

Cheyenne River Sioux Tribe
Crow Creek Sioux Tribe
Flandreau Santee Sioux Tribe
Oglala Sioux Tribe



Rosebud Sioux Tribe
Standing Rock Sioux Tribe
Yankton Sioux Tribe

THE OCETI SAKOWIN POWER AUTHORITY

PHASE 2 INFORMATION SUBMISSION
IN SUPPORT OF
DESIGNATION OF THE PROPOSED
NORTHERN PLAINS NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDOR

June 24, 2024

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Table of Contents

I. Introduction: The Oceti Sakowin Power Authority’s Recent Experience Demonstrates That the Inadequacy of the National Power Grid Serving the Reservations of Its Member Tribes Is an Absolute Barrier to the Tribes’ Development of Their Wind and Solar Resources	1
II. OSPA Is Part of a Coalition Seeking to Expand Transmission in the Upper Great Plains that Will Enable Development of Renewable Energy on Tribal Lands and in Surrounding Communities	2
III. OSPA Strongly Supports the Northern Plains NIETC – But Two Changes Are Required in the Map and the Geographic Boundary	4
A. The Map Must Be Changed to Show the Correct Boundaries of the Oglala Pine Ridge Reservation	4
B. OSPA Requests a Small Expansion of the Northern Plains NIETC Boundary	10
IV. Substantial Environmental Studies Have Already Been Conducted Within the Northern Plains NIETC Area.....	11
A. Transmission Environmental Impact Studies and Environmental Assessments.....	12
B. Clean Energy Generation Environmental Impact Studies and Environmental Assessments	14
C. Environmental Studies Conducted for OSPA Wind Power Project Sites	16
D. Cultural Surveys Were Never Conducted for Many Existing Rights of Way – Such Analysis Must Be Conducted When Transmission Projects Use Existing ROW Within NIETC Boundaries.....	17
V. The <i>Transmission Needs Study</i> Shows That the Northern Plains NIETC Will Be the Most Impactful of DOE’s Proposed NIETCs in Ameliorating Public Harms Caused by a Deficient National Power Grid	18
A. Improving Reliability and Resilience	18
B. Alleviating Congestion and Unscheduled Flows; Alleviating Transfer Capacity Limits Between Regions.....	20
C. Delivering Cost-Effective Generation to Meet Demand	22
1. Capacity constraints are preventing delivery of low-cost energy to high-cost load centers..	22
2. Capacity constraints are increasing the cost of interconnection for renewable energy generation projects	23
D. Meeting Future Generation and Demand with Additional Within-Region and Interregional Transmission Capacity.....	26
E. The <i>Transmission Needs Study</i> Specifically Recognizes the Uniquely Beneficial Role that Indian Energy Can Play in Addressing the Country’s Energy Needs	27
VI. Conclusion	28

Table of Figures

Figure 1: TRIBES Project Route Map 3

Figure 2: GDO Map of the Proposed Northern Plains NIETC..... 5

Figure 3: The South Dakota Department of Tribal Relations: The Tribes of South Dakota..... 8

Figure 4: U.S. Census Map 9

Figure 5: U.S. Bureau of Indian Affairs Map 9

Figure 6: U.S. Council on Environmental Quality: Map of Bennett County Census Tract 9

Figure 7: Proposed Extension of Northern Plains NIETC Boundary..... 10

Figure 8: Map of NEPA Study Areas for High Voltage Transmission and Wind Energy
Development..... 12

Figure 9: Details on Environmental Reviews for High Voltage Transmission and Wind Energy
Development..... 13

Figure 10: Locations of Clean Energy Generation Projects Reviewed by WAPA-UGPR for
Interconnection..... 14

Figure 11: Details on WAPA-UGPR NEPA Reviews of Clean Energy Projects 15

Figure 12: Map of OSPA Wind Energy Project Site Areas..... 16

Figure 13: List of Environmental Studies Completed for OSPA Wind Energy Projects 17

Figure 14: The Northern Plains NIETC and..... 19

Figure 15: *Transmission Needs Study* Map of Energy Price Differentials Nationwide 20

Figure 16: SPP Interconnection and Network Upgrade Cost Allocations to OSPA Wind Projects 25

Figure 17: Average SPP Interconnection Costs vs SPP Cost Allocations for OSPA Wind Projects 26

Table of Attachments

- Attachment A: TRIBES Project GRIP Grant Application - Project Summary
- Attachment B: TRIBES Project GRIP Grant Application - Technical Volume
- Attachment C: TRIBES Project GRIP Grant Application - Community Benefits Plan
- Attachment D: TRIBES Project GRIP Grant Application - Preliminary Environmental
Questionnaire

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NORTHERN PLAINS NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDOR

The Oceti Sakowin (pr. O-CHET-ee Sha-KO-wee) Power Authority (OSPA) makes the following Phase 2 Information Submission in support of designating the Northern Plains National Interest Electric Transmission Corridor (Northern Plains NIETC), in response to the proposal released by the U.S. Department of Energy’s (DOE) Grid Deployment Office (GDO) on May 8, 2024.

I. Introduction: The Oceti Sakowin Power Authority’s Recent Experience Demonstrates That the Inadequacy of the National Power Grid Serving the Reservations of Its Member Tribes Is an Absolute Barrier to the Tribes’ Development of Their Wind and Solar Resources

The Oceti Sakowin Power Authority was formed by, and is owned 100% by, seven Sioux Tribes that share territory with the states of South and North Dakota—the Cheyenne River, Crow Creek, Flandreau Santee, Oglala, Rosebud, Standing Rock, and Yankton Sioux Tribes. OSPA’s Charter states its corporate mandate: develop utility-scale and community-scale renewable energy projects on the reservations of its member Tribes. Since 2017, OSPA has teamed with expert industry partners to develop its first two utility-scale wind farms, located on the Oglala Pine Ridge and Cheyenne River Reservations. After years of wind resource data collection, OSPA has confirmed that the Tribes possess some of the strongest and most reliable on-land resources in the country, with net capacity factors in excess of 50%.

In late 2017, OSPA secured positions on the Southwest Power Pool (SPP) for interconnection to the national power grid for its two wind energy projects. After five years of keeping OSPA waiting in the queue, in late 2022, SPP completed its Phase 2 system impact study, and informed OSPA that it would cost a quarter-billion dollars to interconnect both of its wind farms to the national power grid. This cost is five-to-eleven times higher than the per-kW cost of interconnection for the average completed wind farm in the 14-state SPP service area. The costs assigned to the Tribes by SPP is driven by the fact that the power grid serving the OSPA member Tribes lacks capacity to support new generation projects, and most of the costs identified by SPP were attributed to rebuilding transmission facilities on and surrounding the Tribal reservations – facilities that are largely owned by the federal government. The SPP rates

and cost-allocation methodologies are tariffed and fully regulated by the Federal Energy Regulatory Commission (FERC), and the SPP cost allocation processes and rate structures that would force some of the poorest Indian Tribes in the country to pay a quarter billion dollars simply to access the national power grid apparently are compliant with FERC rules. Of course, OSPA was forced to withdraw its wind farm projects from the SPP queue, and this experience demonstrates that interconnection to the national power grid has become an absolute barrier to the Indian Tribes of the Upper Great Plains to develop their formidable renewable energy resources. This is a failing of the federal government, generations in the making, and is a violation of the federal government's treaty obligations and trust responsibility to the Tribes.

OSPA has been a regular participant in the groundbreaking initiatives to improve the national power grid that have been initiated by multiple DOE offices, national laboratories, and agencies under the Biden/Harris/Granholm Administration. We participated actively in the groundbreaking proceedings conducted by DOE's Interconnection Innovation e-Xchange (i2X) initiative, and in the effective public and Tribal outreach conducted by DOE in its *Transmission Needs Study*, *National Transmission Planning Study*, and NEITC development processes. OSPA is grateful that the DOE's proposed Northern Plains NIETC reflects the needs and priorities that the OSPA member Tribes have identified – final designation of the Northern Plains NIETC is a critical first step in starting to address the impediment to Tribal energy sovereignty and self-determination that the national power grid has become.

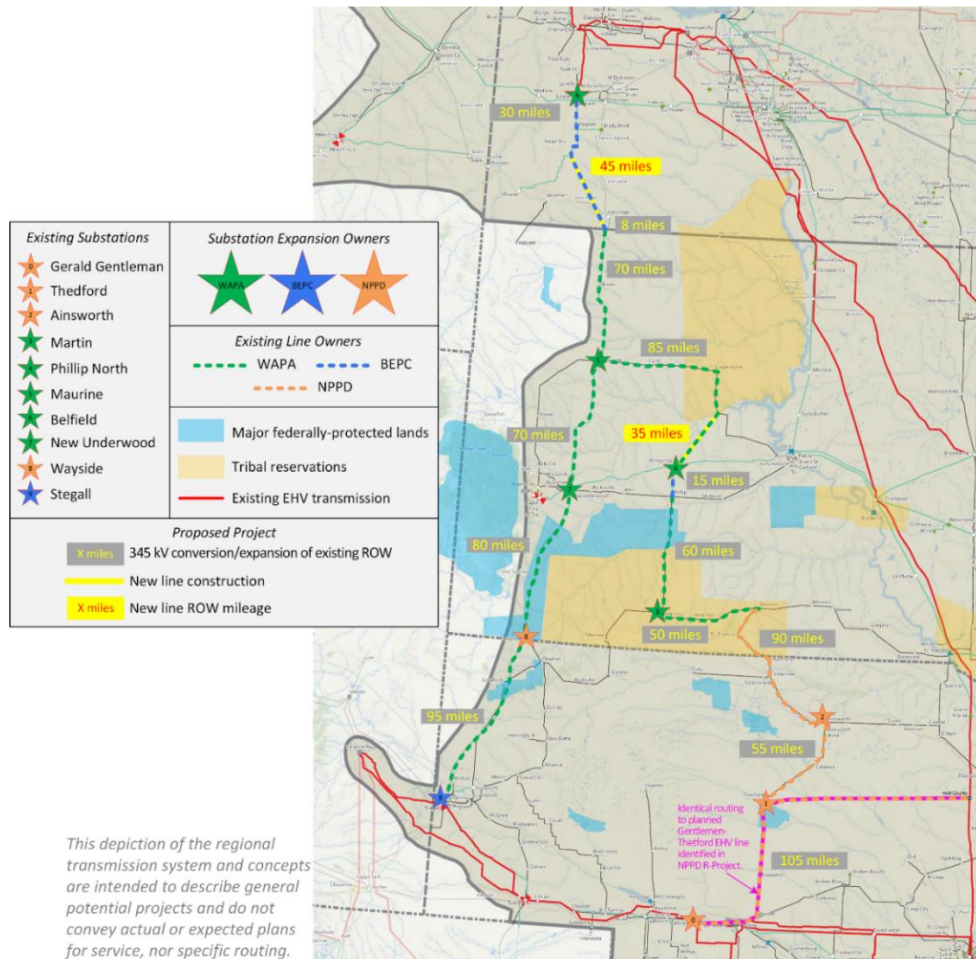
II. OSPA Is Part of a Coalition Seeking to Expand Transmission in the Upper Great Plains that Will Enable Development of Renewable Energy on Tribal Lands and in Surrounding Communities

