

Comments of Cale Jaffe
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U.S. Department of Energy Public Meeting
Arlington, VA
May 15, 2007

My name is Cale Jaffe, and I am a staff attorney with the Southern Environmental Law Center, and a lecturer at the University of Virginia School of Law. SELC will file more detailed comments before the close of the comment period. Today, I wanted to touch on a few points relating to compliance with the National Environmental Policy Act.

To be clear, DOE should not go forward with these draft designations because of its failure to comply with NEPA. DOE claims that it is not compelled to complete an Environmental Impact Statement at this time because FERC will conduct site-specific reviews for any transmission line application it receives. But relying on FERC's duties under NEPA misses the point.

The CEQ regulations implementing NEPA define "major federal action" to include the "adoption of formal plans ... upon which *future* agency actions will be based." And an effect will be "significant" under the regulations based in part on "the degree to which the action may establish a precedent for *future* actions."

In short, an EIS is clearly envisioned for federal actions, such as these corridor designations, which are necessary precursors to future actions with significant impacts of their own.

Moreover, even if FERC never receives an application, these DOE designations themselves have immediate and direct impacts on the human environment. In Virginia, for example, Dominion Power has recently filed an application with the State Corporation Commission for construction of a power line that would fall within a draft corridor designated by DOE.

The one-year time clock imposed by a corridor designation would deny the State sufficient time to conduct its environmental impact analyses, and would pressure the SCC to rubber stamp the proposal.

I am submitting with my comments today a map that highlights just a few of the resources that the SCC is required to protect under state law, but would be threatened by a DOE corridor designation.

In closing, nothing FERC will consider relieves DOE of its obligation to complete a Programmatic EIS at this stage. Thank you.