Chapter 5 Consultation, Permit and Review Requirements

In this Chapter:

- **Laws and procedures to follow**
- **Consultations**

Several federal laws and administrative procedures must be met by the alternatives. This chapter lists and briefly describes requirements that would apply to elements of this project, actions taken to assure compliance with these requirements, and the status of consultations or permit applications. This Draft EIS is being sent to tribes, federal agencies, and state and local governments as part of the consultation process for this project.

5.1 National Environmental Policy Act

This Draft EIS was prepared according to NEPA (42 USC 4321 et seq.). NEPA is a national law for protection of the environment. NEPA applies to all federal projects or projects that require federal involvement. BPA would take into account potential environmental consequences and would take action to protect, restore, and enhance the environment.

5.2 Endangered and Threatened Species

The Endangered Species Act (16 USC 1536) provides for conserving endangered and threatened species of fish, wildlife and plants. Federal agencies must determine whether proposed actions would adversely affect any endangered or threatened species. When conducting an environmental impact analysis for specific projects, agencies must identify practicable alternatives to conserve or enhance such species.

BPA received letters from the USFWS (U.S. Department of the Interior, Fish and Wildlife Service, May 30, 1996, November 14, 1997, and January 21, 1998) that listed the endangered and threatened species that could be affected by the project. A Biological Assessment was sent to the USFWS in Cheyenne, Wyoming and Pocatello, Idaho. Both offices concurred with BPA's determinations of not likely to adversely affect endangered and threatened species. The Wyoming office did notify BPA that since BPA's species list request and the Biological Assessment, the USFWS identified the Canada lynx as a candidate. BPA has surveyed the project area for the Canada lynx and has found no evidence of their presence in the project area.

Possible impacts of the alternatives to federal threatened or endangered species are discussed in this section and in Chapter 4. Detailed discussions of Federal Candidate species, U.S. Forest Service Sensitive Species, and other special status species are included in Appendix F, **Swan Valley-Teton Line Right-of-Way Threatened, Endangered and Sensitive Plant Species Survey and Noxious Weed Survey**, Appendix G, **Wildlife Report**, and Appendix H, **Biological Assessment**.

Animals – The USFWS lists two species, the bald eagle and the peregrine falcon, as potentially occurring within the project area.

ESA regulations require that a Biological Assessment be prepared to identify any threatened or endangered species that are likely to be impacted by a federal action. A Biological Assessment was prepared between the draft and final EIS (see Appendix H). The Biological Assessment also describes potential impacts to candidate species.

The only potential impact to the bald eagle or peregrine falcon may be an incremental increase in collision risk with transmission lines in the Swan Valley and Jackson areas. However, bald eagle mortality has not been reported from any existing transmission lines in the project area. Similarly, most peregrine falcons use habitat along the Snake River that is outside the project area, which creates a low level of collision risk.

No significant habitat loss for nesting and wintering bald eagles would occur. Habitat loss would also be insignificant for the peregrine falcon because no major use area would be affected. Wintering bald eagles may be temporarily disturbed by construction if it occurs during winter, which is highly unlikely.

Other species listed under the Act that may occur in the project area (grizzly bear, and gray wolf) are not present in significant numbers, causing no or minimal impacts. The whooping crane is no longer found in the area.

Potential impacts to all these species are discussed in Section 4.9.2.1 and in Appendices G and H.

Plants – Ute Ladies'-tresses is listed threatened by the USFWS and could potentially occur in the project area. A focused survey during the summer of 1997 did not locate any plant species, however potential habitat exists. The plant is known to occur along creeks and wetlands and is also known for having prolonged periods of dormancy. Though no plant species were found, a botanist will resurvey the areas of potential habitat during the appropriate time of year in 1998.

For detailed information about this plant see Appendix H, **Biological Assessment**. For information on impacts, see Section 4.9.2.1, **Impacts**, in Chapter 4. (See also Section 3.9.5, **Special Status Plants**).