In late 2023, OSPA joined some of the most experienced transmission owners and renewable energy developers in the country for the purposes of planning and constructing the Great Plains Transmission and Renewable Interstate Bulk Electric System (TRIBES) Project. The TRIBES Project proposes to expand upon the existing EHV power system to create a new, critically needed 345 kV transmission backbone extending from North Dakota through South Dakota to Nebraska – an area of 40,000 square miles where no EHV transmission currently exists. The TRIBES Project will bring new interstate power transfer capacity to the last electrical transmission frontier region that lacks infrastructure capable of supporting considerable development of renewable resources. With a north-south orientation on the westernmost edge of the Eastern Interconnection, the TRIBES Project will facilitate new development along rich and untapped expanses fertile with renewable energy, bringing GWs of inexpensive clean energy to load centers while strengthening transmission infrastructure that was initially built solely to provide service to local Tribal and rural electric load customers.

The TRIBES Project team consists of the Basin Electric Power Cooperative; the Oglala Sioux Tribe; OSPA; the Tribal Employment Rights Offices of the Cheyenne River, Oglala and Rosebud Sioux Tribes; the International Brotherhood of Electrical Workers Local 1250; and Steelhead Americas (the development arm of Vestas, world’s largest wind turbine manufacturer); working in collaboration with the Western Area Power Administration (WAPA).

The TRIBES Project will deploy an all-EHV, 345 kV overbuild system running from southwest North Dakota, across western South Dakota and into north central Nebraska. It will use state-of-the-art carbon core conductor, flexible AC transmission system (FACTS) control devices and static synchronous compensator (STATCOM) regulating technology. The 790-mile route consists of 90% existing rights of way (710 miles) and 10% (80 miles) greenfield construction. The planned TRIBES Project route falls almost entirely within the proposed Northern Plains NIETC. A map showing the planned TRIBES Project route is shown below:

Figure 1: TRIBES Project Route Map



The TRIBES Project was submitted to the SPP 2024 annual ITP cycle in March 2024 and SPP analysis is ongoing. WAPA, however, has been aware for some time of the need to upgrade transmission within the proposed NIETC geographic area. SPP considered a similar north-south transmission project in 2021 but it was not approved as costs narrowly outweighed the benefits as measured by SPP. If selected to move forward in the portfolio consolidation process, a TRIBES Project need-by-date will be established as part of the ITP process. We are currently estimating that TRIBES Project construction would be completed between 2030-2032 and that it may occur in phases, prioritizing build out of EHV transmission lines crossing Tribal reservations, supporting local grid resiliency and renewable energy development.

NIETC designation would be pivotal to ensuring that a critically needed 345 kV transmission backbone is built to relieve congestion in SPP-North and bring GWs of inexpensive clean energy to load centers while also strengthening transmission infrastructure serving the OSPA Tribes and other rural communities. History shows that transmission expansion begets transmission utilization. However, for bold expansion projects proposed to RTO ecosystems, immediate benefit-to-cost is paramount in decision making. Greater access to federal funding and financing programs could be the catalyst that makes the TRIBES Project possible, germinating new clean energy development where it has not grown before.

On April 17 of this year, the TRIBES Project team, led by the Oglala Sioux Tribe, submitted an application for a Grid Resilience and Innovation Partnerships (GRIP) Grant with DOE, seeking partial funding of the TRIBES Project. The TRIBES Project is unprecedented in scope and scale and will bring skilled jobs and enable clean energy development in an impoverished but natural resource-rich area, and serve as a catalyst for further transmission, clean energy and other industrial investments.

Rather than repeat details from the GRIP Grant application, we append to these comments a summary of the Project at Attachment A and the full Technical Volume and Community Benefits Plan from the application, at Attachments B and C, respectively.

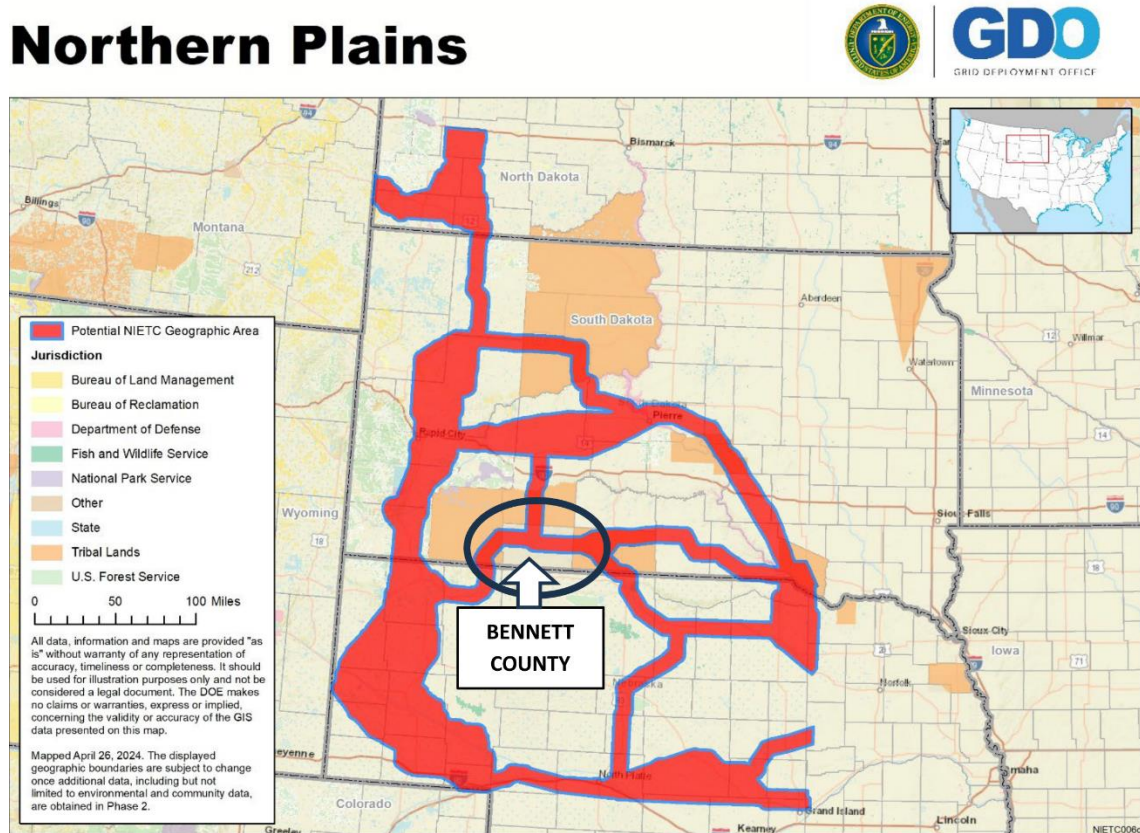
III. OSPA Strongly Supports the Northern Plains NIETC – But Two Changes Are Required in the Map and the Geographic Boundary

A. The Map Must Be Changed to Show the Correct Boundaries of the Oglala Pine Ridge Reservation

GDO's May 8, 2024 Preliminary List of Proposed NIETCs includes a series of maps that illustrate where the ten proposed NIETCs are located. The three maps that describe the proposed

Northern Plains NIETC are found in Appendix F (pages 60-62). Those maps show the Northern Plains NIETC, details of the electrical infrastructure in the area and environmental information about the area, as well as Tribal reservations. All three maps show the area of the Oglala Pine Ridge Reservation, but without Bennett County – the southeast quarter of the Pine Ridge Reservation. The first map of the Northern Plains NIETC is shown below, with Bennett County circled.

Figure 2: GDO Map of the Proposed Northern Plains NIETC



Sources: [Initiation of Phase 2 of National Interest Electric Transmission Corridor \(NIETC\) Designation Process: Preliminary List of Potential NIETCs \(energy.gov\)](#) (Appendix F, page 60) (with OSPA annotation)

But this depiction is wrong as a matter of fact and as a matter of law – the land that became Bennett County has been part of the Sioux Reservation since the Great Sioux Reservation was formed as a result of the Fort Laramie Treaty of 1868, and was Lakota Sioux land long before that. The current boundaries of the Pine Ridge Reservation were formed by Congressional act in 1889, and contained Bennett County in its entirety. In order to explain why this issue remains contentious in some parts of South Dakota, we must address history and legal precedent.

The area that became South Dakota in 1889 saw numerous conflicts throughout the American Indian Wars, including the Great Sioux War of 1876 and 1877, and of course the Pine

Ridge Reservation was the site of the Wounded Knee Massacre of 1890. As with the Civil War in some parts of our country, in South Dakota, some aspects of the wars remain in contention and efforts to rewrite history persist.

In 1887 the U.S. Congress passed the General Allotment Act – also known as the Dawes Act – which gave the President the power to break up communally-held Indian lands into specific parcels of land called “allotments” and assign them to individual Indians, or “allottees.” The President could also identify “surplus” parcels of land within reservation boundaries, and put them up for purchase by non-Indians. The Dawes Act was terminated by the Indian Reorganization Act of 1934 as part of President Franklin Roosevelt’s New Deal legislation. But between 1887 and 1934, the Dawes Act had the effect of reducing the total amount of Tribally owned land in the U.S. by about two-thirds.¹ Today, the land area of most reservations is “checker-boarded” into parcels of Tribally-owned land and allotted land (both classified as “trust” land held by the U.S. government in trust for the Indians) and fee land, owned in fee simple, either by Tribes, individual Indians or non-Indians.

