

CHAPTER 6

CONSULTATION AND COORDINATION

6.1 INTRODUCTION

The consultation and coordination described in this section began before the initiation of this Environmental Impact Statement (EIS) process. The Major Facility Siting Act (MFSA) requires public meetings as part of the pre-National Environmental Policy Act of 1969 (NEPA) and Montana Environmental Policy Act (MEPA) process. To help ensure consistency in outreach for the entire project area, these pre-NEPA efforts, while not required, were also undertaken in Idaho.

6.2 PRE-NEPA/MEPA OUTREACH

MFSA Sections 3.3(2) and 3.7(6) a–d state that public attitudes and concerns will be assessed with regard to potential project-specific impacts; these sections also outline more specific requirements regarding this assessment. A detailed public and agency scoping summary report with exhibits is in the MFSA application (Volume IC, Appendix G) (NorthWestern 2008a). The sections below summarize the more detailed content.

NorthWestern conducted an outreach and communication effort in 2007 and 2008. Activities included:

- Meetings held with federal, state, and local agencies; elected officials; and other stakeholders
- Informal open houses allowing members of the public to meet with project team members one-on-one to discuss current project information
- Posting project information on the Internet at www.msti500kv.com
- Issuing press releases and legal notices
- Mailing a newsletter to individuals and other parties having an interest in the project

One of the initial tasks of the scoping process was NorthWestern's mailing of scoping letters to federal, state, and local agencies and elected officials in Montana in June and July 2007. Recipients included state and regional offices of the following:

- Bureau of Land Management (BLM)
- U.S. Department of Agriculture (USDA) Forest Service (USFS)
- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service (USFWS)
- U.S. Department of Energy (DOE)
- Federal Highway Administration
- Bureau of Indian Affairs
- Montana Governor's Office and Congressional delegation
- Montana Department of Natural Resources and Conservation (MDNRC)
- Montana Fish, Wildlife and Parks (MFWP)
- Montana Department of Commerce

Recipients also included officials of all potentially affected counties in Montana.

6.2.1 Public Open Houses (Pre-NEPA/MEPA)

Public open houses were held in six Montana cities (Whitehall, Townsend, Ennis, Dillon, Anaconda, and Butte) in 2007 and 2008. A total of 141 people attended the meetings. Attendance lists are in Volume IC, Appendix G, of the MFSA application. The open house format was used at these meetings. The open houses were announced in legal notices published in local newspapers and in additional advertisements in the same newspapers. Meeting places and dates were also posted on the project Web site. For each open house, informational materials (such as a project fact sheet) were developed for use as handouts, for conducting media briefings, and for advertising.

The meetings were arranged in a walk-through presentation with stations located throughout the viewing corridor. Each station included presentation board(s) and provided attendees opportunities to give verbal comments, which were written on a flip chart by a team member. Comments could also be written on comment forms turned in at the meeting or mailed later. In addition, an interactive geographic information system (GIS) was used so that attendees could view detailed maps or aerial photographs to determine locations of alternative routes in relation to locations of specific features or parcels of concern. Verbal comments could then be incorporated into the GIS and referenced to a specific location on the project map.

6.2.2 Elected Official Briefings

Elected official (usually County Commission) briefings were held in each Montana county crossed by one or more alternative routes (Table 6-1). Briefings were also presented to elected officials in the cities of Anaconda, Deer Lodge, and Lima. The first round of eight briefings was held in 2007, and a second round of seven briefings was held in June 2008. The second round followed the identification of the route preferred by NorthWestern.

The purpose of the briefings was to keep elected officials informed about the planning process (e.g., status, project elements, and steps in the process). The briefing format was for NorthWestern to give a 15- to 30-minute presentation during a regular session of a County Commission meeting. Before the briefings, a fact sheet was presented to each commissioner and to other interested parties at the meeting. A small-scale (1:400,000) map of the proposed project area was used to illustrate possible route alternatives. Each briefing began with a short presentation of the project's purpose and need, the project description, the MFSA process, and the NEPA/ (MEPA) environmental review process, with time afterward for questions and answers.

6.2.3 Other Public Communications

Public communication tools were also used to elicit public comments; these tools are described below.

Media Contacts

Press releases and public meeting notices with fact sheets were used to announce the proposed project. Interviews were also conducted with the press.

One press release was made before each public open house. These press releases were issued to local newspapers, television, and radio outlets in Montana. Public service announcements were also issued to air on local television and radio stations.

