Chapter 4
Environmental Consultation, Review, and Permit Requirements

This chapter addresses federal statutes, implementing regulations, and Executive Orders potentially applicable to the proposed project. This Draft EIS is being sent to tribes, federal agencies, and state and local governments as part of the consultation process for this project.

National Environmental Policy Act

This Draft EIS was prepared by BPA pursuant to regulations implementing the National Environmental Policy Act (NEPA) (42 USC 4321 et seq.), which requires federal agencies to assess the impacts that their actions may have on the environment. BPA's proposal to construct the 84-mile transmission line requires that it assess the potential environmental effects of the proposed project, describe them in an EIS, make the EIS available for public comment, and consider the impacts and comments when deciding whether to proceed with the project.

Threatened and Endangered Species and Critical Habitat

The Endangered Species Act (***ESA***) of 1973 (16 USC 1536) as amended in 1988, establishes a national program for the conservation of threatened and endangered species of fish, wildlife and plants, and the preservation of the ecosystems on which they depend.

The act is administered by the U.S. Fish and Wildlife Service and, for salmon and other marine species, by the National Marine Fisheries Service. The act defines procedures for listing species, designating critical habitat for listed species, and preparing recovery plans. It also specifies prohibited actions and exceptions.

Section 7(a) requires federal agencies to ensure that the actions they authorize, fund, and carry out do not jeopardize endangered or threatened species or their critical habitats. Section (7c) of the Endangered Species Act and the federal regulations on endangered species coordination (50 CFR Section 402.12) require that federal agencies prepare biological assessments addressing the potential effects of major construction actions on listed or proposed endangered species and critical habitats.

In a letter dated May 3, 2002, the U.S. Fish and Wildlife Service (USFWS) was requested to list the threatened and endangered fish and wildlife species occurring within the vicinity of the proposed project. USFWS listed five species (bald eagle, bull trout, Ute's Ladies Tresses, Spaldings silene, and pygmy rabbit) as potentially occurring within the project vicinity (letter from S. Audet, May 15, 2002; see Appendix C -ESA-letter). No species administered by the National Marine Fisheries Service occur in the project corridor or in the vicinity of the corridor.

USFWS requires that a biological assessment be prepared if threatened or endangered species might be impacted by a Federal action. A Biological Assessment will be prepared for this project.

Field surveys of the project corridor were conducted during June of 2002. A survey will be conducted during August 2002 to determine whether the threatened plants (Ute's Ladies Tresses and Spaldings silene) occur in the proposed project corridor. Potential impacts to Threatened and Endangered plant, animal, and fish species are discussed in Chapter 3 in the sections on **Fish, Vegetation**, and **Wildlife**.

Fish and Wildlife Conservation

Fish and Wildlife Conservation Act and Coordination Act

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 fish and wildlife and their habitat is provided in the sections on **Fish** and **Wildlife** in Chapter 3. Standard erosion control measures would be used during construction to control sediment movement into streams, protecting water quality and fish habitat.

Essential Fish Habitat

Public Law 104-297, the Sustainable Fisheries Act of 1996, amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This established new requirements for Essential Fish Habitat descriptions in federal fishery management plans and required federal agencies to consult with National Marine Fisheries Service on activities that may adversely affect Essential Fish Habitat. The National Marine Fisheries Service issued a final rule on January 17, 2002 to revise the regulations implementing the essential fish habitat provisions of the Magnuson-Stevens Fishery Conservation and Management Act. (Federal

Register 67, No. 12). The Magnuson-Stevens Act requires all fishery management councils to amend their fishery management plans to describe and identify Essential Fish Habitat for each managed fishery. The Pacific Fishery Management Council has issued such an amendment in the form of Amendment 14 (1999) to the Pacific Coast Salmon Plan. This amendment covers Essential Fish Habitat for all fisheries under NMFS jurisdiction that would potentially be affected by the proposed action. Essential Fish Habitat includes all streams, lakes, ponds, wetlands, and other currently viable water bodies and most of the habitat historically accessible to salmon. Activities above impassible barriers are subject t o consultation provisions of the Magnuson-Stevens Act.

Under Section 305(b)(4) of the act, National Marine Fisheries Service is required to provide Essential Fish Habitat conservation and enhancement recommendations to federal and state agencies for actions that adversely affect Essential Fish Habitat. Whenever possible, National Marine Fisheries Service uses existing interagency coordination processes to fulfill Essential Fish Habitat consultations with federal agencies.

No species administered under the amended Magnuson-Stevens Fishery Conservation and Management Act occurs in the vicinity of the proposed project. Tributaries located east of the City of Creston along the project corridor drain north into the Spokane River and Franklin D. Roosevelt Lake. The Grand Coulee Dam, which formed the Columbia River reservoir that is called Franklin D. Roosevelt Lake, creates an impassable barrier to salmon into these rivers. Tributaries located west of the City of Creston along the project corridor drain to the southwest into Crab Creek and the Columbia River. These tributaries do not support salmon within the project corridor.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act implements various treaties and conventions between the United States and other countries, including Canada, Japan, Mexico, and the former Soviet Union, for the protection of migratory birds (16 U.S.C. 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986, AND 1989). Under the act, taking, killing, or possessing migratory birds or the eggs or nests is unlawful. Most species of birds are classified as migratory under the act, except for upland and nonnative birds such as pheasant, chukar, gray partridge, house sparrow, European starling, and rock dove.

