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KEEPING THE LIGHTS ON AND REDUCING CATASTROPHIC FOREST FIRE RISK: PROPER MANAGEMENT OF ELECTRICITY RIGHTS-OF-WAY ON FEDERAL LANDS

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

Wednesday, May 7, 2014

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OVERSIGHT HEARING ON KEEPING THE LIGHTS ON AND REDUCING CATASTROPHIC FOREST FIRE RISK: PROPER MANAGEMENT OF ELECTRICITY RIGHTS-OF-WAY ON FEDERAL LANDS

Wednesday, May 7, 2014
U.S. House of Representatives
Committee on Natural Resources
Washington, DC

The committee met, pursuant to notice, at 10:00 a.m., in room 1324, Longworth House Office Building, Hon. Doc Hastings [Chairman of the Committee] presiding.

Present: Representatives Hastings, Gohmert, McClintock, Lummis, Benishek, Tipton, Labrador, Mullin, Daines, LaMalfa, Smith; DeFazio, Holt, Grijalva, Cardenas, and Garcia.

Also Present: Representative Walden.

The CHAIRMAN. The committee will come to order. The Committee on Natural Resources today is meeting to hear testimony on keeping the lights on and reducing catastrophic forest fire risk, proper management of electricity rights-of-way on Federal lands. I know that Mr. Walden from Oregon, who is not a member of the committee, would like to participate. So I ask unanimous consent that, if Mr. Walden does show up, that he be able to sit and participate in the hearing.

[No response.]

The CHAIRMAN. Without objection, so ordered. I will now recognize myself for my opening statement. And I will say beforehand that I have to leave right after I make my statement, and I will turn the gavel over to my colleague from Colorado, Mr. Tipton, after I make my statement.

STATEMENT OF THE HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

The CHAIRMAN. The goal of today's hearing is to ensure Federal Government accountability so that electricity ratepayers will have reliable and affordable power, and forests and nearby communities will be protected from avoidable catastrophic forest fires.

As we will hear from today's expert panel of witnesses, Federal indecision, delays, and misunderstanding of the Federal electricity reliability law are causing serious issues for rural cooperatives, other utilities, and their ratepayers that bear all of these costs of maintaining electricity rights-of-ways on Federal lands.

Worse yet, we will hear that one Federal land management agency could impose unrealistic policies to bury electricity transmission lines under the guise of saving species. But that act would cost a residential customer up to $400,000 each. Now, the logical exten-

sion of that is probably to bankrupt the utility, and doing nothing for the endangered species that is trying to be saved.

Almost a decade ago this committee held a hearing to uncover similar abuses and Federal indifference during the prior administration. From many accounts, that hearing yielded tangible results for some utilities and their ratepayers. Yet, proving that this issue is not a partisan one, we are here once again to resolve these issues that have reappeared over the last few years.

This committee will hear numerous on-the-ground, real-life examples about some of the unnecessary Federal delays and inconsistencies encountered by those who are only asking to keep the lights on for their customers, and to not be fined up to $1 million a day for violating a Federal electricity reliability law. We will hear that local utilities face greater reliability for hazardous trees that are the Federal Government's responsibility.

In fact, it is telling that the Bonneville Power Administration, a Federal agency utility tasked with providing millions of Pacific Northwest ratepayers with low-cost energy through 15,000 miles of transmission lines, is here at the table to voice similar concerns with inconsistent and incoherent decisions pursued by agencies that are under the same administration.

At a time of poor forest conditions throughout much of the West, we cannot afford to let Federal indecision and inter-agency conflicts ignite a powder keg waiting to explode. Catastrophic fires caused by hazardous trees touching power lines only harm the ratepayer and, obviously, they destroy the environment.

So, it is time for the Federal land management agencies to adhere to common-sense, consumer-friendly principles that are not just in a response to this hearing, but for the long term. So I hope that, once again, this hearing will be a major step in the decision that will have responsible interpretations of laws for all involved.

[The prepared statement of Mr. Hastings follows:]

PREPARED STATEMENT OF THE HON. DOC HASTINGS, CHAIRMAN, COMMITTEE ON NATURAL RESOURCES

The goal of today's hearing is to ensure Federal Government accountability so that electricity ratepayers will have reliable and affordable power and forests and nearby communities will be protected from avoidable catastrophic forest fires.

As we will hear from today's expert panel of witnesses, Federal indecision, delays, and misunderstandings of a Federal electricity reliability law are causing serious issues for rural cooperatives, other utilities and their ratepayers that bear all of these costs of maintaining electricity rights-of-way on Federal lands.

