



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Environmental Opportunities and Challenges with Siting New Transmission Lines: Stephen Cain (Arkansas Electric Cooperative Corporation) Environmental Law Section (Ark. Bar Association) Presentation

09/26/2018

Stephen Cain undertook a presentation at the September 25th Arkansas Bar Association Environmental Law Section meeting titled:

Environmental Opportunities and Challenges with Siting New Transmission Lines ("Presentation")

Mr. Cain is the Manager of Environmental Compliance for Arkansas Electric Cooperative Corporation ("AECC").

Mr. Cain's *Presentation* addressed a number of environmental and related regulatory issues associated with the construction and operation of electricity transmission lines. A particular focus was addressing Endangered Species Act issues associated with Arkansas transmission line projects.

By way of background, Mr. Cain provided an overview of AECC, noting:

- Not-for-profit generation and transmission electric cooperative
- Founded in 1949 to provide wholesale electricity to Arkansas' distribution cooperatives
- 17 Member cooperatives covering approximately 62% of the state with more than 500,000 members

AECC's generation assets were also described, including:

- Seven natural gas plants (three with fuel oil backup)
- Three hydroelectric plants
- Co-owns (but does not operate) six coal units
- Multiple power purchase agreements with wind, solar, hydro, etc.
- Market purchased power

The evolution of AECC's energy supply from 2016 (Total Non-Fossil = 15.4%) to 2017 (Total Non-Fossil = 17.5%) was discussed.

The role of transmission was addressed by noting that the organization currently owns/operates about 350 miles of transmission lines (including new transmission projects initiated in 2013).

A variety of generation and transmission terms were described, which include:

<u>Generation Terms</u>	<u>Transmission Terms</u>
CAIR/CSAPR	SWPPP
MATS	STAA
Regional Haze/BART	SPCC Plan
NESHAP/MACT	404 Permit
NSPS	Cultural Resources
Title V	IPaC
PSD/NSR/BACT	Endangered Species

BART

The role of the National Environmental Policy Act (“NEPA”) in the acquisition of USDA/RUS loans was addressed. As noted, an environmental review of a proposed project must be completed before RUS loans are approved. Depending on the project, a document may be required such as an:

- Environmental Report
- Environmental Assessment
- Environmental Impact Statement

Additional issues associated with environmental surveys and reports include:

- Clean Water Act 404/Wetland Delineation
- Cultural Resources
- Endangered Species Act (“ESA”)

Other sources of review/permits include:

- Natural Resources Conservation Service (determination of loss of prime farmland or farmland of statewide importance)
- Arkansas Department of Environmental Quality (large construction projects/Notice of Intent and Stormwater Pollution Prevention Plan submittal for coverage under general stormwater permit construction activities)

A particular focus of the *Presentation* included ESA issues addressing:

- IPaC Report (information for planning and consultation)
- List of endangered species believed to exist in area of project
- Any critical habitats of endangered species that the project may impact

The various endangered bats in Arkansas were listed and described, including a Candidate Bat (i.e., Tri-colored Bat). The discussion included issues such as White-Nose Syndrome and roosting trees.

The *Presentation* noted that general language from IPaC report for projects in Arkansas states:

If your species list includes any mussels, Northern Long-eared Bat, Indiana Bat, Yellowcheek Darter, Red-cockaded Woodpecker, or American Burying Beetle, your project may require a presence/absence survey prior to commencing project activities.

Consultation areas in Arkansas were identified and the need to in some circumstances contact the United States Fish and Wildlife Service and/or purchase data from the Arkansas Natural Heritage Commission was addressed. Equally important was the discussion of on-the-ground bat surveys.

AEEC's experience with artificial bat habitat was also addressed.

A [copy of the slides](#) from the *Presentation* can be downloaded here.