The proposed project may impact birds. Potential impacts to birds as a result of the proposed project are discussed in the **Wildlife** section in Chapter 3. BPA would ensure appropriate mitigating measures are employed to minimize the risk of bird mortality.

Bald Eagle and Golden Eagle Protection Act

The Bald Eagle Protection Act prohibits the taking or possessing of and commerce in bald and golden eagles, with limited exceptions (16 U.S.C. 668-668d, June 8, 1940, as amended 1959,

1962, 1972, and 1978). Because a small number of bald eagles reside within foraging distance of the proposed project, there is a remote possibility some mortality could occur to bald eagles. However, the act only covers intentional acts, or acts in "wanton disregard" of the safety of bald or golden eagles. Therefore, this project is not considered to be subject to its compliance.

For further discussion of impacts on eagles, see Chapter 3, **Wildlife**. Potential impacts to bald eagles will be further addressed in the biological assessment prepared for this project under the Endangered Species Act.

Responsibilities of Federal Agencies to Protect Migratory Birds

Executive Order 13186 directs each federal agency that is taking actions that may negatively impact migratory bird populations to work with the U.S. Fish and Wildlife Service to develop an agreement to conserve those birds. The protocols developed by this consultation are intended to guide future agency regulatory actions and policy decisions; renewal of permits, contracts, or other agreements; and the creation of or revisions to land management plans. BPA is part of the Department of Energy, is cooperating with the department in developing a memorandum of understanding with the U.S. Fish and Wildlife Service to comply with this mandate.

Heritage Conservation

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. Cultural resources include National Landmarks, archeological sites, and properties listed (or eligible for listing) on the National Register of Historic Places. Regulations established for the management of cultural resources include:

- Antiquities Act of 1906 (16 U.S.C. 431-433);
- Historic Sites Act of 1935 (16 U.S.C. 461-467);
- National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. 470 et seq.), as amended, inclusive of Section 106;
- Archaeological Data Preservation Act (ADPA) of 1974 (16 U.S.C. 469 a-c);
- Archaeological Resources Protection Act (ARPA) of 1979 (16 U.S.C. 470 et seq.), as amended;
- Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.);
- Executive Order 13007 Indian Sacred Sites; and
- American Indian Religions Freedom Act.

BPA has undertaken the Section 106 consultation process for this project with the State Historic Preservation Officer for Washington, the Advisory Council on Historic Preservation, and the

affected Native American tribes. The Confederated Tribes of the Colville Reservation and the Spokane Tribe were consulted for this project. BPA's 1996 government-to-government agreement with 13 federally-recognized Native American Tribes of the Columbia River basin identifies the roles and responsibilities of both parties and provides guidance for the Section 106 consultation process with the Tribes.

The NHPA amendments specify that properties of traditional religious and cultural importance to a Native American Tribe (also known as Traditional Cultural Properties) may be determined to be eligible for inclusion on the National Register of Historic Places. In carrying out its responsibilities under Section 106, BPA is required to consult with any Native American Tribe that attaches religious or cultural significance to any such properties. The tribes have prepared traditional property studies for this project.

NAGPRA requires consultation with appropriate Native American Tribal authorities prior to the excavation of human remains or cultural items (including funerary objects, sacred objects, and cultural patrimony) on federal lands or for projects that receive federal funding. NAGPRA recognizes Native American ownership interests in some human remains and cultural items found on federal lands and makes illegal the sale or purchase of Native American human remains, whether or not they derive from federal or Indian land. Repatriation, on request, to the culturally affiliated tribe is required for human remains.

Executive Order 13007 addresses "Indian sacred sites" on federal and tribal land. "Sacred site" means any specific, discrete, narrowly delineated location on federal land that is identified by a Tribe, or a Tribal individual determined to be any appropriately authoritative representative of a Native American religion. The site is sacred by virtue of its established religious significance to, or ceremonial use by, a Native American religion, provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site. This order calls on agencies to do what they can to avoid physical damage to such sites, accommodate access to and ceremonial use of Tribal sacred sites, facilitate consultation with appropriate Native American Tribes and religious leaders, and expedite resolution of disputes relating to agency action on federal lands.

Construction, and operation and maintenance of the transmission line and related facilities could potentially affect historic properties and other cultural resources. A cultural resources survey of the corridor and Bell Substation expansion area has been done to determine if any cultural resources are present and would be impacted (see **Cultural Resources** section in Chapter 3). Several prehistoric and historic sites have been identified to date including possible sacred and traditional sites.

Through the design process, BPA will try to avoid all sites. If some sites cannot be avoided BPA will work with the State Historic Preservation Officer of Washington to determine if those sites are eligible for a listing under the NRHP. If they are, effects will be evaluated and appropriate mitigation applied.

If, during construction, previously unidentified cultural resources that would be adversely 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).