Worse yet, we will hear that one Federal land management agency could impose unrealistic policies to bury electricity transmission lines under the guise of saving species that would cost a residential customer up to $400,000 each—essentially bankrupting the utility and doing little for the Greater Sage Grouse.

Almost a decade ago, this committee held a hearing to uncover similar abuses and Federal indifference during the prior administration. From many accounts, the hearing yielded tangible results for some utilities and their ratepayers. Yet, proving that this issue is not a partisan one, we are here once again to resolve these issues that have been reappeared over the last few years.

This committee will hear numerous on-the-ground, real life examples about some of the unnecessary Federal delays and inconsistency encountered by those who are only asking to keep the lights on for their customers and not be fined up to $1 million a day for violating a Federal electricity reliability law. We will hear that local utilities face even greater liability for hazardous trees that are the Federal Government's responsibility.

In fact, it is telling that the Bonneville Power Administration, a Federal agency utility tasked with providing millions of Pacific Northwest ratepayers with low-cost

energy through 15,000 miles of transmission lines, is here at the table to voice similar concerns with inconsistent and incoherent decisions pursued by agencies under the same administration.

At a time of poor forest conditions throughout much of the West, we cannot afford to let Federal indecision and inter-agency conflicts ignite a powder keg waiting to explode. Catastrophic fires caused by hazardous trees touching power lines only harm the ratepayer and destroy the environment.

It is time that the Federal land management agencies adhere to common sense, customer-friendly principles that are not just in response to this hearing but for the long term. This hearing is a major step in that direction.

The CHAIRMAN. And, with that, I yield back my time, and introduce the gentleman from Oregon, Mr. DeFazio, for his statement.

STATEMENT OF THE HON. PETER DEFAZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. DEFAZIO. Thank you, Mr. Chairman. Mr. Chairman, actually, I have little patience for this issue here today. I participated in this issue about a decade ago, and I thought that we gave pretty clear direction to the Federal agencies who wanted to have uniform policies across Federal agencies and between Federal agencies. We didn't mean that, you know, one forest should have different policies than the next forest, than the next forest, than the next BLM unit, than the next BLM unit, et cetera. And it seems that, in many places, that is what prevails, that it is up to the discretion of the local manager, or the local forest supervisor, what standards will apply.

You know, we have disputes where they are questioning existing rights-of-way for the Bonneville Power Administration. These are critical national infrastructure assets. And they must be treated as such. And, really, it is pretty amazing that we have to be here again today, more than a decade later, to try and sort this out among the Federal agencies. We need to clearly and definitively get this settled.

It should not be a repetitive process on the part of the power providers. You know, we want to acknowledge the permanent rights-of-way, we want to manage them sensibly and long-term, and it doesn't seem like that is the case. So I look forward to the testimony, and I hope that we don't have to pass legislation to force common-sense on the disparate Federal agencies and units of these Federal agencies in these matters.

Thank you, Mr. Chairman.

Mr. TIPTON [presiding]. Thank the Ranking Member for his opening statement. And we will now hear from our first panel of witnesses. I would like to yield to my colleague from Washington, Mr. Walden, for the purposes of an introduction.

Mr. WALDEN. Well, Oregon, but——

Mr. DEFAZIO. We don't want him to go to Washington.

[Laughter.]

Mr. WALDEN. We did cede the lesser lands to Washington, though, from the original territory. So, yes.

[Laughter.]

Mr. WALDEN. But I thank the gentleman, and I want to thank you for holding this important hearing. I want to associate myself

with the comments of the Chairman and my friend and colleague from Oregon, Mr. DeFazio, on this matter.

In fact, I was looking back to when I chaired the Subcommittee on Forest and Forest Health in this committee in 2005 and 2006, and we examined some of these very same issues then. How do we help facilitate ease of access, renewal of rights-of-way, protection of excess liability for utilities who provide services to rural customers, particularly when they traverse large amounts of Federal land, the public's land?

While some of these issues were resolved, it appears, based on the testimony that you all have presented to the committee today, we still have some pretty major problems. And maybe have actually slid backwards on some of them.

Unfortunately, in Oregon, we know all too well about some of the issues with the Federal agencies. I have been grappling with a few myself of late, with the BLM. Especially we deal with these when more than half of our State is public land.