5.3 Fish and Wildlife Conservation

The Fish and Wildlife Conservation Act of 1980 (16 USC 2901 et seq.) encourages federal agencies to conserve and promote conservation of non-game fish and wildlife species and their habitats. In addition, the Fish and Wildlife Coordination Act (16 USC 661 et seq.) requires federal agencies undertaking projects affecting water resources to consult with the USFWS and the state agency responsible for fish and wildlife resources.

Mitigation designed to conserve wildlife and their habitat is provided in Chapter 4 (see Sections 4.6.2.2. and 4.9.2.2, **Mitigation**). Standard erosion control measures would be used during construction to control sediment movement into streams, protecting water quality and fish habitat.

5.4 Heritage Conservation

Congress passed many federal laws to protect the nation's cultural resources. These include the National Historic Preservation Act, the Archeological Resources Protections Act, the American Indian Religious Freedom Act, the National Landmarks Program, and the World Heritage List. Preserving cultural resources allows Americans to have an understanding and appreciation of their origins and history. A cultural resource is an object, structure, building, site or district that provides irreplaceable evidence of natural or human history of national, state or local significance. A cultural resource can also include traditions, beliefs, practices, lifeways, arts, crafts, and social institutions of any community, often referred to as traditional cultural property. Cultural resources include traditional cultural property, National Landmarks, archeological sites, and properties listed (or eligible for listing) on the National Register of Historic Places.

Reminder

A traditional cultural property is defined generally as one that is eligible for inclusion in the NRHP because of its association with cultural practices or beliefs (e.g., traditions, beliefs, practices, lifeways, arts, crafts, and social institutions) of a living community that are rooted in that community's history, and are important in maintaining the continuing cultural identity of the community.

Construction, and operation and maintenance of the Agency Proposed Action, the Single-Circuit Line Alternative, and the Short Line Alternative could potentially affect cultural resources. A literature review of the project area was done to determine the prehistory and history of the area and the probability of finding cultural resources that may be affected by the project. A cultural survey of the existing and proposed ROW and access road system was completed during 1997 to determine if any cultural resources are present and would be impacted. A survey of the proposed

staging areas was completed in 1998. Two historic and no prehistoric sites were found during the surveys. The sites are described in Section 3.12, **Cultural Resources**.

The two historic sites are eligible for the NRHP. BPA has made a determination of no adverse effect as portions of these sites could be affected by construction but the effect would not be harmful. BPA has coordinated this determination with the Wyoming and Idaho SHPO and the Advisory Council on Historic Preservation. Mitigation in the form of recordation is proposed. BPA would work with the USFS and the SHPO's on mitigation. Mitigation would be done before construction.

The Wind River (Eastern) Shoshone identified a concern that a new transmission line would have the potential to affect traditional cultural property in the Teton Pass area. Consultation with the Tribe did not identify traditional cultural property in or near the existing ROW. The Tribe did express that they would prefer BPA to stay within the existing ROW at Teton Pass. This would be done under the Agency Proposed Action.

If, during construction, previously unidentified cultural resources that would be affected by the proposed project are found, BPA would follow all required procedures set forth in the following regulations, laws, and guidelines: Section 106 (36 CFR Part 800) of the National Historic Preservation Act of 1969, as amended (16 USC Section 470); the National Environmental Policy Act of 1969 (42 USC Sections 4321-4327); the American Indian Religious Freedom Act of 1978 (PL 95-341); the Archaeological Resources Protection Act of 1979 (16 USC 470a-470m); and the Native American Graves Protection and Repatriation Act of 1990 (PL 101-601).

5.5 Federal, State, Areawide, and Local Plan and Program Consistency

No conflicts with state, areawide or local land use plans or programs are anticipated. BPA would work with agency planners to minimize conflicts between proposed activities and the land use plans of Bonneville County, Idaho, Teton County, Idaho, and Teton County, Wyoming. More details on consistency with these plans are given in Appendix K, **Local Plan Consistency**.