State, Areawide, and Local Plan and Program Consistency

The Council on Environmental Quality regulations for implementing NEPA require EISs to discuss possible conflicts and inconsistencies of a proposed action with approved state and local plans and laws.

Land Use Planning Framework

Each county and city crossed by the existing corridor has a comprehensive plan and a zoning ordinance. These jurisdictions have comprehensive land use plans that address utility corridors: the City of Grand Coulee, Lincoln County, Spokane County and the City of Spokane. The existing corridor is an allowed land use in these plans. For Douglas and Grant counties, whose plans do not address utility corridors, expansion and upgrading of existing utilities is permitted in the zones crossing the corridor.

Zoning ordinances in some jurisdictions specifically address utility corridors. The corridor is a permitted use in zoning ordinances for these jurisdictions: Lincoln, Grant, and Douglas counties. Spokane County and the City of Spokane zoning ordinances allow transmission line corridors as a permitted use in a variety of zones to a height of 125 feet.

The Agency Preferred Action would use single-circuit structures about 125- to 150-feet tall on most of the route; double-circuit structures about 175-feet tall would be used in two short sections (see **Chapter 2**). The Alternative Action would include all the components of the Preferred Action except additional double-circuit line would be constructed between corridor mile 75-2 and Bell Substation, a distance of about 9 miles. Thus, the proposed action may not be consistent with the height restriction noted above. BPA will work with Spokane County to address the height restriction as much as feasibly possible.

The proposed project would be undertaken solely by BPA, which is a federal entity. Pursuant to the federal supremacy clause of the U.S. Constitution, BPA is not obligated to apply for local development or use permits in such circumstances, or variances from development codes.

Therefore, BPA would not make formal application to any of the local jurisdictions for permits such as conditional use permits or shoreline substantial development permits. However, BPA is committed to plan the project to be consistent or compatible to the extent practicable with state and local land use plans and programs and would provide the local jurisdictions with information relevant to any permits.

Washington Growth Management Act – This 1990 Act requires that most counties and cities in Washington adopt comprehensive plans, including "a utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines." The 1991 and subsequent amendments to the Act added more planning requirements.

Douglas County's first Comprehensive Land Use Plan was adopted in 1964. This version of the Comprehensive Plan was replaced with the Douglas County Regional Policy Plan, which was adopted on May 19, 2002.

The City of Grand Coulee Comprehensive Plan and Zoning Ordinance has not been updated since 1986. The City hopes to update these documents in 2003.

Grant County's Comprehensive Plan is currently being updated. The Zoning Code was last revised in October 2000.

The Lincoln County Comprehensive Plan was adopted on January 3, 1983, and a new one is currently being developed. The Zoning Code was amended in January 2000, and will be amended by resolution in July 2002.

The Spokane County Comprehensive Plan was revised in November 2001. The Spokane County Zoning Code was revised in November 1998. However, the County is in the process of incorporating the new Phase 1 Development Regulations and other recent Amendments into the existing Zoning Code.

The City of Spokane revised its Comprehensive Plan on May 21, 2001. The Zoning Code was revised in December 2000.

The existing corridor is an allowed land use in the comprehensive plans for the City of Grand Coulee, Lincoln County, Spokane County and the City of Spokane. For Douglas and Grant counties, whose plans do not address utility corridors, expansion and upgrading of existing utilities is permitted in the zones crossed by the corridor.

Zoning ordinances in some jurisdictions specifically address utility corridors. The corridor is a permitted use in zoning ordinances for Lincoln, Grant, and Douglas counties. Spokane County and the City of Spokane zoning ordinances allow transmission line corridors as a permitted use in a variety of zones to a height of 125 feet. The proposed action would use towers that would

nominally be 125 feet tall, except where the corridor narrows between structures 83/1 and 83/6 where 175-foot tall towers would be used. In addition, some locations with longer spans may require taller towers that would exceed 125 feet. The Alternative Action would use towers that are 175 feet tall.

Washington Shoreline Management Act -- The State's Shoreline Management Act (Chapter 90.58 RCW) identifies "Shorelines of the State" and "Shorelines of Statewide Significance" that would be spanned by the proposed project. The existing corridor spans the Spokane River, identified as a "Shoreline of the State." In Grand Coulee, new right-of-way would span the canal that supplies Banks Lake with water pumped from Franklin D. Roosevelt Lake. Banks Lake is identified as a "Shoreline of Statewide Significance."

It is not likely that structures would be placed within the 200-foot jurisdictional areas of the Spokane River. Actual structure locations would not be determined until the detailed design stage of project development (after the Final EIS). Where possible, BPA will place structures out of the 200-foot jurisdictional area.

BPA would take the following measures, where practicable, to assure consistency with the counties' Shoreline Master Plans:

- Towers would be placed in an existing corridor, except on BPA property and where new right-of-way will be acquired next to existing right-of-way in the Grand Coulee area.
- Towers would not be in water bodies.
- Towers would not be within the identified shoreline if possible. If the shoreline area could not be avoided, BPA would consult with the appropriate state and local agencies to determine the best sites for towers.
- In shoreline areas, disturbed land would be restored as closely as possible to pre-project forms and replanted with native and local species.
- Erosion control measures would be implemented to protect the 200-foot shoreline area.