Table 6-1. Elected Official Briefings in Montana and Idaho

Location	Round 1 Date	Round 2 Date
Montana		
Broadwater County (Townsend)	June 11, 2007	June 9, 2008
Jefferson County (Boulder)	June 12, 2007	June 17, 2008
City of Butte-Silver Bow County	June 13, 2007	June 18, 2008
Madison County (Virginia City)	June 18, 2007	June 10, 2008
City of Anaconda-Deer Lodge County	June 22, 2007	June 10, 2008
Beaverhead County (Dillon)	June 26, 2007	June 16, 2008
City of Deer Lodge	June 28, 2007	—
City of Lima	November 26, 2007	June 9, 2008
Idaho		
Clark County (Dubois)	August 1, 2007	July 14, 2008
Bonneville County (Idaho Falls)	August 14, 2007	July 29, 2008
Bingham County (Blackfoot)	August 15, 2007	July 8, 2008
Minidoka County (Rupert)	August 20, 2007	July 7, 2008
Jerome County (Jerome)	August 21, 2007	June 24, 2008
Power County (American Falls)	September 10, 2007	July 28, 2008
Lincoln County (Shoshone)	September 10, 2007	July 28, 2008
Butte County (Arco)	September 24, 2007	June 23, 2008
Jefferson County (Rigby)	September 24, 2007	June 23, 2008
Blaine County (Hailey, Carey)	October 9, 2007	July 15, 2008

Project Web Site

NorthWestern established a project Web site (www.msti500kv.com) with information, maps, and other project-specific data. Web site visitors can complete online comment forms and e-mail them to NorthWestern. Web site content has included the following information:

- About the Project
 - Project Overview
 - Project Benefits
 - Options to Stay Informed
 - About NorthWestern Energy
- What’s New
 - Current News
 - Open Season Information
 - Archived News by Data
- Routes/Maps
 - Alternative Routes
- Environmental Review
 - Review Process
 - EIS Process
 - Preliminary Issues

- Environmental Studies
- Open House Boards
- Project Design
 - Engineering Requirements
 - System Studies
 - Project Timeline
 - Open House Boards
- Public Outreach
 - Public Information
 - Open Houses
 - Elected Official Briefings
 - Public Outreach Completed
 - Open House Boards
 - Public Outreach Documents
 - Comment Form

Pre-Environmental Impact Statement Newsletter

Using the project mailing list, NorthWestern on April 29, 2008, mailed or e-mailed a project newsletter to the public and agencies. This newsletter, *MSTI Project Update*, contained the following information:

- Brief project description
- Project purpose
- Project benefits
- 2008 project milestones and activities, including a project timeline
- 2007 project milestones
- Acronyms

A total of 442 newsletters were mailed to individuals and agencies, and 52 newsletters were e-mailed. A copy of the newsletter is in Volume IC, Appendix G (NorthWestern 2008a).

Mailing List

A mailing list database was compiled to provide interested parties (via postal service and/or e-mail) information about the status of project planning, future meetings, and other project details. The mailing list has been updated regularly after public open houses, receipt of e-mailed comments from the project Web site, and other events at which individuals expressed interest in the project.

Other Comments Received

In addition to the comment forms and interactive GIS comments received during open houses, elected official briefings, and agency meetings, comments and issues of concern were received in other ways:

- Web site e-mails
- Mailed or faxed comment forms
- Mailed or faxed letters
- Mailed or faxed petitions
- Verbal comments recorded on flip charts during the open house meetings

6.2.4 Agency Meetings and Communications

Individual or, where possible, joint agency meetings were held with federal, state, and a few local agencies in Montana (Table 6-2). The format for agency meetings ranged from the briefing style used with elected officials to formal presentations following a pre-determined agenda. Meeting summaries were prepared after each meeting. In the first round, five agency meetings were held in Montana. In addition, individual NorthWestern staff met with agency resource specialists to discuss technical or resource-specific issues. These one-on-one meetings are not included in Table 6-2.