In 1910, Congress passed an act called “An Act to authorize the sale and disposition of the surplus and unallotted lands in Bennett County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation to carry the same into effect” (the 1910 Act), which authorized the Secretary of State to sell “surplus” and unallocated tracts within Bennett County to non-Indians. The false assertion that Bennett County has been removed from the Pine Ridge Reservation stems from this Act.

In 1975 a case arose that tested the impact of the 1910 Act – *Cook v. Parkinson*.² In that case, an Indian man was arrested for burglary in Bennett County by South Dakota authorities. His public defender attorney argued that he was not subject to state jurisdiction because he was an Indian located on Indian land. In addressing this argument, the South Dakota federal district court considered the impact of the 1910 Act, and whether it “intended to diminish the reservation by extinguishing the Indian country character of Bennett County, or merely open Bennett County to homesteading without changing the outer confines of the Pine Ridge Reservation thereby.” The Court conducted an extensive analysis of the legislative history of the 1910 Act, and concluded that Congress intended to, and in fact did, remove Bennett County from the Pine Ridge Reservation in its entirety, thereby reducing the total area of the Reservation by about one quarter. That decision was affirmed by the 8th Circuit Court of Appeals.

¹ “Of the nearly 150 million acres of land that tribes owned in 1887, less than 50 million acres remained in 1934 when the [General Allotment Act] was repealed.” Stephen L. Prevar, *The Rights of Indians and Tribes* (3rd ed., New York University Press, 2004), at 9.

² *U.S. ex rel. Cook v. Parkinson*, 369 F. Supp. 473 (D.S.D. 1975), *affirmed* 525 F.2d 120 (8th Cir. 1975), *certiorari denied* 430 U.S. 980 (1977).

However, District and Circuit Courts in *Cook v. Parkinson* simply did not address established precedent – including Supreme Court precedent – to the contrary:

- *U.S. v. Pelican*.³ The Supreme Court held in a 1914 case that the federal government retained jurisdiction over Indian lands even when an act of Congress opened unallotted tracts within a reservation to purchase.
- *Putnam v. U.S.*:⁴ Dispute involved leases taken for unallotted tracts within Bennett County. Leaseholders did not obtain BIA approval for the leases, and claimed that the 1910 Act removed Bennett County from the Pine Ridge Reservation, so it was no longer “Indian land” and no longer was subject to the jurisdiction of federal agencies. The Court discussed the impact of the 1910 Act extensively, and rejected that contention, finding that while the 1910 Act did allow non-Indian purchases of unallotted tracts, it did not remove them from the Reservation – they remained Indian land, subject to BIA approval of leases.⁵ The Court also found that rulings in criminal cases (i.e., *Cook v. Parkinson*) were not binding in civil cases.⁶
- *U.S. v. Bennett County, S.D.*:⁷ “The land in question is wholly within the Pine Ridge Reservation.”⁸ Once land has been taken out of “public land” status and classified as “Indian land” – as the land that became Bennett County was in the Treaties of 1851 and 1868 and the Act of 1889, it is subject to federal jurisdiction. Sale of “surplus” or unallotted tracts did not alter this status.⁹

The last word on this issue came in 1995, as a result of another case – *State of South Dakota v. the U.S. Department of the Interior*.¹⁰ In that case, South Dakota opposed an action by the Department of the Interior, putting 91 acres into trust for the benefit of the Lower Brule Tribe. The State objected because taking land into trust converts it into Indian land, and removes it from the state property tax rolls. The federal district court in South Dakota held in favor of the U.S. Department of the Interior, but that decision was reversed by the 8th Circuit Court of Appeals. The 8th Circuit found that the part of the Indian Reorganization Act of 1934 that empowered the U.S. Department of the Interior to acquire land in trust for Indians was unconstitutional because it usurped U.S. Congress’ power and impinged on state’s rights, including their right to tax land. The 8th Circuit decision was vacated (reversed) by the U.S.

³ *U.S. v. Pelican*, 232 U.S. 442 (1914).

⁴ *Putnam v. U.S.*, 248 F.2d 292 (8th Cir. 1957).

⁵ *Id.* at 295.

⁶ *Id.* at 295.

⁷ *U.S. v. Bennett County, SD*, 265 F. Supp. 249 (D.S.D. 1967), affirmed *Bennett County, SD v. U.S.*, 394 F.2d 8 (8th Cir. 1968).

⁸ *Bennett County, SD v. U.S.*, 394 F.2d 8 (8th Cir. 1968) at 9.

⁹ *Id.* at 15-16.

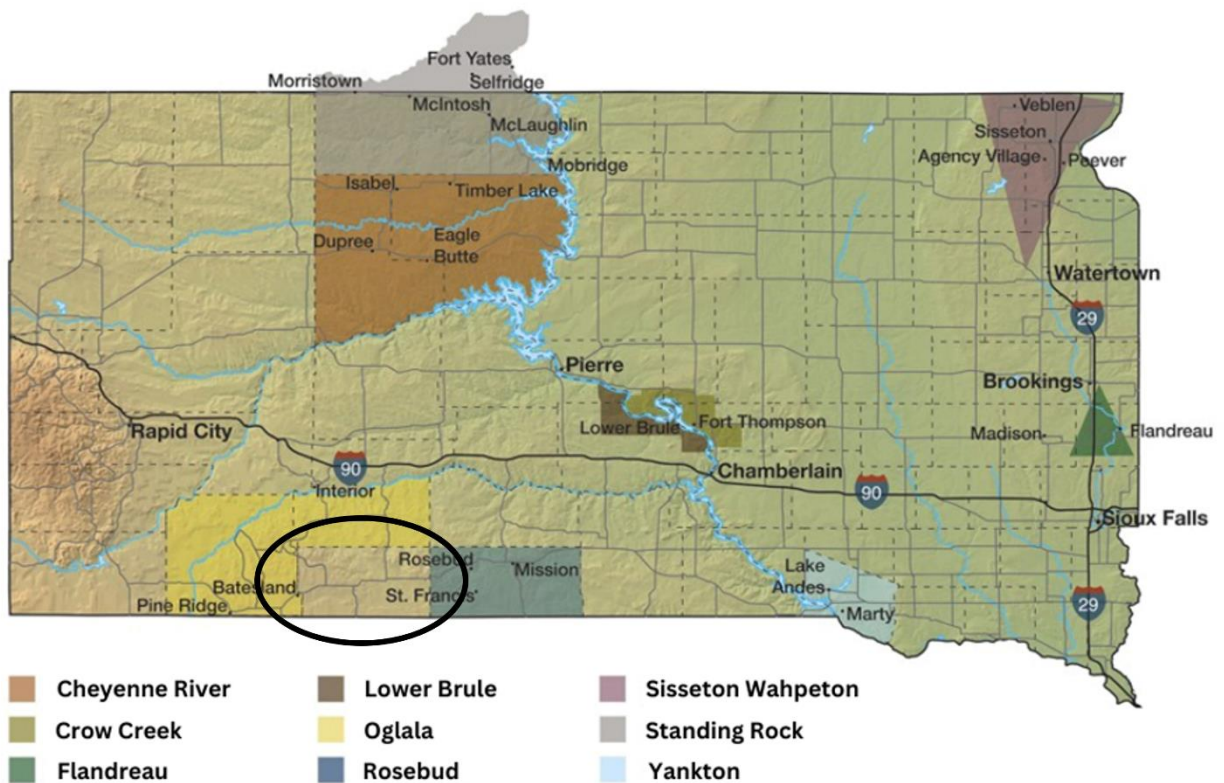
¹⁰ 69 F. 3d 878 (8th Cir. 1995) *vacated and remanded to Department of Interior* 519 U.S. 919 (1996).

Supreme Court in 1996, and the lower court ruling was reinstated.

The *Department of the Interior* case has remained the last word on the subject. As the U.S. Department of Justice website page describing the decision states: “Since then, district and circuit courts have consistently rejected [similar] claims, and the Supreme Court refused to hear the issue in 2008.”¹¹

But despite this unequivocal legal precedent, South Dakota official State maps continue to depict the Pine Ridge Reservation with Bennett County removed.

Figure 3: The South Dakota Department of Tribal Relations: The Tribes of South Dakota



Source: <https://sdtribalrelations.sd.gov/tribes/nine-tribes.aspx> (with OSPA annotation)

In contrast, multiple federal agencies maintain maps showing Bennett County as part of the Pine Ridge Reservation.

¹¹ <https://www.justice.gov/enrd/indian-resources-section/defensive-cases/south-dakota-v-doi>

Figure 4: U.S. Census Map

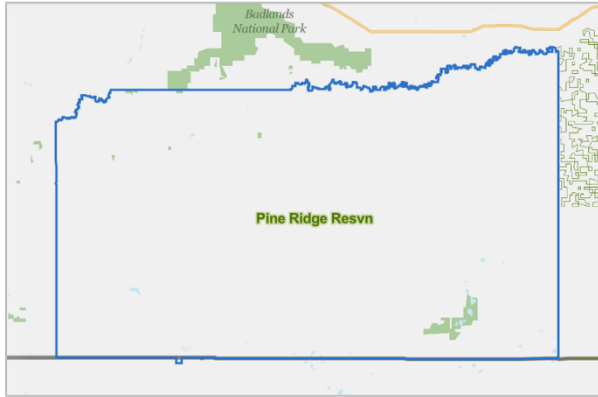
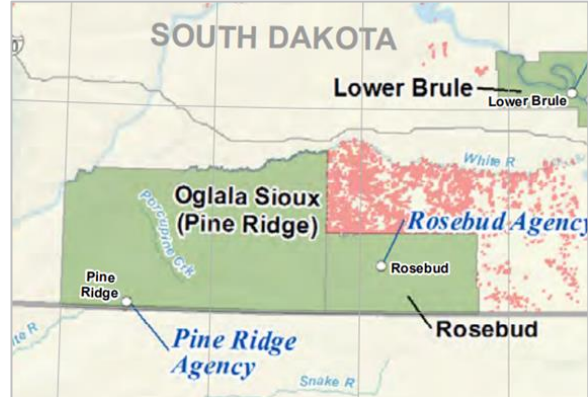


Figure 5: U.S. Bureau of Indian Affairs Map



Sources: https://data.census.gov/profile/Pine_Ridge_Reservation,_SD--NE?q=2500000US2810;
<https://www.bia.gov/sites/default/files/dup/assets/bia/ots/webteam/pdf/idc1-028635.pdf>

And perhaps most explicitly, the Biden Administration charged the U.S. Council on Environmental Quality to develop an interactive Climate and Economic Justice Screening Tool showing disadvantaged communities (DACs). That tool identifies the Oglala Pine Ridge Reservation as a DAC, and expressly shows Bennett County as part of the Reservation. A screenshot of the description of Bennett County is shown and highlighted below.