Critical Areas Ordinances

The Growth Management Act (GMA) requires that local jurisdictions designate and protect critical areas, which are defined as wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas. GMA requires that jurisdictions include the best available science when developing policies and development regulations to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. The corridor for the proposed project crosses through the jurisdictional areas of three counties (Grant, Lincoln, and Spokane) and two municipalities (Grand Coulee and Spokane). The current status of Critical Area Ordinances (CAO's) for these jurisdictions is described below.

Douglas County adopted development regulations (Douglas County Code Title 19) governing development that is incompatible with critical areas in June 2001 (Douglas County 2002).

Douglas County's CAOs were developed to protect wetlands, fish and wildlife habitat, aquifer recharge areas, and geologically hazardous areas. Activities exempt from the provisions of the CAO include:

- Normal maintenance or repair of existing buildings, structures, roads, or development, including damage by accident, fire, or natural elements
- Emergency construction necessary to protect property from damage by the elements
- Agricultural activities normal or necessary to general farming conducted according to industry-recognized BMPs including the raising of crops or the grazing of livestock
- The normal maintenance and repair of natural drainage which does not involve the use of heavy equipment, and which does not require permit issuance from other local, state, or federal agencies.

The County has established buffer areas around wetlands and fish and wildlife habitat areas ranging between 25 and 100 feet, depending on the classification of the areas in question. Disturbance of critical areas by development requires appropriate mitigation and enhancement measures that will be determined on a site-specific basis.

Specific standards of the Douglas County CAO are:

- No significant adverse impacts to designated critical areas or buffer areas shall result from the repair, maintenance, expansion, or construction of any public or private road
- The functions and water quality of wetlands or buffer shall not be adversely impacted
- Utilities: When no other practical alternative exists, construction of utilities within a critical area buffer may be authorized, subject to the following minimum standards:

    - utility corridors shall be jointly used
    - corridor construction and maintenance shall protect the designated critical area buffer, and shall be aligned to avoid cutting trees greater than six inches in diameter at breast height, when possible
    - no pesticides, herbicides, or other hazardous or toxic substances shall be used
    - utility corridors, including maintenance roads authorized by the review authority, shall be located at least a distance equal to the width of the utility corridor away from the edge of the critical area
    - corridors shall be revegetated to pre-construction densities with appropriate native vegetation immediately upon completion of construction, or as soon thereafter as possible given seasonal growth constraints. The utility purveyor shall provide an assurance device or surety in accordance with DCC Title 14 which ensures that such vegetation survives.

  - Any additional corridor access for maintenance shall be provided as much as possible at specific points rather than by parallel roads. If parallel roads are necessary they shall be not greater than 15 feet in width, and shall be contiguous to the location of the utility corridor on the side opposite the critical area

- All crossings using culverts shall use superspan or oversize culverts
- Crossings shall not diminish flood carrying capacity

See Chapter 3 for a discussion of potential environmental impacts related to construction of the transmission line.

Grant County adopted a resource lands and critical areas ordinance to comply with the requirements of the GMA on May 25, 1993 (Grant County 2002).

Grant County's CAO provides protection of wetlands, fish and wildlife conservation areas, critical aquifer recharge areas, geologically hazardous areas, and frequently flooded areas by enforcing buffer widths ranging from 25 to 300 feet. The County's CAO also provides exemptions to the normal and routine maintenance, repair and operation of existing utilities although all activities are required to use reasonable methods with the least amount of potential impact to critical areas.

All proposed alterations to critical areas or associated buffers require mitigation sufficient to provide for and maintain the functions and values of the critical area or to prevent risk from critical area hazard. Wetland buffer widths range from 25 to 100 feet, depending upon the wetland category.

Road and utility maintenance, repair, and construction may be permitted across critical area buffers under the following conditions:

- It is demonstrated that there are no alternative routes that can be reasonably used to achieve the proposed development
- The activity will have minimum adverse impact to the wetland area
- The activity will not significantly degrade surface water or groundwater
- Road maintenance, repair, and construction shall be the minimum necessary to provide safe traveling surfaces
- Intrusion into a Fish and Wildlife Habitat Conservation Area and its buffers is fully mitigated

The County defines geologically hazardous areas as those areas with:

- Erosion hazards
- Landslide hazards
- Mine hazards

- Seismic

Erosion hazard areas are those areas identified as having high or very high water erosion hazard by the U.S. Department of Agriculture Natural Resources Conservation Service. Landslide hazard areas are those areas potentially subject to landslides based upon the following combination of geologic, topographic, and hydrologic factors:

- Areas of historic failure
- Areas with the following characteristics:

    - a gradient of 15% or greater
    - hillsides intersecting geologic contacts with relatively permeable sediment overlying a relatively impermeable sediment or bedrock
    - springs or groundwater seepage

Protection standards for Erosion and Landslide Hazard Areas are as follows:

