

**Statement of  
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Senate Committee on Energy and Natural Resources**

**Hearing on  
“*Vegetation Management Requirements for Electricity Assets on Federal Lands*” and on  
Section 2310 of S. 1460, the Energy and Natural Resources Act, and H.R. 1873, the  
Electricity Reliability and Forest Protection Act**

**September 19, 2017**

Chairman Murkowski, Ranking Member Cantwell, and members of the Committee, thank you for the opportunity to discuss the vegetation management requirements for electrical transmission rights-of-way (ROWs) on Bureau of Land Management (BLM)-managed public lands and Section 2310 of S. 1460, the Energy and Natural Resources Act, and H.R. 1873, the Electricity Reliability and Forest Protection Act. Both pieces of legislation would amend the Federal Land Policy and Management Act (FLPMA) by adding new provisions regarding vegetation management, facility inspection, and operation and maintenance activities within electricity transmission and distribution facility ROWs.

ROWs are an important part of the country’s critical energy infrastructure, and the BLM administers them as part of its multiple use mission. The BLM coordinates closely with utility companies and understands that it is necessary to offer predictability and efficiency in its relationship with utilities in order to best serve communities, ensure grid reliability, and reduce wildfire risk. The Department of the Interior (Department of Interior) shares the goals common to the House and Senate legislation: to enhance electricity reliability, to promote public safety, and to avoid fire hazards. We support the legislation and would like to work with the bills’ sponsors on some technical recommendations.

**Background**

The BLM manages about 245 million surface acres and 700 million subsurface acres, located primarily in 12 western states including Alaska. In administering this diverse portfolio of public lands on behalf of the American people, the BLM is guided by its multiple-use and sustained yield mission, which is mandated by FLPMA. Section 103 of FLPMA includes ROWs as one of the principal uses of the public lands. Governed by Title V of FLPMA, the BLM has issued thousands of miles of ROWs for electricity transmission and distribution, and currently

administers almost 16,000 authorizations for electricity transmission and distribution facilities on the nation's public lands. ROW infrastructure is a significant component of our nation's interstate commerce, providing power to communities and jobs for thousands of Americans. In administering electrical ROWs, the BLM also works to meet its obligations for the management and protection of natural and cultural resources on the public lands as well as protection of public safety, and reliability of infrastructure.

Energy production and transmission are important sources of revenue and job growth in rural America, and capitalizing on opportunities to reduce permitting times is a major focus of this Administration. The BLM is committed to improving and streamlining its permitting processes, including for rights-of-way, in the spirit of the Secretary's mandate contained in Secretarial Order 3354, *Supporting and Improving the Federal Onshore Oil and Gas Leasing Program and Federal Solid Mineral Lease Program*.

While FLPMA governs how the BLM administers many of its ROWs for electrical transmission and distribution, a significant number of ROWs were issued under various authorities before FLPMA was enacted in 1976. These pre-FLPMA ROWs were often issued for terms of 40 to 50 years, and typically did not contain vegetation management and reliability standards. When FLPMA was enacted, it repealed the prior authorities, but did not invalidate existing pre-FLPMA ROWs. BLM reauthorizes pre-FLPMA ROWs under Title V of FLPMA.

The BLM coordinates closely with thousands of public, private, and cooperative utility organizations, as well as other Federal agencies, in its administration of ROWs for electricity transmission and distribution. These relationships are governed by a number of authorities in addition to FLPMA, including a Federal Energy Regulatory Commission (FERC) order issued in September 2013 approving updated transmission vegetation management standards, and the Energy Policy Act of 2005. The requirements of these authorities encourage effective cooperation between the BLM and its partners, all of whom share the goals of enhancing the reliability of the electrical grid and reducing the risk of wildfires.

The updated vegetation management standards approved by FERC in September 2013 play an important role in maintaining electrical distribution and transmission infrastructure and preventing wildfire. Section 215 of the Federal Power Act (16 U.S.C. § 824o) requires that a FERC-certified electric reliability organization develop mandatory and enforceable reliability standards, which FERC then approves. In September 2013, FERC issued an order approving updated reliability standards submitted by the North American Electric Reliability Corporation, the electric reliability organization certified by FERC. The approved reliability standards, in part, address transmission vegetation management to improve the reliability of electricity transmission systems by preventing and minimizing outages from vegetation located in or near ROWs. The standards also address clearance between transmission lines and vegetation, and reporting

vegetation-related outages to the appropriate organizations, including the North American Electric Reliability Corporation.