Figure 6: U.S. Council on Environmental Quality: Map of Bennett County Census Tract



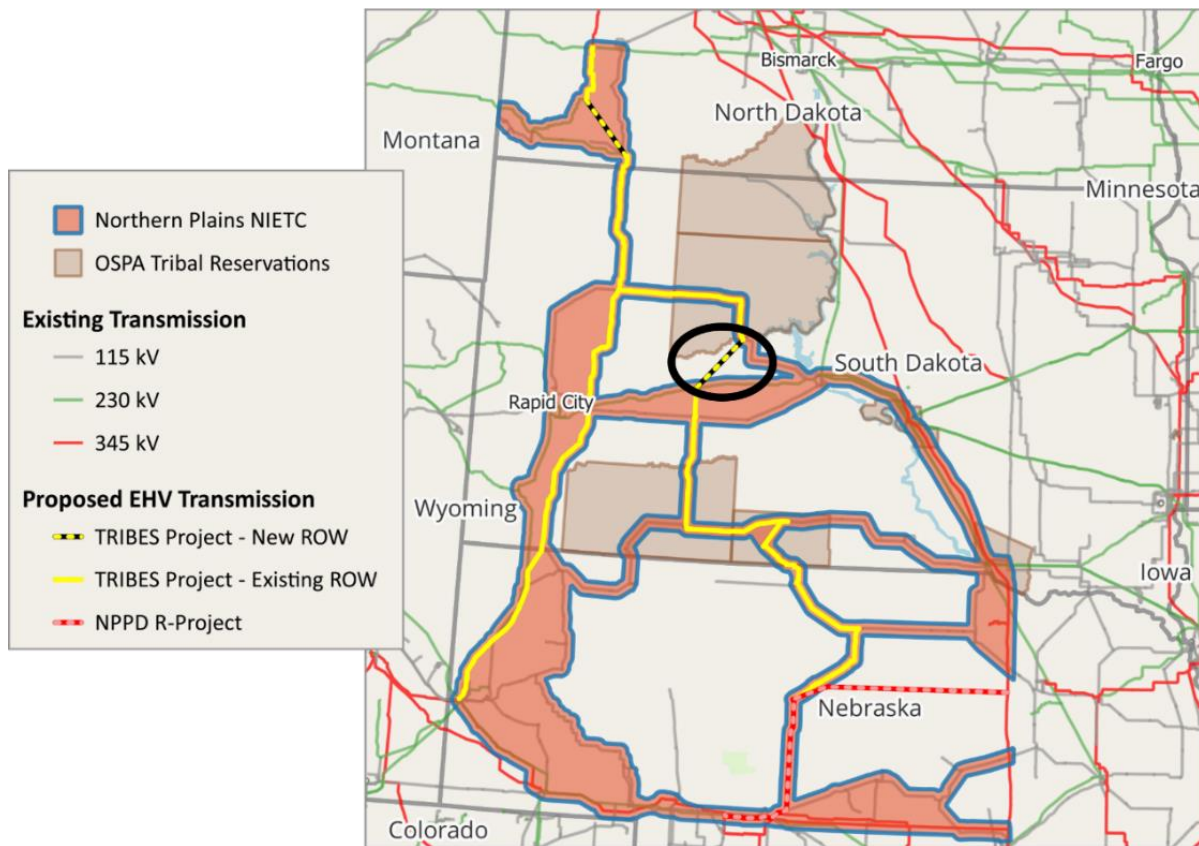
Source: <https://screeningtool.geoplatform.gov/en/#7.86/43.122/-101.467> (with OSPA annotation)

OSPA therefore asks that the Grid Deployment Office reflect the correct borders of the Pine Ridge Reservation when it issues its final NIETC designation.

B. OSPA Requests a Small Expansion of the Northern Plains NIETC Boundary

As discussed in Section II above, OSPA is part of an unprecedented team that is developing the TRIBES Project, which if implemented, will bring EHV transmission and new capacity to support renewable energy generation in the transmission desert of western South Dakota. 90% of the EHV overbuild will be deployed along existing rights of way, and all of these planned routes fall within the Northern Plains NIETC as currently proposed. However, there is one segment of new construction required to connect the new EHV line across the Cheyenne River Reservation to the WAPA Philip North Substation – a segment of greenfield construction of about 35 miles, running from the southern border of the Cheyenne River Reservation southwest to Philip North. Because the route map of the TRIBES Project was designed as a single, cohesive project, providing capacity, facility redundancy and geographically diverse routing, OSPA requests that the Northern Plains NIETC be expanded to include this greenfield segment so that construction and permitting of all routes of the TRIBES Project can proceed on the same schedule. A map showing the proposed transmission segment, and the requested addition to the proposed Northern Plains NIETC is shown below.

Figure 7: Proposed Extension of Northern Plains NIETC Boundary



IV. Substantial Environmental Studies Have Already Been Conducted Within the Northern Plains NIETC Area

Per the DOE Guidance on Implementing Section 216(a) of the Federal Power Act to Designate National Interest Electric Transmission Corridors, DOE is seeking information in Phase 2 to assist it in conducting a study of environmental impacts pursuant to National Environmental Policy Act (NEPA) and examining any requirements that may apply under other federal statutes, such as the NHPA and ESA. While no environmental studies have been conducted for the TRIBES Project to date, a preliminary Environmental Questionnaire was required for the GRIP Grant Application which is appended to these comments as Attachment D.

A significant number of transmission and clean energy projects, however, have already undergone NEPA review within and around the Northern Plains NIETC, ranging from the Upper Great Plains Wind Programmatic Environmental Impact Statement (PEIS), to multiple transmission and clean energy Environmental Impact Statements (EISs) and Environmental Assessments (EAs). OSPA believes this information would be helpful to DOE and so below, OSPA has included several maps and tables describing such studies in relation to the Northern Plains NIETC and identifies where DOE can access additional information online.

A. Transmission Environmental Impact Studies and Environmental Assessments

The map and table below provide details on environmental reviews conducted for significant transmission projects in the Northern Plains NIETC area, as well as the Upper Great Plains Wind Energy Programmatic Environmental Impact Statement (UGP Wind Energy PEIS) published by WAPA and U.S. Fish and Wildlife Service (USFWS) to facilitate wind energy development and interconnection in the area.

Figure 8: Map of NEPA Study Areas for High Voltage Transmission and Wind Energy Development

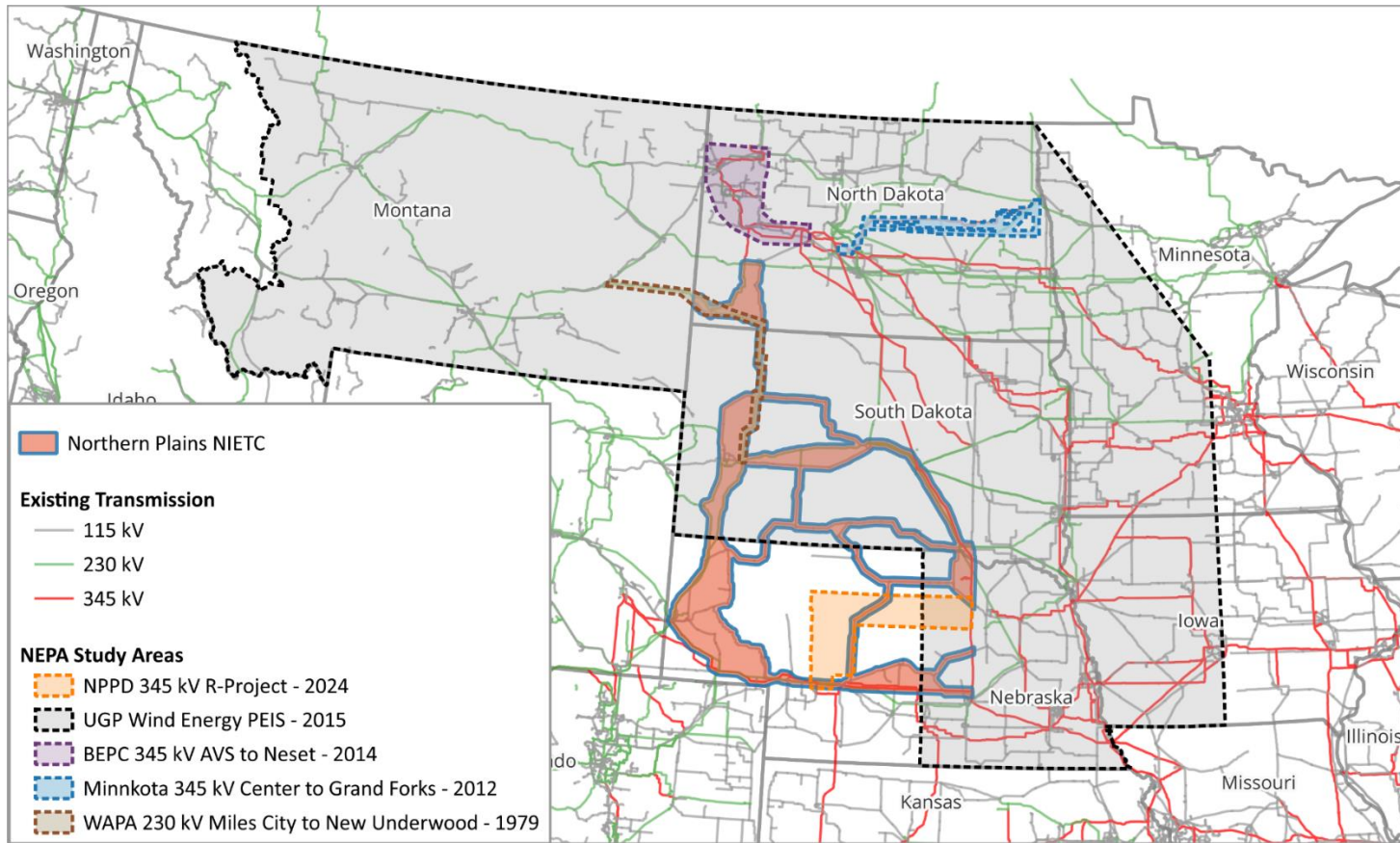


Figure 9: Details on Environmental Reviews for High Voltage Transmission and Wind Energy Development