- Grading

    - clearing, grading, and other construction activities shall not aggravate or result in slope instability or surface sloughing
    - undergrowth shall be preserved to the extent practicable
    - ground disturbance shall be minimized to the extent practicable
    - no dead vegetation, fill, or other foreign material shall be placed within a landslide hazard area, other than that approved for bulkheads or other methods of stabilization unless a geotechnical report shows that the activity will not exacerbate landslide hazards

- Ground surface erosion control management

    - there shall be a minimum disturbance of vegetation in order to minimize erosion and maintain existing stability of hazard areas
    - vegetation removal on the slopes of banks between the ordinary high water mark and the top of the banks shall be minimized
    - vegetative cover shall be re-established on any disturbed surface to the extent practicable
    - Soil stabilization materials such as filter fabrics, riprap, and similarly designed materials shall be placed on any disturbed surface when future erosion is likely

- Buffers

    - an undisturbed 30-foot buffer, as measured on the top surface, is required from the top, toe, and along all sides on any existing landslide or erosion hazard areas

  - normal non-destructive pruning and trimming of vegetation for maintenance purposes, or thinning of limbs of individual trees to provide a view corridor shall not be subject to these buffer requirements

- Design guidelines

  - foundations shall conform to the natural contours of the slope and foundations should be stepped or tiered where possible to conform to existing topography
  - roads, walkways, and parking areas shall be designed with low gradients or be parallel to the natural contours of the site
  - to the extent practicable, access shall be in the least sensitive area of the site

All work in frequently flooded areas (floodplains) will need to comply with the Grant County Flood Damage and Prevention Ordinance, the Grant County Shoreline Management Mast Plan, the Uniform Building Code, and other pertinent ordinances and codes. Any uses or development in floodplain areas cannot alter the normal movement of surface water in a manner that would cause the unnatural diversion of floodwater to otherwise flood-free areas.

See Chapter 3 for a discussion of potential environmental impacts related to construction of the transmission line.

Lincoln County is currently in the process of developing CAO's to comply with the requirements of the GMA. The County expects to complete the process by 2003 (personal communication, J. DeGraffenreid, Director, Lincoln County Planning, June 24, 2002).

No information is available on Lincoln County CAOs.

Spokane County adopted a critical areas ordinance (Spokane County Code 11.20) on August 1, 1996 (Spokane 2002).

Spokane County's CAOs were developed to protect wetlands, fish and wildlife habitat, and geologically hazardous areas. Under Spokane County's CAO, an application can be made for a reasonable use exception. The applicant must provide documentation demonstrating all of the following to the satisfaction of the County:

- Applications of the ordinance would deny all reasonable use of the property
- There is no reasonable use with less impact on the critical area
- The requested use or activity will not result in damage to other property and will not threaten the public health, safety, or welfare on or off the property
- Any alteration to a critical area is the minimum necessary to allow for reasonable use of the property

- The inability of the applicant to derive reasonable use is not the result of actions by the applicant in subdividing the property or adjusting boundary lines thereby creating the undevelopable condition after the effective date of the ordinance

When a regulated use or activity is proposed on a property which is within a wetland or wetland buffer area, a wetland report is required. The applicant or proponent shall, provide a wetland report prepared by a Qualified Wetland Specialist. Wetland buffer areas range between 25 and 200 feet, depending upon the classification of the wetland.

Regulated activities shall not be allowed in a buffer area except for the following:

- Activities having minimal adverse impacts on buffers and no adverse impacts on wetlands. These may include low intensity, passive recreational activities such as pedestrian/bike trails which should be setback 50' from the wetland boundary if possible and shall be a maximum of 14' in width, nonpermanent wildlife watching blinds, short-term scientific or education activities, and sports fishing or hunting.
- Stormwater management facilities including biofiltration swales, if designed according to the Spokane County Stormwater Management Guidelines, if sited and designed so that the buffer area as a whole provides the necessary biological, chemical and physical protection to the wetland in question, taking into account the scale and intensity of the proposed land use.
- Motorized vehicles shall not be allowed in wetland buffer areas except as part of an approved mitigation plan or non-regulated activity such as agriculture.

As a condition of any permit allowing alteration of wetlands, the applicant will engage in the restoration, creation or enhancement of wetlands in order to offset the impacts resulting from the applicant's or violator's actions.

For fish and wildlife conservation areas, Spokane County may restrict uses and activities that lie within a priority habitat by definition or within ¼ mile of a point location (den or nest site) of a non-game priority species. A management plan, if required, will be used by the County to evaluate the impact of a use or activity on a priority habitat or species and may require mitigating measures to protect fish and wildlife based on the management plan recommendations.

Buffer areas around priority habitat areas extend from 25 to 250, depending upon the classification of the area. Except as otherwise specified, riparian areas shall be retained in their natural condition. Riparian vegetation in buffer areas shall not be removed except in the case of fire or disease unless there is no alternative. Roads within riparian buffer areas shall be kept to a minimum and shall not run parallel to the water body. Crossings, where necessary, shall cross riparian areas at as near right angles as possible. If no alternative exists to placement of a roadway within a riparian area, mitigation may be required. Mitigation measures shall be specified in a management plan.