Table 6-2. Agency Meetings in Montana and Idaho

Agency	Date
Federal Agencies	
BLM, Idaho State Office	September 13, 2007
BLM, Upper Snake Field Office	September 11, 2007
USFS, Helena National Forest	September 18, 2007
USFS, Helena National Forest	November 14, 2007
Idaho National Laboratory, DOE Idaho Operations Office	November 28, 2007
Montana State Agencies	
MFWP	September 17, 2007
Interagency	
Helena Interagency Meeting BLM, Montana State Office, USFS, Northern Region, USFS, Beaverhead-Deerlodge National Forest, Montana Department of Environmental Quality (MDEQ), MDNRC, MFWP, Region 3	March 22, 2007
Butte Interagency Meeting BLM, Butte Field Office, USFS, Beaverhead-Deerlodge National Forest, MFWP	September 17, 2007
Boise Interagency Meeting BLM, Idaho State Office, USFS Region 4, USFS, Caribou-Targhee National Forest, USDA, Agricultural Research Service, U.S. Sheep Experiment Station, USFWS, Idaho Office of Energy Resources, Idaho Department of Lands, Idaho Department of Environmental Quality (IDEQ), Idaho Department of Agriculture, Idaho Department of Water Resources, Idaho Office of Species Conservation	November 1, 2007
Helena Interagency Meeting USFS, Beaverhead-Deerlodge National Forest, BLM, Montana State Office, MDEQ, MDNRC, Trust Land Management Division	November 14, 2007
Craters of the Moon Interagency Meeting, Craters of the Moon National Monument and Preserve, BLM, Shoshone Field Office	February 5, 2008
Twin Falls Interagency Meeting BLM, Idaho State Office, BLM, Shoshone Field Office, BLM, Burley Field Office, BLM Twin Falls District, Craters of the Moon National Monument and Preserve, IDEQ	June 4, 2008
Butte Interagency Meeting BLM, Montana State Office, BLM, Idaho Falls District, BLM Butte Field Office, USFS Beaverhead-Deerlodge National Forest, MDEQ	June 5, 2008

In addition to formal agency meetings, other communications with various agencies included primarily letters that addressed issues raised during the meetings or comments on the proposed project.

6.3 NEPA/MEPA PROCESS

As part of the preparation process for the EIS, the BLM and MDEQ opened an official public scoping period on August 8, 2008. The official scoping period ended October 10, 2008, but comments received by November 7, 2008, were considered in the Scoping Report (PBS&J 2009a). Agencies have continued to review comments that have been received after that date. The comments were used to help guide the analysis in the EIS.

The sections below describe the steps taken to inform the public and pertinent agencies of the commencement of the NEPA/MEPA process and to solicit their comments about the proposed project.

6.3.1 Formal NEPA/MEPA Scoping

Federal Register

The Notice of Intent to Prepare an Environmental Impact Statement was published in the Federal Register on August 20, 2008. This notice was also printed in area newspapers, announced through press releases, and posted on project Web sites.

Advertising

Advertising was conducted in print media in both Montana and Idaho publications (Table 6-3). The advertisements included invitations to the open houses held in the respective states, Web site addresses for additional project information, and contact information for submitting comments.

Table 6-3. Proposed Project Scoping Period Newspaper Advertising

Publication Name	Publication Location	Publication Date(s)
Montana Standard	Butte, Montana	September 2, 2008 September 10, 2008
Three Forks Herald	Three Forks, Montana	September 3, 2008
Dillon Tribune	Dillon, Montana	September 3, 2008
The Madisonian	Ennis, Montana	September 10, 2008
Wood River Journal	Hailey, Idaho	September 3, 2008
Arco Advertiser	Arco, Idaho	September 4, 2008
Post Register	Idaho Falls, Idaho	September 14, 2008
Idaho Statesman	Boise, Idaho	September 7, 2008 September 14, 2008
Idaho State Journal	Pocatello, Idaho	September 14, 2008
The Times News	Twin Falls, Idaho	September 11, 2008
Idaho Mountain Express	Ketchum, Idaho	September 12, 2008

Scoping Meetings

Six public scoping meetings (also referred to as open houses) and six agency scoping meetings were conducted between September 9 and September 18, 2008, to provide the public and agencies with information about the proposed project and to solicit comments. The locations and dates of these meetings are shown in Table 6-4.

Copies of the handouts provided to scoping meeting attendees are in the Scoping Report (PBS&J 2009a). As shown in Table 6-4, a total of 139 individuals signed in at the public scoping meetings.

Table 6-4. Public Scoping Meeting Attendance

Date	Location	Number of Attendees
September 9, 2008	Butte, Montana	48
September 10, 2008	Three Forks, Montana	22
September 11, 2008	Dillon, Montana	43
September 16, 2008	Twin Falls, Idaho	4
September 17, 2008	Arco, Idaho	18
September 18, 2008	Idaho Falls, Idaho	4
Total		139

A total of 167 attendees representing 22 county, state, and federal agencies attended the agency scoping meetings. Table 6-5 summarizes the agency attendance at each agency scoping meeting.