Project	Project Owner	Environmental Review	Notes	Agencies	Status/Date
R-Project	Nebraska Public Power District (NPPD)	EIS: FWS-R6-ES-2014-0048 ITP: TE72710C-0 (American burying beetle)	Construction of 345 kV transmission line and related facilities in central Nebraska; supplemental EIS and related materials address whooping cranes and American burying beetle https://www.regulations.gov/docket/FWS-R6-ES-2014-0048	US Fish & Wildlife Service (USFWS)	FEIS - 2/8/2019 Draft SEIS - 2/9/2024
Upper Great Plains Wind Energy Final Programmatic Environmental Impact Statement (PEIS)	N/A	PEIS: DOE/EIS-0408	PEIS to address wind energy development and interconnection requests in the Upper Great Plains https://www.wapa.gov/about-wapa/regions/ugp/environment/programmaticwind-eis/	WAPA, USFWS - Leads	PEIS - April 2015
Antelope Valley Station to Naset Transmission Project	Basin Electric Power Cooperative (BEPC)	EIS: DOE/EIS-0478	Construction of 345 kV transmission line facilities from Antelope Valley Station coal generation facility to Naset Substation in North Dakota https://www.energy.gov/nepa/eis-0478-antelope-valley-station-naset-transmission-project-merceraldunn-billings-williams	RUS - Lead WAPA, Forest Service - Cooperating	FEIS - 5/30/2014 RUS ROD - 9/13/2014 WAPA ROD - 11/21/2014
Center to Grand Forks 345kV Transmission Line Project - North Dakota	Minnkota Power Cooperative	EA: Center to Grand Forks Project	Construction of 345 kV transmission and related facilities in North Dakota https://www.rd.usda.gov/resources/environmental-studies/assessment/center-grand-forks-345kv-transmission-line-project-north-dakota	Rural Utilities Service (RUS) - Lead	EA - November 2010 FONSI - 2/29/2012
Miles City - New Underwood 230 kV Electrical Transmission Line	WAPA	EIS: DOE/EIS-0025-F	Construction of 230 kV transmission line from Montana to South Dakota and related facilities https://www.energy.gov/nepa/listings/eis-0025-documents-available-download	WAPA	FEIS - July 1979

B. Clean Energy Generation Environmental Impact Studies and Environmental Assessments

The map and table below provide details on environmental reviews conducted by WAPA-UGPR for interconnecting wind and solar energy projects over the last 10 years. WAPA's review encompasses both the generation and transmission facilities for a project. Full documentation for each review can be found online at <https://www.wapa.gov/about-wapa/regions/ugp/environment/>.

Figure 10: Locations of Clean Energy Generation Projects Reviewed by WAPA-UGPR for Interconnection

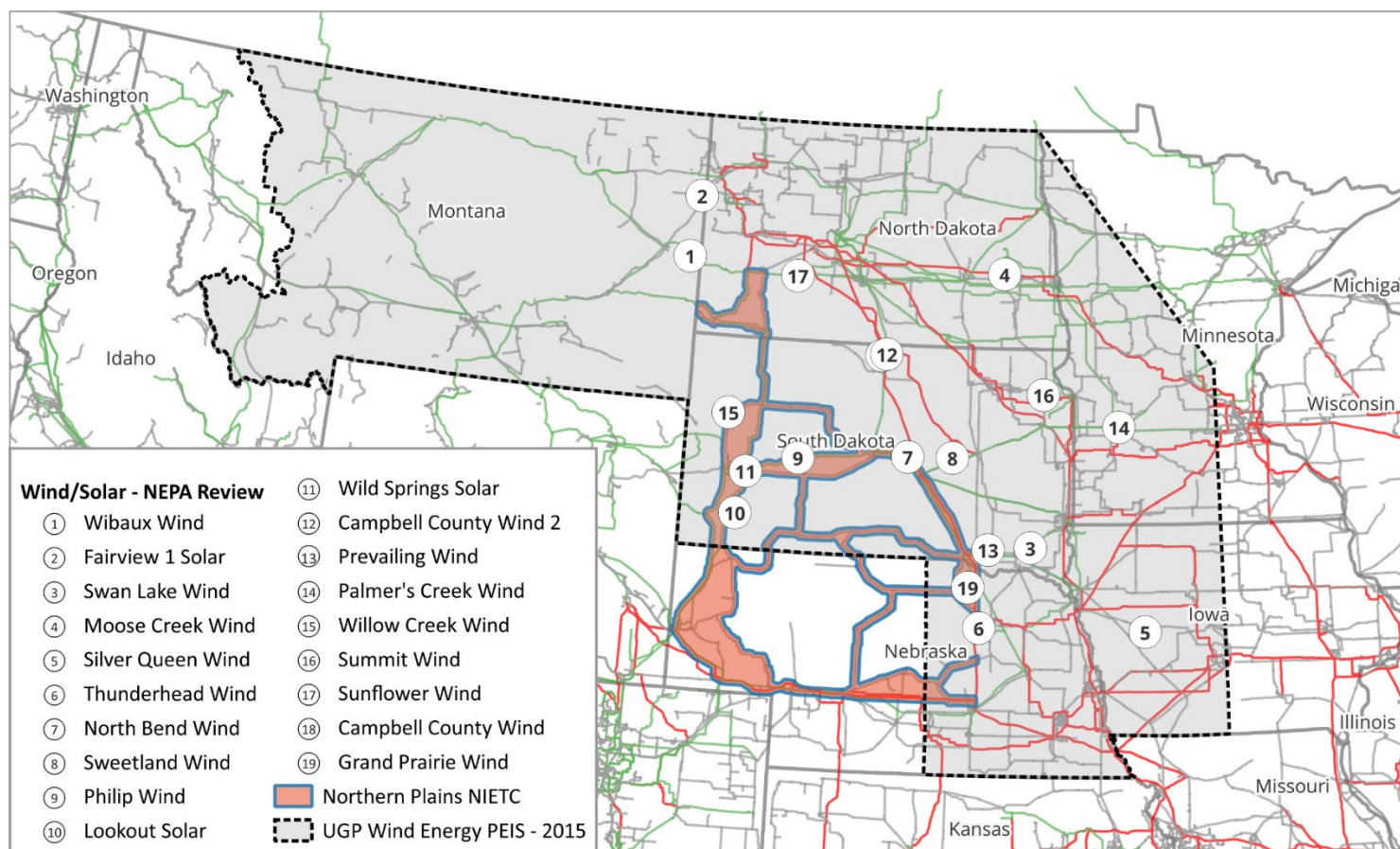


Figure 11: Details on WAPA-UGPR NEPA Reviews of Clean Energy Projects

Index	Project	Capacity	State	Within NIETC?	NEPA Review	Tiered to Wind PEIS?	FONSI Date
1	Wibaux Wind Farm	235 MW	MT	No	DOE/EA-2553	Yes	N/A - Scoping Phase
2	Fairview 1 Solar Project	75 MW	MT	No	DOE/EA-2261	N/A - solar	N/A - Scoping Phase
3	Swan Lake Wind Project	248 MW	SD	No	DOE/EA-2248	Yes	N/A - Scoping Phase
4	Moose Creek Wind Project	100 MW	ND	No	DOE/EA-2239	Yes	N/A - Scoping Phase
5	Silver Queen Wind Farm	252 MW	IA	No	DOE/EA-2211	Yes	N/A - Scoping Phase
6	Thunderhead Wind Energy Center	300 MW	NE	No	DOE/EA-2174	Yes	7/14/2022
7	North Bend Wind	200 MW	SD	Yes	DOE/EA-2161	Yes	5/11/2023
8	Sweetland Wind	200 MW	SD	No	DOE/EA-2095	Yes	9/24/2021
9	Philip Wind	300 MW	SD	Yes	DOE/EA-2094	Yes	N/A - Draft EA 2/16/ 2024
10	Lookout Solar Park	110 MW	SD	No	DOE/EA-2075	N/A - solar	7/15/2021
11	Wild Springs Solar	128 MW	SD	Yes	DOE/EA-2068	N/A - solar	9/29/2021
12	Campbell County Wind Farm 2	99 MW	SD	No	DOE/EA-2062	Yes	N/A - Scoping Phase
13	Prevailing Wind Park Project	217 MW	SD	No	DOE/EA-2061	Yes	3/29/2019
14	Palmer's Creek Wind	45 MW	MN	No	DOE/EA-2053	Yes	7/26/2018
15	Willow Creek Wind Energy	103 MW	SD	Yes	DOE/EA-2016	Yes	11/10/2016
16	Summit Wind Farm	90 MW	SD	No	DOE/EA-1979	Yes	8/17/2015
17	Sunflower Wind Farm	110 MW	ND	No	DOE/EA-1966	No	10/7/2014
18	Campbell County Wind Farm	99 MW	SD	No	DOE/EA-1955	No	6/11/2015
19	Grand Prairie Wind Farm	400 MW	NE	Yes	DOE/EIS-0485	No	4/20/2015

C. Environmental Studies Conducted for OSPA Wind Power Project Sites

OSPA conducted multi-year avian and bat studies for the Pass Creek wind farm project on the Pine Ridge Reservation and the Ta'teh Topah wind farm project on the Cheyenne River Reservation. Below is a map of the project site locations and a list of the completed studies. The Pass Creek project site area encompasses approximately eight miles of the existing ROW that will be utilized by the TRIBES Project directly north of the WAPA Martin Substation. OSPA can provide DOE with the studies if they would be helpful.