Additionally, existing authorities like the Energy Policy Act have strengthened relationships between the BLM and its partners. Beginning in 2005, the BLM and other Federal agencies increased their collaboration with utilities in order to meet the Energy Policy Act mandate that Federal land management agencies expedite approval of certain actions that relate to vegetation management, electric service restoration, or are undertaken to address any situation that imminently endangers the reliability or safety of the facility.

The standards approved by FERC in 2013 fall under the purview of the Energy Policy Act of 2005, and the BLM is required to expedite approval of any actions undertaken by facility owners and operators to implement the 2013 standards. To accomplish this, the BLM is a party to – along with other Federal agencies and private organizations – a 2016 interagency Memorandum of Understanding (MOU) that formalizes a cooperative approach to streamlining the management of vegetation near utility facilities. The MOU facilitates the accomplishment of a variety of goals, including maintaining reliable electrical service, improving safety, reducing the likelihood of wildfires, reducing soil erosion, reducing environmental risk, streamlining administrative processes, and incorporating integrated vegetation management practices intended to protect human health and the environment. Under the MOU, all parties agree to engage in timely communication and consistent management practices.

Another way the BLM streamlines its interactions with its partners is by working closely with utilities that hold many ROWs to establish master agreements that provide standard terms and conditions that can be applied to many ROW grants. This practice, in part, allows the BLM to engage in timely communication and consistent management as required by the MOU. These agreements not only enhance consistency across BLM offices, but they also create greater predictability and efficiency for the utility operators as they conduct business with the BLM.

Working closely with electrical ROW grant holders is important to the BLM not just because it is required by FLPMA, FERC, and the Energy Policy Act, but because without close coordination and frequent communication, effective vegetation management is not possible, and the consequences can be severe. If not managed properly, vegetation can damage infrastructure, leading to power outages and even wildfires. When a new ROW is issued or an existing ROW is renewed, the BLM considers, as part of the ROW, those activities that are necessary for the ongoing maintenance and operation of the electrical transmission lines in compliance with applicable environmental laws, including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act.

In accordance with FLPMA and BLM's ROW regulations, the BLM also includes terms and conditions in ROW grants that cover the management of vegetation, which provides for predictability and clarity. These terms allow a utility company to conduct minor trimming, pruning, and weed management after notifying the BLM. The utility company can remove hazard trees through a streamlined process; timelines for approval vary by location and site-specific conditions. In situations that present an imminent hazard, no BLM pre-approval is necessary. For actions that fall outside the scope of the ROW grant and do not present an imminent threat, BLM approval is needed, and additional analysis may be required. This includes the cutting and removal of any timber or vegetative resource that has market value. Early and ongoing communication with the ROW holder can lead to expedited approval in some instances. The BLM acknowledges that there may be aspects of the approval process that can be streamlined further, and we welcome efforts to work with the Committee to make appropriate improvements.

Given the volatile fire season impacting the West, appropriate vegetation management of electrical transmission ROWs is critical because it protects vital infrastructure, and helps reduce wildfire risk. The BLM is committed to protecting people, infrastructure, and resources from the devastating effects of wildfires, as is outlined in the Secretary's recent directive on wildland fires. The reduction of wildfire risk is a high priority for the Secretary, who has tasked all of Interior's bureaus, superintendents, and land managers at all levels to adopt more aggressive practices, using the existing authority of the Department, to prevent and combat the spread of catastrophic wildfires through robust fuels reduction and pre-suppression techniques. The legislation being considered at this hearing would expand the BLM's toolbox to help reduce the threat of catastrophic wildfires like those we are currently experiencing.