Web Sites

Two Web sites were maintained to inform the public of the proposed project, provide a map, advertise scoping meetings, and solicit public comments. The sites have been updated and maintained throughout the EIS process. The MDEQ Web site is at <http://www.deq.state.mt.us/MFS/MSTI/MSTIapplication.asp>. The BLM Web site is at http://www.blm.gov/mt/st/en/prog/lands_realty/projects.htm.

Informational Letter

On August 8, 2008, the MDEQ mailed an informational letter (referred to as the Dear Interested Party Letter) to landowners in the vicinity of, or along each of the alternative routes. An agency scoping letter was mailed to state and federal agencies on August 20, 2008.

6.3.2 Post-Scoping Outreach

Stakeholder Comments

After the formal scoping process, comments from stakeholders continued to be received by BLM, MDEQ, USFS, and the third-party EIS contractor directly. These comments were all considered in the development and comparative analysis of alternatives.

Newsletters

Two newsletters were distributed to the mailing list that was current at the date of distribution. These two newsletters were mailed in April 2009 and September 2009.

Public Meetings

Additional public meetings were held at the request of stakeholders and local government officials after the formal scoping process and before the release of the Draft EIS. While not required as part of the NEPA process, these meetings were convened to hear stakeholder comments and update the public on EIS progress. Table 6-6 shows the public meeting dates and locations.

Numerous other meetings were held with individuals from agencies as well as private landowners during the process of developing and analyzing alternatives.

Table 6-5. Agency Scoping Meeting Attendance

Date	Location	Attendees	Agencies Represented
September 9, 2008	Butte, Montana	26	MFWP DEQ BLM
September 10, 2008	Three Forks, Montana	14	Broadwater County Gallatin County Weed District MDEQ Gallatin National Forest Helena National Forest
September 11, 2008	Dillon, Montana	31	Beaverhead County Jefferson County MDEQ MDNRC USFS Northern Region Beaverhead-Deerlodge National Forest BLM
September 16, 2008	Twin Falls, Idaho	30	Twin Falls County Planning and Zoning BLM Craters of the Moon National Monument and Preserve USFWS
September 17, 2008	Arco, Idaho	18	Clark County Economic Development Butte County Noxious Weed District/Wildland Fire Mitigation Butte County Commissioners Idaho Fish and Game BLM
September 18, 2008	Idaho Falls, Idaho	48	Clark County Commissioners Idaho Fish and Game IDEQ BLM USDA Agricultural Research Service (Sheep Experiment Station) Caribou-Targhee National Forest DOE
Total		167	

Table 6-6. Additional Public Meeting Dates and Locations

Date	Location
October 6, 2008	Cardwell, Montana
October 22, 2008	Whitehall, Montana (Associated with Jefferson River Watershed Council Meeting)
March 25, 2009	Butte, Montana (Associated with Butte-Silver Bow County Commissioners Meeting)
April 9, 2009	Butte, Montana
October 13, 2009	Blackfoot, Idaho
October 14, 2009	Aberdeen, Idaho
October 15, 2009	Butte, Montana

6.4 AGENCY CONSULTATION

6.4.1 Biological Resources

The proposed project must comply with the Endangered Species Act and the implementing regulations for Section 7 consultation. Formal Section 7 consultation with the USFWS will begin with submittal of a biological assessment for appropriate species.

6.4.2 Cultural Resources

The proposed project must comply with Section 106 of the National Historic Preservation Act. At the beginning of the NEPA process, formal Section 106 consultation was initiated and meetings were held with the Montana State Historic Preservation Officer (SHPO) at the Montana Historical Society, Idaho SHPO at the Idaho State Historical Society, BLM, USFS, MDNRC, and other affected agencies to address the identification, evaluation, and protection of cultural resources. This process has culminated in the development of a Programmatic Agreement among the relevant agencies, NorthWestern, interested Native American groups, and other interested parties.

In a letter dated September 2009, the BLM Dillon Field Office transmitted the Programmatic Agreement for review and signature to the Idaho and Montana SHPOs, the Blackfeet Nation, the Nez Perce Tribe, the Confederated Salish and Kootenai Tribes, the Shoshone-Bannock Tribes, and the Shoshone-Paiute Tribes.

Section 106 consultation with the Idaho and Montana SHPOs was initiated by the BLM Dillon Field Office by letters dated March and July 2009.

6.5 TRIBAL CONSULTATION

Tribal consultation is a requirement of both federal and state law. In June 2008 NorthWestern sent letters to initiate consultation with several tribes in Montana. Letters were sent to tribal chairmen as well as Tribal Historic Preservation Officers. The tribes contacted are shown in Table 6-7.