Figure 12: Map of OSPA Wind Energy Project Site Areas

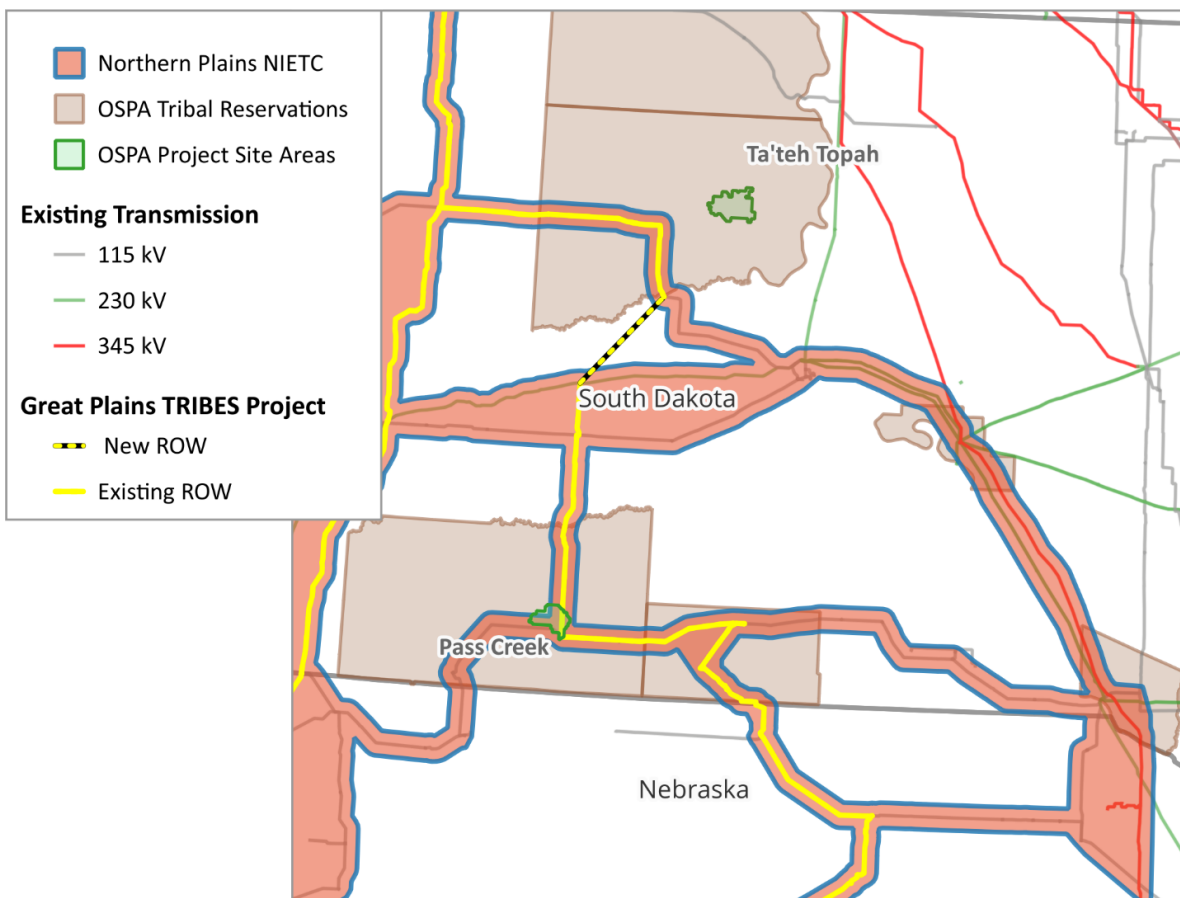


Figure 13: List of Environmental Studies Completed for OSPA Wind Energy Projects

Study	Consultant	Date Conducted
Aerial Raptor Nest Survey - Year 1	Copperhead Environmental Consulting	Spring 2019
Aerial Raptor Nest Survey - Year 2	Copperhead Environmental Consulting	Spring 2020
Sharp Tailed Grouse Aerial Lek Survey	WEST	Spring 2019
Prairie Dog Colony Mapping	WEST	Spring 2019
Avian Use Survey - Year 1	WEST	Dec. 2018 to Nov. 2019
Avian Use Survey - Year 2	WEST	Dec. 2019 to Nov. 2020
Passive Bat Acoustic Monitoring	Copperhead Environmental Consulting	April to Nov. 2019
Cultural Field Survey - Met Tower Sites Only	Quality Services, Inc. (QSI)	August 2018

Note: A separate study was conducted in each topic area for each project.

D. Cultural Surveys Were Never Conducted for Many Existing Rights of Way – Such Analysis Must Be Conducted When Transmission Projects Use Existing ROW Within NIETC Boundaries

Finally, as discussed in Section II above, the TRIBES Project will use existing transmission rights of way for 90% of its transmission route, just as much of the proposed Northern Plains NIETC area also aligns with existing ROW. We support this approach but also recognize that much of the existing transmission infrastructure was deployed decades ago, and ROW were secured and facilities built without appropriate consultation with the Tribes. We also believe that for most locations, both on-reservation and off, cultural field surveys were never conducted when the existing transmission was built.

In recognition of this, the TRIBES Project team has committed to work with the Tribal Historic Preservation Offices (THPOs) of affected Tribes to conduct cultural field surveys along the full length of the Project transmission path, and will hire Tribal monitors for all construction activity to properly manage any inadvertent discoveries during construction, both on and off the reservations. We would encourage DOE to require all transmission projects that may be built within the NIETC area to engage in similar practices.

V. The *Transmission Needs Study* Shows That the Northern Plains NIETC Will Be the Most Impactful of DOE’s Proposed NIETCs in Ameliorating Public Harms Caused by a Deficient National Power Grid

In October 2023 the Department of Energy issued its most recent triennial *Transmission Needs Study*.¹² The purpose of the study is to identify the challenges to the national power grid presented by aging infrastructure and inadequate transmission capacity, and to identify the areas most urgently in need of addressing to ensure the nation’s economic, energy and national security. The analysis and findings of the *Transmission Needs Study* are built around a list of current and projected transmission needs:

- Improve reliability and resilience.
- Alleviate congestion and unscheduled flows.
- Alleviate transfer capacity limits between regions.
- Deliver cost-effective generation to meet demand.
- Meet future generation and demand with additional within-region transmission.
- Meet future generation and demand with additional interregional transmission transfer capacity.¹³

The findings published in the *Transmission Needs Study* not only support the permanent designation of the Northern Plains NIETC, they confirm that, because of its central location between the eastern and western regions, its role as a transmission path between renewable and carbon-based generation in the north and load centers in the south, and the historic lack of investment in the region, investment in transmission upgrades in the Northern Plains NIETC will be the most impactful in the country. Below, OSPA briefly recounts the findings of the *Transmission Needs Study* that support these conclusions.

A. Improving Reliability and Resilience

The *Transmission Needs Study* not only discusses the critical role of new transmission capacity in making the national power grid more reliable and resilient, it notes that Indian energy can play a particularly impactful role in accomplishing this:

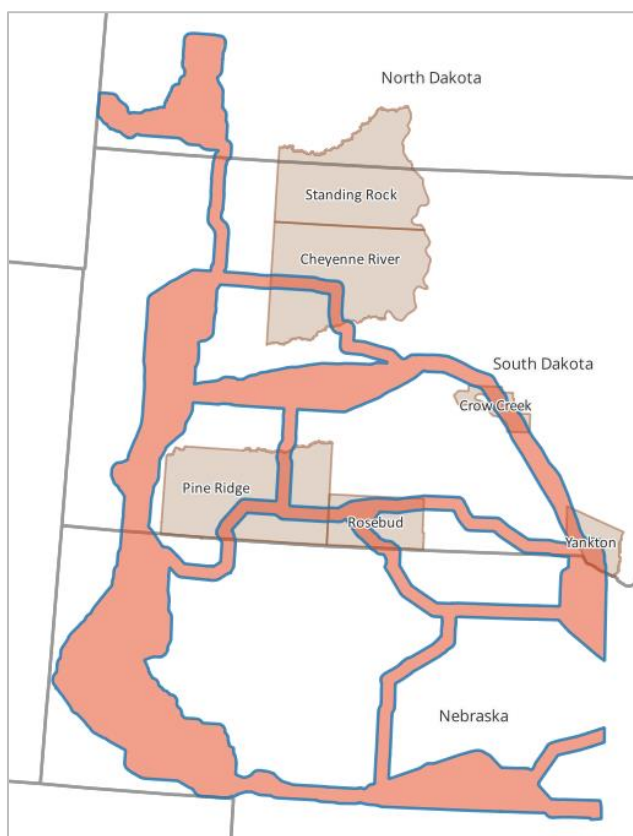
¹² https://www.energy.gov/sites/default/files/2023-12/National%20Transmission%20Needs%20Study%20-%20Final_2023.12.1.pdf

¹³ *Transmission Needs Study* at page xi, figure ES-7.

Indian Country contains vast untapped energy resources. While a wide variety of energy resources exist on Tribal lands, increasing vulnerabilities due to climate change have resulted in a rising demand for clean energy generation (Jones et al. 2022). Renewable energy technologies provide opportunities for diversification, energy independence, environmental sustainability, and new revenue streams for Native American Tribes, Alaska Native villages, and Alaska Native corporations (Milbrandt, Heimiller, and Schwabe 2018). Many Tribal lands are located in areas that have abundant renewable energy, such as wind, solar, and biomass. Over 9% of the nationally available renewable energy resource is found within 10 miles of federally recognized Tribal lands (Brooks 2022). Transmission is key in accessing these potential generation resources.¹⁴ * * * Access to the transmission system is required to bring the economically viable generation resources to market. Where some Tribal lands are well covered by the transmission system, some have limited or no access to high-voltage lines.¹⁵

There are no EHV facilities on the reservations of the OSPA member Tribes, or indeed in the entire 40,000 square mile surrounding them, west of the Missouri River. The Northern Plains NIETC would encourage investment in EHV transmission that would allow the development of renewable energy resources among some of the largest land-based Tribes in the country, in the middle of the largest wind energy resource belt in the country. The TRIBES Project, which would be encompassed within the proposed NIETC, would combine vast new generation potential with 790 miles of geographically diverse and redundant EHV transmission, delivering enormous improvements in reliability and resiliency within the region and beyond.