For Your Information

NFMA *passed in 1976 as amendments to the Forest and Rangeland Renewable Resources Planning Act and requires the preparation of regional and forest plans and the preparation of regulations to guide that development.*

Both the Targhee and Bridger-Teton National Forests have adopted forest plans. These forest plans were developed in accordance with the National Forest Management Act (***NFMA***) of 1976. Forest plans are intended to guide all natural resource management activities within the forests and establish management standards as well as the suitability of lands for resource development. Forest plans are valid until revised, and typically commit forest managers to a course of action no longer

than 15 years. The forest plans take state and local regulations into consideration as well as federal law so as to avoid, or at least to minimize, potential conflicts with other agencies and plans.

Reminder

*A **management prescription** defines management practices selected and scheduled for application on a specific area to attain multiple use and other goals and objectives.*

For Your Information

In Tables 5-1 and 5-2, BPA only lists prescription information that would apply to the construction, operation and maintenance of a transmission line and access roads.

Targhee National Forest — All transmission line alternatives cross land managed by the Targhee National Forest. The Targhee National Forest has just finished updating its Land and Resource Management Plan. The existing ROW is within ***management prescription*** 8.1, Concentrated Development Areas. This prescription allows for concentrated utility development. Access roads fall within 8.1 and other prescription areas adjacent to 8.1. Table 5-1 lists the Standards and Guidelines, Goals, and Objectives for these management prescriptions. Table 5.1 also includes the actions BPA would take to be consistent with the management direction of each prescription. See Map 11, **Management Prescriptions for the Targhee and Bridger-Teton National Forests,** for the location of each prescription area.

In addition to the management prescriptions, the Revised Targhee Land and Resource Management Plan provides management direction at two additional levels: forestwide and subsection. The existing and new ROW pass through the Teton Range and Big Hole Mountains Subsections. BPA would be consistent with the applicable forestwide goals and objectives, and standards and guidelines for all the alternatives. BPA would also be consistent with the applicable desired future conditions, goals and objectives, and standards and guidelines of the subsections. For the construction line alternatives, BPA may not be able to meet the standards for the goshawk, great gray owl, flammulated owl, and boreal owl in Prescription Area 8.1. If one of these alternatives is chosen, the Revised Forest Plan could be amended so the chosen alternative is exempt from meeting the goshawk habitat, flammulated owl habitat, boreal owl habitat #1, and great gray owl habitat #1 standards.

This information would be helpful when looking at Tables 5-1 and 5-2:

- ***Preservation** is defined as an area where no modifications to visual resources with the exception of natural occurrences is allowed.*
- ***Retention** is defined as an area where management activities are allowed but should not be seen.*
- ***Partial Retention** is defined as an area where management activities can be apparent but not dominant.*
- ***Modification** applies to less visually-sensitive areas where changes can dominate the natural landscape but should look natural from a long distance.*
- *Map 10 shows ROS designations*
- *Map 11 shows Management Prescriptions on each forest.*
- *Map 12 shows the USFS Visual Quality Objectives for each forest.*

Bridger-Teton National Forest — All transmission line alternatives would cross Management Area 41, Jackson Hole South, and the Palisades Wilderness Study Area. Table 5-2 lists the forestwide Goals and Objectives, Standards and Guidelines, and the prescriptions for Jackson Hole South and the Palisades Wilderness Study Area that would apply to the alternatives. BPA would be consistent with the forestwide Goals and Objectives, Standards and Guidelines, and the prescriptions for Jackson Hole South and the Palisades Wilderness Study. Map 11 shows the location of the prescriptions. Table 5-2 also describes the actions BPA would take to meet Forest Service requirements.

5.6 Farmland Protection

The Farmland Protection Policy Act (7 USC 4201 et seq.) directs federal agencies to identify and quantify adverse impacts of federal programs on farmlands. The Act's purpose is to minimize the number of federal programs that contribute to the unnecessary and irreversible conversion of agricultural land to non-agricultural uses.