A habitat management plan will need to be prepared for regulated uses or activities which are located in a priority habitat or within 1/4 mile of a nongame priority species point location if it is determined that a proposed activity is likely to have a significant adverse impact on the priority habitat or species.

The City of Grand Coulee adopted development regulations (Ordinance 755) to regulate development that is incompatible with critical areas and ensure the conservation of agricultural, forest, and mineral lands on February 18, 1992.

No information was found for the City of Grand Coulee.

City of Spokane adopted development regulations (Spokane Municipal Code Title 11) to regulate development that is incompatible with critical areas on December 2, 1991 (City of Spokane 2002).

The City of Spokane's CAO provides protection of wetlands, fish and wildlife conservation areas, and geologically hazardous areas by enforcing buffer widths ranging from 25 to 250 feet. The construction, operation, and maintenance of utilities are subject to the provisions of the City's CAO. See Chapter 3 for a discussion of potential environmental impacts related to construction, operation, and maintenance of the transmission line.

The proposed action would be generally consistent with the provisions of the CAOs described above because BPA would avoid critical areas to the maximum extent possible. Because final design has not been completed, it is unclear whether conflicts might occur in a few locations. BPA would maximize attempts to avoid critical areas and critical area buffers at such locations; if unable to avoid these areas, potential inconsistencies could occur.

Transportation Permits

The construction contractor and transmission line facilities manufacturers would consult with the Washington Department of Transportation and with City and County public works departments to secure necessary permits for the transportation of large loads on the roadways.

Coastal Zone Management Consistency

As an agency of the federal government, BPA follows the guidelines of the Coastal Zone Management Act of 1972 (CZM) (16 U.S.C. Sections 1451-1464) and would ensure that projects would be, to the maximum extent practicable, consistent with the enforceable policies of the state management programs. Washington's coastal zone management program is implemented through the provisions of the State Shoreline Management Act, including shoreline management programs developed and administered by counties. The Coastal Zone Act Reauthorization Amendments of 1990 also require that proposed Federal facilities fully comply with Federal

consistency requirements as determined by and through consultation with a designated coastal zone management agency. The proposed project is not in the coastal zone, nor would it directly affect the coastal zone.

Floodplains and Wetlands Protection

The Department of Energy mandates that impacts to floodplains and wetlands be assessed and alternatives for protection of these resources be evaluated in accordance with Compliance with Floodplain/ Wetlands Environmental Review Requirements (10 CFR 1022.12), and Federal Executive Orders 11988 and 11990. Evaluation of project impacts on floodplains and wetlands is included in Chapter 3 of the Draft EIS. Should the project affect floodplains and wetlands, BPA will publish a notice of floodplain/wetlands involvement for this project in the Federal Register.

A portion of the project falls within the 100-year floodplain of Sherman, Hawk, Stock, Coulee, and Deep creeks, the Spokane River, and Country Holmes Canal as determined from Flood Insurance Rate Maps published by the Federal Emergency Management Agency, U.S. Department of Housing and Urban Development. Based on preliminary engineering design, no structures would be placed within the 100-year floodplains of the Spokane River. Wooden structures currently in the floodplain would be removed by cutting the pole off at elevation, thus avoiding impacts that would be caused by excavation and backfilling. Access roads cross the floodplains of Sherman, Hawk, Stock, Coulee, and Deep creeks, the Spokane River, and Country Holmes Canal. Although road improvements would be designed to reduce existing erosion and runoff problems, low to moderate impacts may occur in floodplains if erosion and runoff were to occur during and immediately after active road work.

Wetlands that could be affected by the proposed project were identified from National Wetlands Inventory maps prepared by the U.S. Fish and Wildlife Service, and from field inspections.

Wetlands that would be crossed by the proposed project between Grand Coulee and Spokane are discussed in Chapter 3, **Wetlands**. Several pothole wetlands and wetlands associated with riparian areas and springs would be crossed by the line. These wetlands vary from less than 0.05 acre to several acres in size. All would be spanned by the transmission line. If wetlands or waterways would be impacted by the project, appropriate permits from the Corps of Engineers would be sought.

Farmlands

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.

Construction of the project would remove from production a maximum of 765 acres of agricultural land, including 209 acres of prime agricultural land. This impact would be spread over two growing seasons with approximately one-half of the impact occurring each growing season. This is a worse case scenario. Removing the existing wood-pole structures, and placing new steel towers will create a permanent net loss of production from 12 acres of agricultural land. A maximum of 3.8 acres would potentially be prime agricultural land. U.S. Soil Conservation Service county soil surveys were used to identify prime farmland.

Recreation Resources

BPA used the Wild and Scenic River inventory of listed and proposed rivers (16 USC Sec. 1273 (b)) qualifying for Wild, Scenic, or Recreation River to evaluate recreational resources and impacts. The corridor will not cross any listed segments.

The Northwest Power Planning Council's Protected Area Amendments to the Pacific Northwest Electric Power Planning Council Designation Act of 1980 are not applicable to the project.

No National Recreation or National Scenic Trails identified in the National Trail System (16 U.S.C. Sec. 1242-1245) either cross or are in the vicinity of the right-of-way. The Centennial Trail crosses the corridor in Riverside State Park. The trail is managed by Washington State Parks.