I am proud the House acted last September to address one piece of today's hearing. That is catastrophic wildfire. Our bipartisan legislation that Congressman DeFazio and the rest of us worked on so hard is now over in the Senate. It would allow for some common-sense management in our forests to create jobs and deal with some of these issues.

Just like it shouldn't take several years to put together a timber sale, it shouldn't take several years for the BLM or Forest Service to renew an existing right-of-way for a transmission line. And when Federal agencies do fail to act, adjacent private land owners, utilities, and subsequently, their customers, are the ones who suffer.

So, I am delighted that David Markham is here. Dave is from Central Electric Cooperative in Redmond. He has a lot of experience trying to work through these matters with the various agencies to reach solutions. And central Oregon's population has increased and the economy has grown over the past decade with big additions of Facebook and Apple and other data centers. Dave has really played a key role in helping facilitate that growth.

So, I am delighted that Dave can be here today to present, I think, some really shocking examples of what they have gone through, a ninefold timeline. And when you are dealing with a Federal agency versus local governments to get the same types of approval, huge costs that may be borne out in Harney County and Deschutes County on this issue, if they force them to underground the lines, that could result in upwards of over $400,000 per customer in Harney County to do what the government is saying they would have to do. That bankrupts them.

So, Mr. Chairman, thanks for your indulgence and courtesy. And I look forward to hearing from the witnesses.

Mr. TIPTON. Thank you, Mr. Walden. Welcome, Mr. Markham. We also are today joined by Mr. Randall Miller, Director of Vegetative Management for PacifiCorp in Salt Lake City, Utah; Mr. Michael Neal, Manager of Forestry and Special Programs for the Arizona Public Service Company in Phoenix, Arizona; Ms. Lydia Grimm, Manager for Environmental Planning and Analysis for the Bonneville Power Administration based in Portland, Oregon; Mr. Mike Easley, CEO for the Powder River Energy Corporation, and

Chair of the Wyoming Rural Electric Association Managers' Committee, from Sundance, Wyoming.

So, thank you all for taking the time to be able to be here. We know that is a trip and an expense. And we certainly are going to appreciate your insight.

Each of our witnesses' testimony today will appear in the full record of the hearing. So I ask that our witnesses keep their oral statements to 5 minutes, as outlined in the invitation letter to you under Committee Rule 4(a).

I believe you are probably all familiar with our lighting system here. When it is green, you are good to go. Yellow is caution. And when it gets red, you speed up——

[Laughter.]

Mr. TIPTON [continuing]. To be able to get through and get finished. And if you could keep it within that 5-minute period, we would appreciate it. And we certainly thank everyone here today that is joining us in the committee room. I know that I have a lot of friends out of Colorado with our REAs that have joined us here today, as well. And we certainly appreciate the time and effort to be here. Your insights are important for our rural parts of the country, and what you provide in terms of affordable electricity and safe delivery of electricity for our areas.

I now recognize our first witness, Mr. David Markham, President and CEO of Central Electric Cooperative, located in Redmond, Oregon, for his testimony. Mr. Markham, please proceed.

STATEMENT OF DAVID MARKHAM, PRESIDENT AND CEO, CENTRAL ELECTRIC COOPERATIVE, INC., REDMOND, OREGON

Mr. MARKHAM. Good morning, and thank you, Congressman Walden, for the nice introduction. I am very honored to be here this morning. And, as introduced, I am Dave Markham, President and CEO of Central Electric Cooperative, headquartered in Redmond, Oregon.

In Central Electric, we serve more than 32,000 meters over a 5,300-square-mile service territory throughout central Oregon. And 53 percent of that service territory is on federally managed lands. And I also serve as the President of the Oregon Rural Electric Cooperatives Association. And that association represents Oregon's 18 member-owned, not-for-profit electric cooperatives.

For more than 60 years now, co-ops have had a productive relationship with the Federal agencies that do manage our public lands. But the problem that we have is that this relationship, it has really deteriorated from what it has been in the past. And it is now at a point where it is really impacting our ability to provide safe, reliable, and affordable electricity to our members.

And Oregon's electric co-ops, we have been experiencing increasing challenges when it comes to securing permits for upgrades or replacement or even just routine maintenance of our infrastructure for our power lines on Federal lands. And most of this work gets driven not only by the need to meet Federal and State safety requirements, but also, we have to replace aging infrastructure.

But in order to perform just routine maintenance on our power lines—and some that have existed for more than 50 years—we are required to first go through an extensive application process. And

it amazes me that this even requires a 30-day public comment period, just for routine maintenance.

