needed to complete all segments of the line. Energy Gateway South is needed to meet load growth and provide increased reliability in the West.

III. Recommended Reforms to BLM Use of NTPs

BLM's use of NTP's has led to unnecessary delays for critically needed transmission projects. This harm is furthered by litigation, such as the legal battles faced by SunZia, where NTPs trigger additional opportunities for legal challenges.

Of note, the B2H and SunZia NTP issues are tied to NHPA Programmatic Agreement compliance and implementation. As project developers voluntarily negotiate and enter into Programmatic Agreements, this response letter does not provide specific recommendations for NHPA-related changes. However, Grid Action cautions that without reform to BLM's use of NTPs (including NHPA-related NTPs), project developers may be hesitant to utilize Programmatic Agreements and may elect instead to follow the standard NHPA process.

NTPs should be the final procedural step in the BLM ROW process. If implemented, the following recommendations would realign the use of NTPs with their intended, limited purpose. Subsection E, below, provides recommended regulatory language to accomplish this goal. However, BLM can, and Grid Action contends that BLM should immediately institute these recommendations even without a regulatory change.

⁵ *Tohono O'odham Nation v. U.S. Dep't of Interior*, No. 24-3659 (9th Cir. May 27, 2025).

⁶ BLM, Energy Gateway South Transmission Line NTP (May 25, 2022), https://eplanning.blm.gov/public_projects/53044/200078762/20061076/250067258/Notice%20to%20Proceed%20-%20Gateway%20South.pdf.

A. 90-Day Deadline for NTP Issuance

BLM should institute a 90-day deadline for issuing the NTP after issuing the ROW unless otherwise required by Federal law or requested by the applicant. Specifically, BLM should always issue any required NTPs within 90 days of issuing the ROD granting the ROW unless otherwise required by Federal law or requested by the applicant. This is consistent with the One Federal Decision provisions codified in the 2021 Infrastructure Investment and Jobs Act requiring that “all authorization decisions necessary for the construction of a major project shall be completed by not later than 90 days after the date of the issuance of a record of decision for the major project” with some exceptions, such as when otherwise required by Federal law or when requested by the project sponsor.⁷ Implementing this timeline will minimize unnecessary delays at the last stage of project permitting.

B. NTP Conditions Readily Capable of Completion within 90 days

BLM has authority to include certain terms, conditions, and stipulations in NTPs. To effectively accelerate project development, any terms, conditions, and stipulations in NTPs should be readily capable of completion within 90 days of BLM’s issuance of the NTP. BLM should explain how any NTP term, condition, or stipulation is readily capable of completion within this 90-day timeline.

Other requirements associated with project construction may include mitigation and monitoring that extend beyond this 90-day period. For example, an Endangered Species Act Incidental Take Statement may include conditions for re-initiation of consultation. Additionally, NHPA compliance may include ongoing monitoring of historic properties and cultural resources. Consistent with applicable law, BLM should limit these separate long-term conditions to only those that are legally required.

C. NTP Terms Must be Limited to the Minimum Required by Law

Vague, open-ended, and overly onerous terms, conditions, and stipulations should not be included in BLM’s NTPs. Where such provisions are included, the NTP can act as a final “gotcha” in a multi-year permitting process, increasing the cost of transmission development and, in turn, the cost to consumers that urgently need the power to be delivered via the line. NTP terms, conditions, and stipulations should be reasonable and limited to the minimum required by law to ensure BLM fulfills its statutory land-management duties under the Federal Lands Management Act and consistent with other applicable Federal laws.

⁷ Pub. L. 117-58 § 11301(a) (2021). Note, similar language was included in President Trump’s One Federal Decision Executive Order 13807 (2017), later rescinded during the Biden Administration.

D. Information Deemed Sufficient if No BLM Response Within 15 Days

If after an applicant submits documentation in furtherance of an NTP BLM either does not issue the NTP or does not request additional information, then the documentation shall be deemed sufficient and the NTP deemed issued. This will minimize unnecessary processing delays and facilitate construction of critical projects.

E. Proposed Regulatory Amendment

To accomplish the recommendations above, Grid Action recommends that BLM amend its existing regulation in 43 C.F.R. § 2807.10 with the below language.⁸ Underlining indicates proposed new language.

- 1) When you can start depends on the terms of your grant. You can start activities when you receive the grant you and BLM signed, unless the grant includes a requirement for BLM to provide a written Notice to Proceed. If your grant contains a Notice to Proceed requirement, you may not initiate construction, operation, maintenance, or termination until BLM issues you a Notice to Proceed.
- 2) BLM shall issue any needed Notice to Proceed within ninety (90) days of granting the right-of-way unless a longer timeframe is required by Federal law or requested by the applicant.
- 3) BLM shall limit any terms, conditions, or stipulations contained in the Notice to Proceed to those that are minimally necessary to ensure compliance with applicable Federal laws. Such terms, conditions, or stipulations shall be capable of implementation within ninety (90) calendar days from the date of Notice to Proceed issuance, except where a longer timeframe is specifically required by Federal law. The Notice to Proceed shall include a written justification demonstrating that the prescribed terms, conditions, and stipulations are reasonable and achievable within the specified ninety (90) day implementation period or why a longer timeframe is required by law.
- 4) If within fifteen (15) days of receiving documentation to support issuance of a Notice to Proceed, BLM either does not request additional required information or issue the Notice to Proceed, the documentation shall be deemed sufficient and the Notice to Proceed shall be deemed issued.

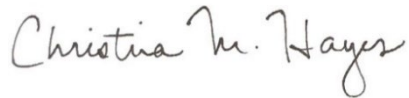
IV. Conclusion

Grid Action strongly supports DOI's efforts to eliminate unduly burdensome regulations and streamline permitting processes that delay critical infrastructure development. Electric

⁸ If BLM or other DOI bureaus identify other NTP-related regulations or policies, BLM/DOI should align those regulations or policies with the recommendations outlined in this letter.

transmission infrastructure is fundamental to achieving America's energy independence. NTPs must serve as the final procedural milestone—not an additional barrier—in BLM's ROW approval process. We look forward to continuing to collaborate with DOI to further our shared goal of constructing critical infrastructure.

Thank you,

A handwritten signature in dark ink that reads "Christina M. Hayes". The script is cursive and fluid.

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