The location and extent of prime and other important farmlands designated by the Natural Resource Conservation Service (***NRCS***), formerly the Soil Conservation Service, were obtained from NRCS soil survey information. The Agency Proposed Action, the Single-Circuit Line Alternative, and the Short Line Alternative would locate transmission facilities on soils designated by the NRCS as farmland of statewide importance. About 0.04-0.12 hectare (0.1-0.3 acre) would be permanently affected by construction of the Agency Proposed Action and the Single-Circuit Line Alternative. About 1-2 hectares (3-5 acres) would be affected if the Short Line Alternative is built and the switching station site of the ROW is chosen. Evaluation of the project area according to criteria set forth in the Act indicates the alternatives would have minimum impact on area farmlands since:

- Except for the immediate area surrounding structures, no additional nonfarmland would be created due to interference with existing land patterns.
- Agricultural operations within the corridor are currently affected by the existing line but no additional farmland that is currently unaffected (i.e., adjacent to or near the existing line) would be impacted or converted to non-agricultural uses because of the proposal.
- No existing substantial and well maintained on-farm investments would be affected.
- The alternatives would not cause the agricultural use of adjacent farmlands to change, nor jeopardize the continued existence of area farm support services.

5.7 Recreation Resources

The northeastern Idaho and western Wyoming area is scenic and boasts several national parks, designated wilderness areas, a national monument, a wildlife refuge, and a wild and scenic river. The existing ROW does not cross any of these areas of national environmental concern, but it does cross a wilderness study area on the Bridger-Teton National Forest. BPA would not impact or change the character of the wilderness study area and would not compromise the ability of the study area to become a wilderness area in the future. Most of the existing transmission line is on national forest. The portions of line outside of national forest are on private property and have few or no regulations governing recreation use.

The USFS developed the Recreation Opportunity Spectrum to provide direction for land management and recreation planning within national forests. The existing ROW crosses five ROS designations: Rural, Roaded Natural Appearing, Semi-Primitive Motorized, Semi-Primitive Nonmotorized, and Primitive (see Map 10). Construction, operation, and maintenance of the Agency Proposed Action, the Single-Circuit Line Alternative, or the Short Line Alternative, are not expected to cause conflicts or changes to ROS designations. Impacts to ROS designations are also described in Section 4.3, **Recreation Resources**.

Pine Creek and its perennial tributaries from 100 yards downstream of the existing transmission line crossing near Pine Basin Lodge to the confluence with the South Fork Snake River are designated “natural” rivers (Idaho Water Resource Board, 1996). Pine Creek from the headwaters to 100 yards downstream of the existing transmission line crossing near Pine Basin Lodge and some of its perennial tributaries (Tie Canyon, Poison Creek, West Pine Creek and Mike Spencer Canyon) are also designated “recreational” rivers (Idaho Water Resource Board, 1996). A recreational or natural river is defined as a “waterway which possesses outstanding fish and wildlife, recreation, geologic or aesthetic values” (Idaho Code 42-1731[7] and [9]). These designations do not restrict or interfere with expansion or maintenance of existing uses including activities necessary to maintain and improve existing utilities and roadways (Idaho Water Resource Board, 1996.) Federal agencies are encouraged to manage lands to compliment these designations.

State Route 31 and part of State Route 33 are Idaho Scenic Byways. The existing line is visible from these roads in many locations, mostly in the middleground and background of most views, not as a dominant feature. Portions of the new ROW are expected to become somewhat more visible to tourists traveling

through the area. However, the new line is not expected to become the dominant feature in the landscape, nor is it expected to change the perception of tourists that this is a highly scenic area.

5.8 Floodplain/Wetlands Assessment

In accordance with Department of Energy regulations on compliance with Floodplains/Wetlands environmental review requirements (10 CFR 1022.12), and Executive Orders 11988 and 11990, BPA has prepared the following assessment of the impacts of the alternatives on floodplains and wetlands. BPA published a notice of floodplain/wetlands involvement for this project in the Federal Register on November 6, 1996.

5.8.1 Project Description

The need and purpose of the project are described in Chapter 1. Map 7 shows locations of floodplains and wetlands with respect to the Agency Proposed Action and other alternatives. The locations of the 100-year floodplains were determined from Flood Insurance Rate Maps published by the Federal Emergency Management Agency, U.S. Department of Housing and Urban Development.

Wetlands that would be affected by the alternatives were identified by three methods: Wetland Inventory Maps prepared by the USFWS for Idaho and Wyoming; aerial photo interpretation; and field inspections.