Figure 14: The Northern Plains NIETC and the OSPA Member Tribes



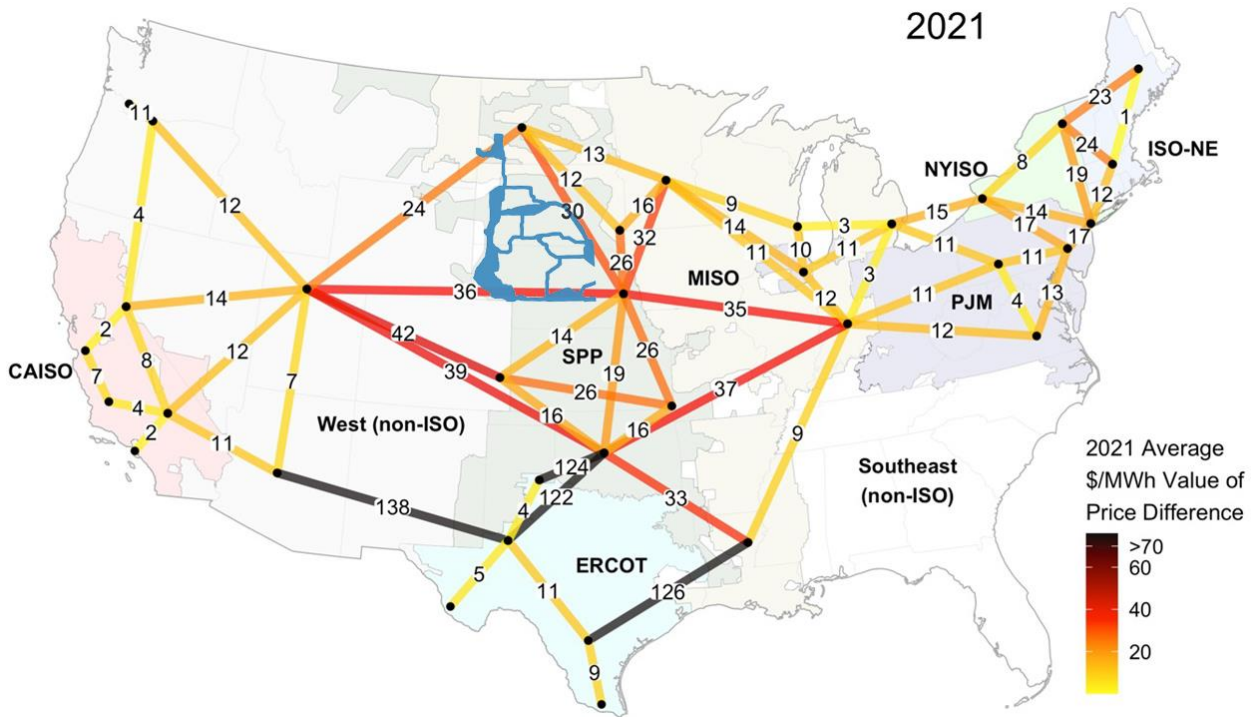
¹⁴ *Transmission Needs Study* at 84.

¹⁵ *Id.* at 86.

B. Alleviating Congestion and Unscheduled Flows; Alleviating Transfer Capacity Limits Between Regions

Heavily referenced in the *Transmission Needs Study*, the work of Dev Millstein, *et al.*, with Lawrence Berkeley National Laboratory (LBNL) focused on geographic differences between locational marginal prices as a strong indicator of the potential value of transmission expansion. In short, as a single measure, wholesale electricity price differences between two locations offer a simple, objective description of the cost of congestion. The LBNL study ranks the Southwest Power Pool service area at the top of assessment results for the potential marginal value of relieving both interregional and intraregional congestion.¹⁶ The *Transmission Needs Study* map showing price differentials nationwide, projected on the RTO service areas, is shown below, along with the Northern Plains NIETC.

Figure 15: *Transmission Needs Study* Map of Energy Price Differentials Nationwide with Northern Plains NIETC



Source: Figure ES-3: Average hourly difference in price between selected hub zones within and across regions between 2012 and 2020, *National Transmission Needs Study*, p. vi)

¹⁶ *Transmission Needs Study* at v-vi & 36-42, citing Dev Millstein, Ryan H. Wiser, Will Gorman, Seongeun Jeong, James Hyungkwan Kim, and Amos Ancell, *Empirical Estimates of Transmission Value using Locational Marginal Prices* (2022).

Using this backdrop, the value of the TRIBES Project towards meeting national transmission needs by expanding SPP intraregional north-south transmission capacity, as well as relieving existing neighboring interregional transmission links can be described. The *Transmission Needs Study* identifies and measures the economic impact of transmission capacity constraints and congestion by examining market price differences at selected hub zones across the country, both within Regional Transmission Organization regions and across regions.¹⁷ Using this analysis, the *Transmission Needs Study* concludes that “[t]he greatest transmission value is found by connecting regions in the middle of the country with their more eastern or western neighbors¹⁸ prices are low in northern and high in southern Plains region (SPP)”¹⁹

Specifically, SPP-North placed twice in the top twelve interregional transmission links, as well as twice in the top fifteen intraregional links, that yielded the highest estimated congestion relief. The LBNL assessment also evaluated the value of transmission congestion relief attributable during periods of maximum congestion including during extreme conditions that may arise from volatility in energy availability, extreme weather events, exceptional electricity demand, or infrastructure failures. For all transmission links studied, results indicated that congestion relieved during the top 5% of all congested hours could account for at least 35% of potential expansion value.²⁰ This highlights the value of transmission capacity during periods of maximum congestion but may obscure a broader conclusion for transmission expansion that yields both sustained congestion relief as well as resilience during extreme events.

For example, the LBNL findings showed that almost all SPP-North transmission links ranked in the bottom quintile of proportional value derived during the top 5% hours of congestion, despite showing high absolute value from relieving SPP-North congestion on an annual basis. In other words, SPP-North transmission links indicated sustained high value for congestion relief across all hours of the simulated years, not simply deriving its benefits from punctuated congestion relief during extreme events. As a comparison, a SPP-to-ERCOT interregional transmission link showed about 75% of its total annual congestion relief value was derived from the top 5% of its most congested hours, with two-thirds of this relief occurring during extreme events. The SPP north-to-south intraregional transmission link indicated less than 40% of its total annual congestion relief value was derived from the top 5% of its most congested hours, with only 10% of this relief occurring during extreme events.²¹ While the

¹⁷ *Transmission Needs Study* at v, figure ES-3, and *passim*.

¹⁸ *Id.* at 51.

¹⁹ *Id.* at 32.

²⁰ *Id.* at 41-42.

²¹ Dev Millstein, Ryan H. Wisler, Will Gorman, Seongeun Jeong, James Hyungkwan Kim, and Amos Ancell, *Empirical Estimates of Transmission Value using Locational Marginal Prices* (2022), at 28.

results indicate the overall value of SPP north-to-south intraregional transmission congestion relief was less than half of the SPP-to-ERCOT interregional transmission congestion relief, when the influence of extreme conditions is removed, the mean value of overall transmission congestion relief between the transmission links becomes comparable.

The costs of congestion and the lack of transmission capacity continue to frustrate electricity customers. While the *Transmission Needs Study* primarily relied upon data between 2012 through 2020, average wholesale electricity prices escalated about 20% from 2020 to 2021, with the 2022 average SPP hourly real-time electricity price (\$43/MWh) growing 75% higher than in 2021.²² Specifically in the northern SPP pricing zone, the 2023 average real-time price for the largest Market Participant exceeded \$54/MWh, based on SPP marketplace settlement data through December 1, 2023.²³ Importantly, these price increases were not due to natural gas prices; the SPP North generation footprint is dominated by coal and hydropower. Rather, this harm to electricity consumers is a result of increased congestion. North-south transmission capacity in the central and northern zones of SPP is desperately needed to stabilize electricity costs by mitigating congestion and facilitating expanded low-cost renewable generation.

The TRIBES Project sited on the western edge of SPP-North will enhance operational flexibility for north-south transfer capacity, as well as strengthening reliability across a three-state area, squarely meeting the objectives for transmission expansion enumerated in the *Transmission Needs Study*.

C. Delivering Cost-Effective Generation to Meet Demand

1. Capacity constraints are preventing delivery of low-cost energy to high-cost load centers

The *Transmission Needs Study* determines that transmission capacity constraints and congestion are the drivers for high energy costs because it keeps energy consumers in high price areas from accessing low-cost energy from areas with the best resources.²⁴ And as noted above, the congestion costs in the Plains region keep rising—average wholesale electricity prices escalated about 20% from 2020 to 2021, and another 75% from 2021 to 2022 to an

²² SPP, State of the Market 2022 (May 2023);

<https://www.spp.org/documents/69330/2022%20annual%20state%20of%20the%20market%20report.pdf>

²³ SPP, compiled from RTBM-LMP Monthlies by Settlement Location; <https://portal.spp.org/>

²⁴ *Transmission Needs Study* at v, 31, 36 and 51; figure ES-3 (page vi); figure IV-9 (page 35).

average SPP hourly real-time electricity price of \$43/MWh.²⁵ Specifically in the northern SPP pricing zone, the 2023 average real-time price for the largest Market Participant exceeded \$54/MWh, as of December 1, 2023.²⁶ Indeed, this continuing price escalation has been predicted by the *Transmission Needs Study*.²⁷

The *Transmission Needs Study* discusses the Administration’s energy policy goal of connecting remote areas with plentiful and low-cost renewable energy resources to load centers:

New transmission advances clean energy goals by enabling greater access to the best available and lowest cost clean energy resources, which can be in remote areas far from load and the existing transmission system. Many new energy resources that would help reduce power prices and meet reliability and clean energy goals are currently within backlogged interconnection queues and a more efficient transmission study process can help hasten connection of those resources to the grid.²⁸

The OSPA member Tribes have identified four utility-scale wind projects on three reservations, which together can generate 2 GW of wind energy. There are additional utility-scale wind and solar generation projects that can be developed on the reservations of other OSPA member Tribes, as well as significant community-scale projects. Bringing this scale of low-cost, clean energy to market would have national significance in contributing to the climate goals identified in the *Transmission Needs Study*, including bringing low-cost energy to high-cost load centers.

2. Capacity constraints are increasing the cost of interconnection for renewable energy generation projects

The *Transmission Needs Study* recognizes that network upgrade costs are interfering with new energy generation projects, and notes that FERC shares this view:

Furthermore, over the past several years, installation of new generators has been delayed because of longer wait times for interconnection agreements (Rand et

²⁵ SPP, State of the Market 2022 (May 2023);

<https://www.spp.org/documents/69330/2022%20annual%20state%20of%20the%20market%20report.pdf>

²⁶ SPP, compiled from RTBM-LMP Monthlies by Settlement Location; <https://portal.spp.org/>

²⁷ *Transmission Needs Study* at viii-ix (references deleted, emphasis added).