The estimated number of human- and lightning-caused wildfires for Federal, state, and local jurisdictions for this year already exceeds 48,000. More than 8 million acres have burned across the United States, which is well above the annual average according to the National Interagency Fire Center. Hazardous fuels reduction treatments like mechanical thinning and mowing, herbicide use, salvage tree removal, and prescribed burns are a critical component of the BLM's strategy to reduce potential wildfire risk in forest management, as well as addressing potential issues when administering electric transmission ROWs. Utility companies are critical partners in this approach. They have assets to protect and customers to serve and they know catastrophic wildfires disrupt their ability to provide reliable and unfettered service. Additionally, electrical transmission and distribution ROWs can help the Department prioritize hazardous fuels reduction treatments in rural communities, because the presence of critical infrastructure is one of the factors the Department considers in prioritizing these projects.

## **H.R. 1873, Electricity Reliability & Forest Protection Act / Sec. 2310 of S. 1460, Energy & Natural Resources Act**

H.R. 1873, the Electricity Reliability and Forest Protection Act, and Section 2310 of S. 1460, the Energy and Natural Resources Act, share common goals and language for enhancing electric reliability, promoting public safety, and avoiding fire hazards in electrical transmission ROWs. To accomplish these goals, both pieces of legislation would amend FLPMA by adding new provisions regarding vegetation management, facility inspection, and operation and maintenance activities within electric transmission and distribution facility rights-of-way.

Both H.R. 1873 and Section 2310 of S. 1460 require the Secretaries of the Interior and Agriculture to provide guidance to ROW grant holders on provisions regarding utility vegetation management, facility inspection, and operation and maintenance activities. The guidance would take into account all applicable law, local reliability and fire safety requirements, and the 2016 MOU that the BLM is a party to, and would be developed in consultation with the ROW grant holders.

The bills also provide electrical ROW grant holders the option to develop and submit a vegetation management, facility inspection, and operation and maintenance plan. The purpose of the plan is to provide a means of advance communication and streamlined interactions between the ROW grant holder and the BLM. Section 2310 lists what must be included in the plan, while H.R. 1873 refers to the plan more generally. Despite this difference, both pieces of legislation require that the Secretaries undertake a coordinated review and approval process of the plans – within 90 days under H.R. 1873 and within 180 days under Section 2310. The BLM supports the goals of increased coordination and efficiency that these plans represent, and we welcome the opportunity to work with the sponsors on the efficient protection of public safety and reliability of infrastructure.

H.R. 1873 and Section 2310 require the Secretaries to apply their respective categorical exclusion process under NEPA to any plan developed for existing ROWs. While Section 2310 does not make specific mention of hazard trees, it does address emergency conditions in much the same way that H.R. 1873 does. Namely, in cases where vegetation within ROWs or hazard trees adjacent to ROWs have contacted or are in imminent danger of contacting electric transmission lines, both pieces of legislation provide authority for grant holders to prune or remove the vegetation as long as they notify the appropriate agency within 24 hours afterwards. Under H.R. 1873, in cases that are not deemed as hazardous but where vegetation within or adjacent to ROWs does not meet the relevant standards, grant holders may conduct vegetation management activities to meet those clearance requirements if the agency fails to allow such activities within three business days after receiving a request for authorization to undertake them (in order to meet this requirement, the BLM would need to develop a categorical exclusion).

There is no parallel requirement in Section 2310. The BLM strongly supports efforts to reduce wildfire risk through vegetation management within the ROWs, particularly in emergency situations.

Finally, both bills impose an annual reporting requirement and encourage training. The Secretaries must report on responses to emergency conditions and compliance with applicable reliability and safety standards on their agency's websites. The bills also encourage both Secretaries to develop training programs for relevant employees regarding electric system reliability standards and fire safety requirements.

The BLM supports the legislation.

### **Conclusion**

The BLM administers electrical transmission and distribution ROWs under FLPMA and other authorities in collaborative partnership with the holders of electrical transmission and distribution ROW grants. Well maintained ROWs ensure a reliable electrical grid that serves the community and reduces wildfire risk – important outcomes that the BLM continuously works to achieve more efficiently. The BLM supports Section 2310 of S. 1460 and H.R. 1873, and would appreciate the opportunity to work with the bill's sponsors on some technical recommendations.