5.8.2 Floodplain/Wetland Effects

Floodplain impacts are discussed in Section 4.7. Based on preliminary engineering design of the alternatives, all floodplains would be spanned by the new line, avoiding placement of structures in floodplains. Where improvements need to be made on existing access roads through floodplains, such as construction of new bridges, soil and vegetation would be disturbed. Impacts to wetlands/floodplains would be moderate, but BPA would implement measures to reduce or avoid impacts.

Upgrading existing access roads in floodplains would not significantly increase the risk of flooding or flood damage. The fords and bridges that would be replaced would not be vulnerable to damage by floodwaters because they would be designed to withstand flooding. Displacement of floodwaters by bridges would be negligible; bridges are not expected to alter the floodplain storage volume or to cause a local increase in the flood stage. Fill for bridges would be limited to the amount necessary for construction.

Wetlands that would be crossed by the alternatives are discussed in Section 4.7. Riparian wetlands associated with Pine Creek, Trail Creek (Idaho), and Fish Creek would be spanned. Wet meadows found in mountainous regions would also be spanned. New bridges are needed to cross Pine Creek, Tie Creek, and Little Pine Creek. All of these creeks have riparian associated wetlands. Disturbance to the wetlands would include approximately 348 m^2 (3,750 ft^2) with about 382 m^3 (500 yds^3) of fill for each abutment. Impacts to wetlands would be long term. Direct impacts include placement of fill within wetlands from concrete abutments and crushed rock on the bridge approaches, as well as soil compaction and vegetation removal from vehicle disturbance. Temporary bridges and/or culverts would be needed to cross Phillips and Lake creeks. Impacts would be similar because fill would be placed in wetlands from concrete for the bridge abutments or crushed rock to backfill around the culvert. Construction, operation, and maintenance of the alternatives are not expected to affect the long-term survival, quality, or natural and beneficial values of the wetlands involved. Activities in wetlands would be coordinated with the Corps of Engineers (Idaho and Wyoming offices) and Idaho and Wyoming state regulatory agencies. The appropriate permits would be acquired.

5.8.3 Alternatives

Under Executive Orders 11988 and 11990, developments on floodplains and in wetlands are discouraged whenever there is a practical alternative.

The Short Line Alternative would require building a line half the distance of the Agency Proposed Action and the Single-Circuit Line Alternative. Only a temporary bridge and/or culverts would be needed to cross Phillips and Lake Creeks. Less road construction would occur too. The Agency Proposed Action includes using double-circuit structures on the valley floor into Teton Substation. This would allow longer spans, which would enable wetlands and floodplains to be spanned. The Single-Circuit alternative would require more structures in that area, possibly requiring placement of one or two structures in a wetland or floodplain.

The SVC Alternative would require construction at Teton Substation or Jackson Substation. Teton Substation has wetlands nearby but any construction would be within the previously-disturbed substation yard and parking area within the property boundary, and would not impact these wetlands. Jackson Substation is not on or near wetlands and no wetlands would be impacted. The No Action Alternative is discussed in more detail along with the other alternatives in Chapter 2.

5.8.4 Mitigation

Mitigation for site-specific impacts is discussed in Section 4.7.2.3. BPA would minimize, to the extent possible, siting structures and new access roads in wetlands or floodplains and would minimize to the extent possible the access road improvements through wetlands and floodplains. BPA would field survey all access roads and existing and new ROW for wetlands to ensure full compliance with the Clean Water Act. BPA would also work with the appropriate agencies to mitigate fully any actions that would alter the function of a wetland.

For Your Information

The Executive Order on Environmental Justice (Executive Order 12898) was enacted in February 1994 to ensure that federal agencies do not unfairly inflict environmental harm on economically disadvantaged and minority groups within the United States or any of its territories.

5.9 Executive Order on Environmental Justice

The socioeconomic analysis contained in this EIS determined that the alternatives would not adversely affect any minority or economically disadvantaged groups in the project area because they do not reside in the project area in large numbers, and are less than 5 percent of the population (see Section 3.13.1). The alternatives would be located on either agricultural lands or on lands managed by the USFS. For these reasons, the alternatives would not violate the intent of the Executive Order on Environmental Justice.