No designated wilderness or other areas of national environmental concern are found on or around the right-of-way.

Global Warming

Gasses that absorb infrared radiation and prevent heat loss to space are called greenhouse gases. Greenhouse gases are thought to be connected to global warming. Greenhouse gases include: water vapor, carbon dioxide, methane, nitrous oxide, nitrogen oxides, non-methane volatile organic compounds and stratospheric ozone depleting substances such as chlorofluorocarbons. Without greenhouse gases some believe the mean temperature on earth would be around 5 degrees Fahrenheit.

The atmosphere, plants, oceans, rocks and sediments act as reservoirs for carbon. A finite amount of carbon is available, most stored in non-atmospheric sinks. This carbon balance has been upset in industrial times through activities such as burning fossil fuels and logging old growth forests. Plants uptake carbon dioxide from the atmosphere during photosynthesis and use the carbon to construct leaves and branches, in effect, storing carbon.

In a worst-case scenario, proposed construction would clear about 97 acres of forest, releasing about 97 tons of carbon dioxide to the atmosphere through decay (no burning is planned). This carbon release would be partially mitigated by replanting cleared areas with native vegetation and by using harvested logs for timber.

Permit for Structures in Navigable Waters

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) regulates all work done in or structures placed below the ordinary high water mark of navigable waters of the U.S. No work associated with the proposed project would occur in such water bodies. However, the conductors would span the navigable waters of the Spokane River; overhead utility lines constructed over Section 10 waters require a Section 10 permit.

Permit for Discharges into Waters of the United States

The Clean Water Act regulates discharges into waters of the United States. Field delineation may be necessary to fulfill permitting requirements.

Section 401 – A Federal permit to conduct an activity that causes discharges into navigable waters is issued only after the affected state certifies that existing water quality standards would not be violated if the permit were issued. The state of Washington would review permits for compliance.

Section 402 – This section authorizes storm water discharges under the National Pollution Discharge Elimination System. The Environmental Protection Agency, Region 10, has a general permit for Federal facilities for discharges from construction activities. BPA would issue a Notice of Intent to obtain coverage under the EPA general permit and would prepare a Storm Water Pollution Prevention Plan. The SWPP Plan will address stabilization practices, structural practices, stormwater management, and other controls (see Chapter 3, **Water Quality**).

Section 404 – Wetland management, regulation, and protection is related to several sections of the CWA, including Sections 401, 402, and 404, as well as to a combination of other laws originally written for other uses. Other laws are the Coastal Zone Management Act, the Endangered Species Act, Historic Preservation Act, Rivers and Harbors Act, and the Wild and Scenic Rivers Act. Section 404 of the CWA (33 CFR 320-330) requires either review by the managing agencies or certification of consistency.

The following nationwide permits (33 CFR 330) could be applicable to activities proposed by this project:

- NWP No. 14 - Road Crossings
- NWP No. 25 - Structural Discharges
- NWP No. 33 - Temporary Construction and Access.

All conditions for these permits would be met. See the Floodplain/Wetlands Assessment section of this chapter.

The Safe Drinking Water Act

The Safe Drinking Water Act (42 U.S.C. Section 200f et seq.) protects the quality of public drinking water and its source. In the State of Washington, the Department of Health is responsible for implementing the rules and regulations of the Safe Drinking Water Act (WAC 246-290). This proposed project would cross the Spokane Valley-Rathdruin Prairie Sole Source Aquifer and the East Columbia Plateau Aquifer System, the principal sources of drinking water in the region. BPA would comply with state and local public drinking water regulations and will not degrade the quality of aquifers or jeopardize their usability as a drinking water source. The proposed project would not affect any sole source aquifers or other critical aquifers, or adversely affect any surface water supplies.

Energy Conservation at Federal Facilities

The proposed changes at Bell Substation and Grand Coulee Switchyard would not require adding new buildings. The changes at Creston Substation would include a new control house that would meet federal energy conservation design standards.

Permits for Right-of-Way on Public Lands

Building a transmission line across Federally-owned lands requires the approval of the agency administering the lands. The Bureau of Reclamation is a cooperating agency on this EIS and owns the Grand Coulee Switchyard and some land surrounding the Switchyard BPA is working with BOR representatives to gain their approval for building a transmission line across BOR land. The approval will be a supplement to the 1944 Memorandum of Understanding BPA has with BOR.

Air Quality

The Federal Clean Air Act, as revised in 1990 (PL 101-542 (42 USC 7401), requires the EPA and individual states to carry out a wide range of regulatory programs intended to assure attainment of the National Ambient Air Quality Standards. In the state of Washington, EPA has delegated authority to the Department of Ecology, who in most areas, has delegated authority to

local air pollution control agencies. Each of those agencies has regulations requiring all industrial activities (including construction projects) to minimize windblown fugitive dust. Chapter 70.94 RCW-Washington Clean Air Act and Chapter 173-400 WAC require owners and operators of fugitive dust sources to prevent fugitive dust from becoming airborne and to maintain and operate sources to minimize emissions.