Table 6-7. Tribal Recipients of NorthWestern’s Informational Letter

Tribe	Location
Blackfeet Tribe	Browning, Montana
Chippewa Cree Tribe	Box Elder, Montana
The Crow Tribe of Indians	Crow Agency, Montana
Gros Ventre and Assiniboine Tribes	Harlem, Montana
Confederated Salish and Kootenai Tribes	Pablo, Montana

On October 16, 2008, the BLM initiated Section 106 consultation with the Nez Perce Tribe, the Blackfeet Nation, and the Confederated Salish and Kootenai Tribes by letter. Consultation with the Shoshone-Paiute tribes has occurred throughout the ongoing Wings and Roots Program, and consultation was initiated with the Shoshone-Bannock Tribes through a presentation made to the Fort Hall Business Council on October 10, 2008. All five tribes have been invited to be signatories to the Programmatic Agreement addressing the Section 106 process and consultation is ongoing.

In a January 2009 letter to BLM offices in Idaho Falls, Idaho, and in Dillon and Butte, Montana, the Shoshone-Bannock Tribes of Idaho indicated that they cannot support development in the Medicine Lodge Valley because of its cultural significance and the value of its natural resources. The tribe also indicated that they will support a route along the Interstate 15 (I-15) corridor and that transmission lines should be constructed on private lands to protect tribal rights on federal lands.

Members of the Confederated Salish and Kootenai Tribes, BLM representatives from the Dillon and Butte field offices and the Beaverhead-Deerlodge National Forest toured the northern portion of the proposed project area in July 2009. Tribal members were informed about the development of the Programmatic Agreement and were asked about the timing of a presentation to the tribal council in relation to the EIS. Tribal members indicated that the transmission line route should stay as close to I-15 as possible so as to not disrupt public lands.

The BLM Idaho State Office issued a Cultural Resources Use Permit to NorthWestern for geotechnical drilling in October 2009. The Shoshone Paiute Tribe was notified of the issuance of the permit and was reassured of BLM’s commitment to protect cultural resources. The tribe was invited to participate in a pre-fieldwork meeting and to independently contact NorthWestern to observe the work in progress.

6.6 TREATY RIGHTS

Treaties are negotiated contracts made pursuant to the Constitution of the United States and are considered the “supreme law of the land.” They take precedence over any conflicting state laws because of the supremacy clause of the Constitution (Article 6, Clause 2). Treaty rights are not gifts or grants from the United States, but are bargained-for concessions. These rights are grants-of-rights from the tribes, rather than to the tribes. The reciprocal obligations assumed by the federal government and tribes constitute the chief source of present-day federal Native American law.

The United States and represented agencies have a special trust relationship with tribes because of these treaties. A federal land managing agency has the responsibility to identify and consider potential impacts of plans, projects, programs, or activities on Native American trust resources (e.g., fish, game, and plant resources). When planning any proposed project or action, the United States and represented agencies must ensure that all anticipated effects on Native American trust resources are addressed in the planning, decision, and operational documents prepared for each project. The United States and represented agencies also have the responsibility to ensure that meaningful consultation and coordination concerning

tribal treaty rights and trust resources are conducted on a government-to-government basis with federally recognized tribes.

Federally recognized tribes exercise their hunting, fishing, and gathering rights on at least state and federal lands outside the boundaries of their reservations. Currently, Native American tribes are not dependent on commodity resources from lands managed by the United States and represented agencies for their economic livelihood. However, they do rely on public land resources for subsistence and cultural purposes. Tribal treaty rights pursued on public land include fishing for resident game fish species, hunting both large and small game, and gathering various natural resources for both subsistence and medicinal purposes. Little specific information is currently available on the exact species sought or locations used by Native Americans exercising their treaty rights within the boundaries of the planning area.

The BLM, as a governmental agency, would maintain a special government-to-government relationship with federally recognized tribes. Members of the Shoshone-Bannock Tribes, the Confederated Salish-Kootenai Tribes, Black Feet Tribe, Shoshone-Paiute Tribes, and Nez Perce Tribe exercise their hunting, fishing, and gathering rights on federal lands outside the boundaries of their reservations. These pursuits include fishing for resident game fish species, hunting large and small game, and gathering natural resource for subsistence and medicinal purposes.

6.7 RECIPIENTS OF THE ENVIRONMENTAL IMPACT STATEMENT

More than 5,800 individuals or organizations on the mailing list for this proposed project will receive compact discs of the full Draft EIS. This list is held in the Administrative Record in an electronic database and is available upon request.