5.10 Global Warming

Gases contributing to global warming are called greenhouse gases. Greenhouse gases include: water, carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), ground level ozone (and the pollutants which generate ground level ozone), and stratospheric ozone depleting substances such as chlorofluorocarbons and carbon tetrafluoride. CO_2 is the most common greenhouse gas in the atmosphere. Greenhouse gases warm the atmosphere by absorbing infrared radiation given off by the earth, preventing heat loss to outer space.

Clearing timber releases CO_2 to the atmosphere and eliminates CO_2-collecting trees. If the Agency Proposed Action is chosen, BPA would clear about 31 hectares (77 acres) of forested land. If the Single-Circuit Line Alternative is chosen, BPA would clear about 73 hectares (181 acres) of forest land. About half that amount would be cleared for the Short Line Alternative. The exact amount to be cleared depends on the alternative chosen, the number of trees removed and the exact location of new access roads.

BPA would minimize carbon releases to the atmosphere by selling all marketable timber from clearing operations so that it could be used for building materials. The amount of carbon going into long-term storage as building material, and not into the atmosphere, averages about 40 percent of the tree's total carbon (Harmon, et al., 1990). This 40 percent accounts for carbon contained in wood waste generated during milling. Wood wastes are either burned in boilers or used for paper products. In either case, carbon contained in this waste is assumed to be released to the atmosphere fairly rapidly.

The remaining 60 percent of the trees' total carbon is nonmarketable material (limbs, brush, roots and other residue). It would be burned or lopped and scattered on the ROW to degrade. Burning slash is not BPA's preferred method for disposing of slash.

If residues are lopped and scattered, rather than burned, they would gradually degrade, releasing carbon to the atmosphere over approximately 100 years (U.S. Environmental Protection Agency, 1994). Additionally, over the course of 100 years, about half the carbon in the residue would be reabsorbed by new growth (U.S. Environmental Protection Agency, 1994). The Agency Proposed Action would release about 15.7 metric tons (17.3 tons) of carbon (as CO_2) annually over the next 100 years which is approximately equal to the annual CO_2 emissions of 3-4 cars. The Single-Circuit Line Alternative would release between 27-36 metric tons (30-40 tons) of carbon (as CO_2) annually over the next 100 years which is approximately equal to the annual CO_2 emissions of 6-8 cars. The Short Line Alternative is assumed to be about half that amount. Carbon emissions from the alternatives would have low to no impact if residues are lopped and scattered.

For Your Information

CO_2 emissions assume the average car is driven 10,000 miles/year, emits 5 tons of CO_2 per year, gets 20 miles per gallon and there are 20 lbs. CO_2 /gallon gas (Brook, 1990).

Burning would be discouraged and is not a common BPA practice. If material must be burned, burning residue would emit particulate matter, CO, CO_2 and semivolatile and volatile organic compounds. For the Agency Proposed Action, this would cause a one-time, short-term release of approximately 3,100 metric tons (3,500 tons) of carbon to the atmosphere and is about equal to the annual CO_2 emissions of approximately 700 cars, or 7000 head of range cattle. For the Single-Circuit Line Alternative, this would cause a one-time, short-term release of 5000-7000 metric tons (6000-8000 tons) of carbon to the atmosphere and is about equal to the annual CO_2 emissions of 1200-1600 cars, or 12,000-16,000 head of range cattle. This would be partially mitigated by regrowth of low-growing vegetation on the ROW. Regrowth would absorb between 0.55-5.5 metric tons/hectare (0.5-5 tons/acre) annually (Trexler, 1993), mitigating between 35-340 metric tons/year (39-385 tons/year) for the Agency Proposed Action and between 60-800 metric tons/year (60-925 tons/year) for the Single-Circuit Line Alternative (half that amount for the Short Line Alternative).

Range cattle emit about 119 lbs. of methane/year (Kerstetter, 1993), which is equivalent to over half a ton of CO_2 per head.

It would take over 170,000 projects such as the Agency Proposed Action and 300,000 projects such as the Single-Circuit Line Alternative (half that amount for the Short Line Alternative) to raise the atmospheric concentration of CO_2 1 part per million (U.S. EPA, 1994). Even the worst alternative, burning residues, would have low to no impact on global warming.