The General Conformity Requirements of the Code of Federal Regulations require that federal actions do not interfere with state programs to improve air quality in non-attainment areas. Portions of the Spokane area have been designated as non-attainment areas for particulate matter (PM-10). The proposed project would not interfere with air quality improvement programs because the project would contribute a low level of pollutants that would not violate air quality standards.

Chapter 173-425 WAC applies to open burning in Washington and thus applies to material burned from the cleared portions of the transmission right-of-way. The purpose of this rule is to eliminate open burning during periods of impaired air quality, in PM-10 and carbon monoxide non-attainment areas, and in populated regions. The rule also requires permits for all open burning and prohibits burning where reasonable alternatives exist. Burning permits must be obtained for each distinct burn area. Permitting agencies will be different along different sections of the line. No burning of cleared material is proposed.

Noise

The Federal Noise Control Act of 1972 (42 USC 4901) requires that Federal entities, such as BPA, comply with state and local noise requirements. Environmental noise limits relevant to this proposed project are regulated by the Washington State Department of Ecology Maximum Environmental Noise Levels (WAC 1 73-60) regulations. The regulation establishes limits on levels and duration of noise. Allowable maximum sound levels depend on the land use of the noise source and receiving property.

Nighttime noise limitations in residential neighborhoods are 50 dBA; in commercial areas the limitation is 55 dBA; and in industrial areas the limitation is 60 dBA (WAC 1 73-60-040-2b). BPA designs to a nighttime residential level of 50 dBA. Noise from electrical substations is exempt (WAC 1 73-60-050-2a). BPA imposes its own 50 dBA limit at substation boundaries. Sound created by the installation or repair of essential utility services are exempt from the sound level limits during daytime hours (WAC 1 73-60-050-le).

The proposed action would operate at or below existing state nighttime noise limits for residential property, commercial areas, and industrial areas. The facilities would be designed to meet these limits for the worst case, that is, at night, at the edge of the right-of-way, during rainy weather. During fair weather, noise levels are typically 25 dBA or less. Noise also decreases with distance from the right-of-way.

Hazardous Materials

Several pollution control acts apply to this project. The Spill Prevention Control and Countermeasures Act, Title III of the Superfund Amendments and Reauthorization Act, and the Resource Conservation and Recovery Program potentially apply to the proposed project, depending upon the exact quantities and types of hazardous materials stored on-site. Regulations would be enforced by the Washington Department of Ecology. In addition, development of a Hazardous Materials Management Plan in accordance with the Uniform Fire Code may be required by local fire districts.

The Resource Conservation and Recovery Act (RCRA), 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.

The proposed project would not generate large amounts of solid waste. Most of the poles and crossarms removed from the 115-kV line were likely treated with a wood preservative (creosote or pentachlorophenol), listed as hazardous waste under RCRA. These materials would be disposed of according to state law and RCRA.

The Toxic Substances Control 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 PCB's. BPA adopted guidelines to ensure that PCB's are not introduced into the environment. Equipment used for this project will not contain PCB's. Any equipment removed that may have PCB's will be handled according to the disposal provisions of this Act.

The Federal Insecticide, Fungicide and Rodenticide Act registers and regulates pesticides. BPA uses herbicides (a kind of pesticide) only in a limited fashion and 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 are recorded and reported to state government officials. Herbicide containers are disposed of according to RCRA standards.

If a hazardous material, toxic substance, or petroleum product is discovered, and may pose an immediate threat to human health or the environment, BPA requires that the contractor notify the Contracting Officer's Technical Representative (COTR) immediately. Other conditions such as large dump sites, drums of unknown substances, suspicious odors, stained soil, etc. shall also be reported immediately to the COTR. The COTR will coordinate with the appropriate personnel

within BPA. In addition, the contractor will not be allowed to disturb such conditions until the COTR has given the notice to proceed.

Environmental Justice

In February 1994, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations, was released to federal agencies. This order states that federal agencies shall identify and address as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income population. (Minority populations are considered members of the following groups: American Indian or Alaska Native; Asian or Pacific Islander; Black, not of Hispanic Origin; or Hispanic if the minority population of the affected area exceeds 50%, or is meaningfully greater than the minority population in the project area.)

The proposed project has been evaluated for disproportionately high environmental effects on minority and low-income populations; see the **Socioeconomics** section, Chapter 3 of this EIS. There would not be disproportionately high and adverse impacts on minority and low income populations as result of the proposed project.

Notice to the Federal Aviation Administration

As part of transmission line design, BPA seeks to comply with Federal Aviation Administration (FAA) procedures. Final locations, structures, and structure heights would be submitted to FAA for the project. The information includes identifying structures taller than 200 feet 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 tower 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.

Federal Communications Commission

Federal Communications Commission (FCC) regulations require that transmission lines be operated so that radio and television reception would not be seriously degraded or repeatedly interrupted. Further, the FCC regulations require that the operators of these devices mitigate such interference. It is expected that there would be no interference with radio, television, or other reception as a result of the proposed project (see the **Noise** section in Chapter 3). BPA would comply with FCC requirements relating to radio and television interference from the proposed project if any such interference occurs.