²⁸ *Id.* at 9.

al. 2022) and increased costs to connect to the electricity grid (Caspary et al. 2021). As described in the FERC Notice of Proposed Rulemaking, Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection (FERC 2022), these wait time and cost challenges are related to an increasing portion of overall transmission investment occurring through these interconnection agreement processes, which could result in less cost-effective transmission deployment. FERC suggests that the “piecemeal” approach to transmission deployment that occurs with the interconnection agreement process will not benefit from the economies of scale that would accompany a full regional transmission planning process (FERC 2022).²⁹

In fact, the adverse impact on new generation projects that FERC identified is even greater than the *Transmission Needs Study* portrays. The FERC Notice cited in the study states:

[T]he average cost of interconnection-related network upgrades is increasing over time as the transmission system is fully subscribed and demand for interconnection service outpaces transmission investment. * * * [I]nterconnection costs for new renewable resources were less than 10% of total generation project costs until a few years ago, but recently these costs have risen to as much as 50-100% of the total generation project costs.³⁰

The table below details the costs that SPP assigned to the OSPA wind farms at the conclusion of its DISIS-2017-002 Phase 2 study.³¹ Consistent with the FERC findings, these interconnection costs largely reflect transmission upgrades — almost 85% of the costs for the Ta'teh Topah wind farm on the Cheyenne River Reservation and a full 98% for the Pass Creek wind farm on the Oglala Pine Ridge Reservation.

²⁹ *Transmission Needs Study*. at 20.

³⁰ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection, Advanced Notice of Proposed Rulemaking*, Docket No. RM21-17-000, 179 FERC ¶ 61,028, issued April 21, 2022 at ¶¶ 37 - 38. (Emphasis added.)

³¹ https://opsportal.spp.org/documents/studies/files/2017_Generation_Studies/DISIS_Results_Workbook_DIS1702P_2-PowerFlow_Stability_SC_FinalReport_08292022.xlsx

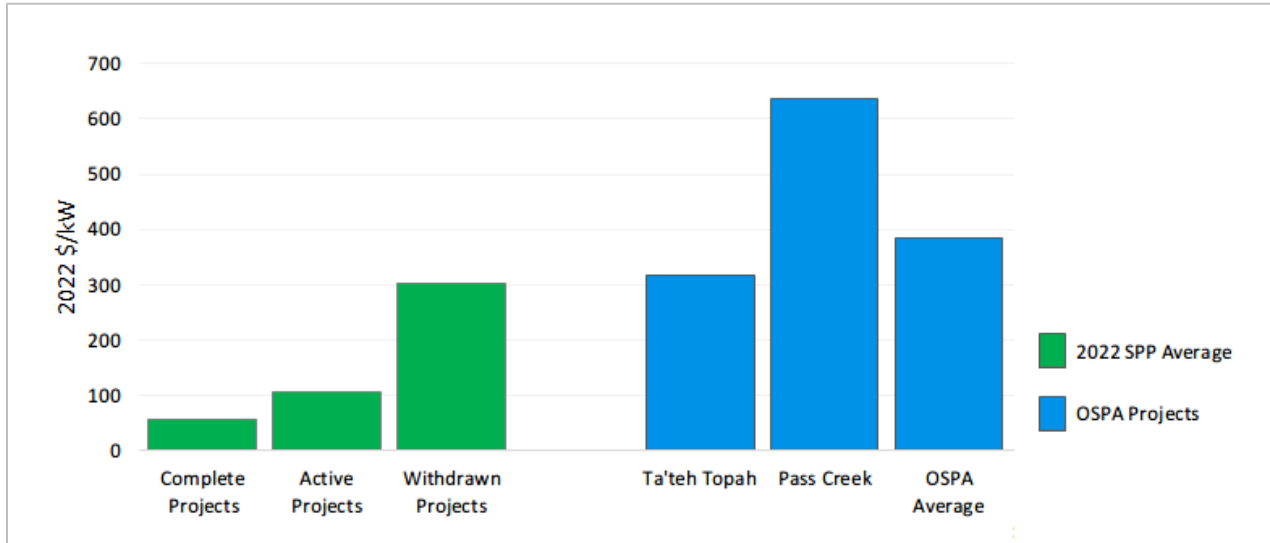
Figure 16: SPP Interconnection and Network Upgrade Cost Allocations to OSPA Wind Projects

Transmission Owner	Total Costs	Interconnection	Thermal/Voltage Constraint	Stability Constraint
Pass Creek Wind Project (Pine Ridge) - GEN-2017-113				
WAPA	\$48,648,464	\$1,862,000	\$46,786,464	\$0
NPPD	\$32,176,005	\$0	\$32,176,005	\$0
Total	\$80,824,470	\$1,862,000	\$78,962,470	\$0
Ta'teh Topah Wind Project (Cheyenne River) - GEN-2017-114				
WAPA	\$73,743,700	\$0	\$62,361,832	\$11,381,868
BEPC	\$74,691,844	\$23,641,622	\$0	\$51,050,222
NPPD	\$146,788	\$0	\$146,877	\$0
Total	\$148,582,332	\$23,641,622	\$62,508,620	\$62,432,090

The SPP DISIS-2017-002 Phase 2 Study results yielded a \$635/kW network upgrade cost for Pass Creek and a \$318/kW upgrade cost for Ta'teh Topah. The result is an average of \$385/kW interconnection cost across OSPA's projects. This is well above the ceiling for a successful project in SPP. Lawrence Berkeley National Laboratory's "Generator Interconnection Cost Analysis in the Southwest Power Pool (SPP) Territory" concluded that from 2020-2022, completed electricity generation projects in SPP had an average interconnection cost of \$57/kW. Withdrawn projects over the same period faced an average interconnection cost of \$304/kW — still below the interconnection cost for both OSPA projects.³²

³² https://eta-publications.lbl.gov/sites/default/files/berkeley_lab_2023.04.20-spp_interconnection_costs.pdf

Figure 17: Average SPP Interconnection Costs vs SPP Cost Allocations for OSPA Wind Projects



As OSPA’s experience demonstrates, the lack of transmission capacity in and around the Northern Plains NIETC area has inflated interconnection costs to such an extent that they are an absolute barrier to renewable energy development among the Plains Tribes and surrounding communities. Only massive upgrades to the national power grid will change this, and designating the Northern Plains NIETC is an important first step to getting it done.

D. Meeting Future Generation and Demand with Additional Within-Region and Interregional Transmission Capacity

The *Transmission Needs Study* projects that the demand for both within-regional and interregional transmission capacity in the Plains region will grow exponentially between now and 2035:

The largest relative growth of regional transmission deployment (see Figure ES-5) compared with the 2020 system will be needed in the Texas (140% median increase), Plains (119%), Midwest (112%), Mountain (90%), and Southeast (77%) regions by 2035 to meet moderate load and high clean energy growth future scenarios. These 2035 deployment needs increase even more under high load growth scenarios . . . for nearly all regions, but especially for the Plains (**408% median increase**), Delta (231%), Midwest (174%), and Mountain (173%) regions.

* * * These changes in interregional transfer capacity need are significant, with anticipated 2035 need ranging from 25% (median California – Northwest transfer) to

3519% (median Plains – Texas transfer) relative growth from the 2020 system³³

Covering a large area of this section of the country, the Northern Plains NIETC promises to be one of the most impactful in the country in addressing this demand growth. Moreover, because no EHV transmission currently exists in large swaths of the three-state area west of the Missouri River, there are virtually no existing wind farms in the area, despite the abundance of excellent wind resources. This is virgin territory for renewable energy generation projects, and can yield a greater amount of new generation than any comparable area of the country.

E. The *Transmission Needs Study* Specifically Recognizes the Uniquely Beneficial Role that Indian Energy Can Play in Addressing the Country’s Energy Needs

The *Transmission Needs Study* recognizes both the quality of renewable energy sources on Tribal lands, and the need for transmission capacity to unleash them: "Indian Country contains vast untapped energy resources. . . . Transmission is key in accessing these potential generation resources."³⁴ As OSPA’s experience has demonstrated, the inadequate transmission infrastructure within the proposed Northern Plains NIETC geographic area generates two great public harms: 1) it renders the Tribes and surrounding communities unable to develop their renewable energy resources, denying those communities their most promising engine of economic growth; and 2) as the *Transmission Needs Study* illustrates, the inability to develop renewable energy resources in the transmission desert of western South Dakota, and adjacent areas in North Dakota, Wyoming, and Nebraska also deprives consumers in end markets the ability to access inexpensive, clean power.³⁵

The *Transmission Needs Study* refers repeatedly to the need of project sponsors to engage early and often with Indian Tribes, as well as other stakeholders in planning and executing network improvements.

Project sponsor and federal agency engagement is not only critical to ensure alignment among a broad range of interests, but it is also critical to ensure transmission development processes result in equitable siting decisions

* * * Many Tribal lands have an abundance of renewable energy resources, and renewable generation development may provide opportunities for diversification, energy independence, environmental sustainability, and new revenue streams for [Native] communities. Access to the transmission system would be required to

³³ *Transmission Needs Study* at viii-ix (references deleted, emphasis added).

³⁴ *Id.* at 84.

³⁵ *Id.* at 33-34.


generate such value for Indian Tribes and to bring economically viable generation resources to market.³⁶

In the case of OSPA and the Great Plains TRIBES Project, the Tribes are the sponsors. The Northern Plains NIETC and the TRIBES Project it will support are initiatives that originated from the Tribes, to meet the needs of the Tribes, based on direct Tribal experience over more than a decade. The Northern Plains NIETC is the only one of DOE's ten NITEC recommendations that has a direct and massive impact on Tribal lands and will result in the generation of Gigawatts of clean Indian energy. As the *Transmission Needs Study's* references to Indian energy make clear, DOE could not make a NIETC designation that addresses more of this Administrations' climate and energy justice goals. OSPA urges DOE to designate the Northern Plains NIETC as soon as possible.

VI. Conclusion

OSPA thanks GDO Staff for the opportunity to provide this Information Submission in Support of the Northern Plains NIETC. We are at your disposal if we can provide any additional information or materials.

Respectfully submitted,

/s/ 

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³⁶ *Transmission Needs Study* at 112. See also *id.* at 107-08.