5.11 Coastal Zone Management Consistency

Because the project area is in northeastern Idaho and western Wyoming, it does not fall within or come near a coastal zone as defined by the Coastal Zone Management Act (U.S.C. 1951, et. seq.). Since the alternatives do not affect a coastal zone, a determination of consistency or of no effect is not required.

5.12 Energy Conservation at Federal Facilities

The proposed changes at Teton or Jackson substations for the SVC Alternative would require adding a new control house. The building design would meet federal energy conservation design standards as they apply to existing structures.

5.13 Pollution Control at Federal Facilities

Several pollution control acts apply to this project:

Resource Conservation and Recovery Act (*RCRA*) – The Resource Conservation and Recovery Act, as amended, is designed to provide a program for managing and controlling hazardous waste by imposing requirements on generators and transporters of this waste, and on owners and operators of treatment, storage, and disposal (***TSD)*** facilities. Each TSD facility owner or operator is required to have a permit issued by EPA or the state. Typical construction and maintenance activities in BPA's experience have generated small amounts of these hazardous wastes: solvents, pesticides, paint products, motor and lubricating oils, and cleaners. Small amounts of hazardous wastes may be generated by the project. These materials would be disposed of according to state law and RCRA.

Toxic Substances Control Act – This Act is intended to protect human health and the environment from toxic chemicals. Section 6 of the Act regulates the use, storage, and disposal of PCBs.

BPA adopted guidelines to ensure that PCBs are not introduced into the environment. Equipment proposed in any of the alternatives would not contain PCBs. Any equipment removed that may have PCBs would be handled according to the disposal provisions of this Act.

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) – This Act registers and regulates pesticides. BPA uses herbicides only under controlled circumstances. Herbicides are used on transmission line rights-of-way and in substation yards to control vegetation, including noxious weeds.

When BPA uses herbicides, the date, dose, and chemical used is recorded and reported to state government officials. Herbicide containers are disposed of according to RCRA standards.

5.14 Noise Control Act

The Federal Noise Control Act of 1972 (42 U.S.C. 4903) requires that federal entities, such as BPA, comply with state and local noise requirements.

Neither Idaho nor Wyoming have noise regulations. However, the Town of Jackson and Teton County, Wyoming have noise regulations limiting noise in certain zoning districts to 55 dBa at the emitting property boundary line.

A new transmission line (the Agency Proposed Action, the Single-Circuit Line Alternative, or the Short Line Alternative) in Teton County would not increase the ambient audible noise level along the transmission line route or in the substation.

The SVC Alternative would create an additional noise source and additional noise depending on background noise and equipment operation. The SVC would be designed so that the maximum noise level would be at 55 dBa at the emitting property line, and would meet the Town of Jackson and Teton County noise standards.

5.15 Emission Permits under the Clean Air Act

The Federal Clean Air Act as revised in 1990 (PL 101-542, 42 USC 7401) requires the EPA and states to carry out programs intended to assure attainment of the National Ambient Air Quality Standards. In Idaho, EPA has delegated authority to the Idaho Department of Health and Welfare, Division of Environmental Quality. In Wyoming, EPA has delegated authority to the Department of Environmental Quality.

Section 160 of the Clean Air Act requires the protection, preservation or enhancement of air quality in national parks, wilderness areas and monuments. The 1977 Clean Air Act amendments called for a list of existing areas to be protected under section 160. These are called Class I (one) areas (40 CFR 81 Subpart D). Several Class I areas are located near the project area (see Section 3.14, **Air Quality**). Rubbish from clearing activities that may be burned should not negatively affect the long-term air quality in nearby Class I areas.

If material is burned, contractor's performing the work would apply for permits from one or all of these agencies: the Department of Environmental Quality in Wyoming and the Bureau of Land Management or the Palisades Ranger District in the Targhee National Forest in Idaho.

General Conformity Rule — 40 CFR Part 51, subpart W, 40 CFR Part 93 subpart B, and 40 CFR section 6.303 assures that federal actions do not interfere with state programs to improve air quality in nonattainment areas. Because none of the alternatives are within a nonattainment area, they are not subject to General Conformity Requirements.

5.16 Discharge Permits under the Clean Water Act

The Clean Water Act (CWA) regulates discharges into waters of the United States.

Section 401 — Section 401 of the Clean Water Act, the State Water Quality Certification program, requires that states certify compliance of federal permits and licenses with state water quality requirements. A federal permit to conduct an activity that results in discharges into waters of the United States, including wetlands, is issued only after the affected state certifies that existing water quality standards would not be violated if the permit were issued. The Idaho Department of Health and Welfare, Division of Environmental Quality and Wyoming Department of Environmental Quality, Water Quality Division would review permits for compliance with state water quality standards.

Section 402 — This section authorizes storm water discharges associated with industrial activities under the National Pollutant Discharge Elimination System (***NPDES***). For Idaho and Wyoming, the EPA has a general permit authorizing federal facilities to discharge storm water from construction activities disturbing land of 2 or more hectares (5 or more acres) into waters of the U.S., in accordance with various set conditions. BPA would comply with the appropriate conditions for this project, such as issuing a Notice of Intent to obtain coverage under the EPA general permit and prepare a Storm Water Pollution Prevention (SWPP) plan.

The SWPP plan helps ensure that erosion control measures would be implemented and maintained during construction. The SWPP plan would address best management practices for stabilization, stormwater management, and other controls (see Section 4.6.2.2, **Mitigation**).

Section 404 — Authorization from the U.S. Army Corps of Engineers is required in accordance with the provisions of Section 404 of the CWA when there is a discharge of dredged or fill

material into waters of the U.S., including wetlands. This includes excavation activities that result in the discharge of dredged material that could destroy or degrade waters of the U.S.

Waters of the U.S. (including wetlands) could potentially be impacted in the states of Wyoming and Idaho by access road upgrades and construction. Field surveys would be conducted for the presence of wetlands to ensure full compliance with the CWA. Once all impacts to waters of the U.S. (including wetlands) are fully identified, authorization would be sought from the Corps and the appropriate state agencies in Idaho and Wyoming. (See Section 5.8, **Floodplains/Wetlands Assessment**, for more information.)

5.17 Underground Injection Permits under the Safe Drinking Water Act

The Safe Drinking Water Act (42 U.S.C. sec 300f et. seq.) is designed to protect the quality of public drinking water and its sources. BPA would comply with state and local public drinking water regulations. None of the alternatives would affect any ***sole-source aquifers*** or other critical aquifers or adversely affect any surface water supplies.

5.18 Permits from the Army Corps of Engineers

The U.S. Army Corps of Engineers administers several permit programs, of which Section 404 of the Clean Water Act would apply. Section 404 is described in Section 5.16.

The Corps' authorization is also required under Section 10 of the Rivers and Harbors Act for work or placement of structures below the ordinary high water mark of, or affecting, navigable waters of the U.S. None of the alternatives cross navigable waters in Idaho or Wyoming, so authorization would not be required.

5.19 Special Use Permit for Transmission Lines Across Federal Lands

The Agency Proposed Action, the Single-Circuit Line Alternative, and the Short Line Alternative would cross federally-managed lands requiring the approval of the agency administering the lands. The USFS is a cooperating agency on this EIS and manages 84 percent of the land crossed by the existing ROW. BPA is working with USFS representatives to gain their approval for building a transmission line across the national forest. If any of these alternatives are chosen by BPA and the USFS, the USFS would issue a Special Use Permit.

5.20 Notice to the Federal Aviation Administration

As part of transmission line design, BPA seeks to comply with Federal Aviation Administration (***FAA***) procedures. Final locations of structures, structure types, and structure heights are submitted to FAA for the project. The information includes identifying structures taller than 60 m (200 ft.) above ground, and listing all structures within prescribed distances of airports listed in the FAA airport directory. BPA also assists the FAA in field review of the project by identifying structure locations. The FAA then conducts its own study of the project, and makes recommendations to BPA for airway marking and lighting. General BPA policy is to follow FAA recommendations.