And just, for example, in May of 2010, Central Electric, we began the process of renewing rights-of-way permits with the Bureau of Land Management. And after 4 years—that is 4 years—we are still waiting for renewal of these permits. And I was in a meeting yesterday with a number of other States, co-ops from other States, and some co-ops have been waiting 8 to 10 years for renewal of permits. And so I guess I should feel like I am the lucky one, in this case, it being just the 4 years.

Then, just last week, we were notified by the Forest Service that, prior to issuing Central Electric a permit to relocate a power pole 6 feet—it is only 6 feet—that it would first require an archeologist to come out and inspect the site and do a shovel probe. Now, I mean, really, I have to believe that we have been doing maintenance on this power line for 50 years. And, seriously, if there was a dinosaur fossil or fossilized dinosaur eggs, we would have found them by now. I guarantee it. And so, unfortunately, though, Central Electric, this is not an isolated incident for us.

And Midstate Electric Cooperative, they are also in central Oregon, they applied for approval for four permits back in 2009. And for one of those permits the BLM lost their file. And then they came back and they informed Midstate that they had missed the deadline for the review process. And to this date, that file still has not been found. And then, in 2012, while they were still waiting for approval, Midstate, they were informed that wind and solar projects took precedence over power line permits.

Now, I have to ask the question that why would wind and solar projects take precedence over the reliability of the electric system that I hear is so important to us, as co-ops, in coming out of Washington, DC.

And, ultimately, our member-owners suffer the consequences of this issue because of higher electric rates that they have to pay. And it is all because of these delays and the burdensome permitting process.

So, all of the examples, though, that I just cited, they really pale in comparison to the BLM's proposal to protect the greater sage-grouse out in Oregon. And the BLM, back in January, they released their draft environmental impact statement for the sage-grouse. And the measures presented in the EIS, they have severe consequences for several Oregon co-ops. In one proposed measure, as you heard earlier, it calls for burying power lines that currently exist in sage-grouse habitat.

Now, as mentioned earlier, Harney Electric Co-op in eastern Oregon, they serve slightly more than 4,000 members over a service territory that is the size of the State of West Virginia. Now, the financial impact to each of their members to bury these power lines would be $400,000 per member, and as was mentioned earlier, it would basically put this co-op entirely out of business.

There are some additional measures that were in the EIS that recommend seasonal or permanent closures of roads that are used to access our infrastructure. So, what happens is that this reduces our ability for all the co-ops to be able to get in and access our infrastructure to do inspections that we are required to do, mainte-

nance that we are required to do. And if we have to mobilize in the event of a fire, to protect our power lines against a catastrophic event like that.

So, it is truly past time that our Federal land managers work together with co-ops, that we implement some truly common sense to reform the current practices that are in place. And these operational and cultural problems, they are not going to be resolved overnight, and they are going to take some long-term solutions.

So, if you go back and you look at the mission statements of the BLM and the Forest Service, you are going to see words like "serving people," "caring," and "productivity." And it is my hope that these mission statements, they can be revisited, and these words can truly be put into action.

I thank you very much for the opportunity to testify today, and I would be more than happy to answer any questions.

[The prepared statement of Mr. Markham follows:]

PREPARED STATEMENT OF DAVID MARKHAM, PRESIDENT & CEO OF CENTRAL ELECTRIC COOPERATIVE, INC., REDMOND, OREGON

Good morning Chairman Hastings and members of the Committee on Natural Resources. I am Dave Markham, President & CEO of Central Electric Cooperative, headquartered in Redmond, Oregon. Central Electric is a distribution cooperative serving more than 32,000 meters across a 5,300 square mile service territory in central Oregon. I also serve as the President of the Oregon Rural Electric Cooperative Association, the organization that represents Oregon's 18 member-owned not-for-profit electric cooperatives. These co-ops provide power to rural Oregonians with more than 30,000 miles of transmission and distribution lines that deliver electricity to 65 percent of the land mass of the State.

If we look back in history, electric cooperatives played a key role in the electrification of the United States. For more than 60 years, we have had a relationship with the Federal agencies that manage our public lands. With 56 percent of the land in Central Electric's service territory federally managed, this relationship has been instrumental to our ability to provide safe, reliable and affordable electricity to rural Oregonians. Today, this relationship has changed in a way that leaves co-op leaders concerned about the safety and reliability of our electrical systems and in some cases even threatens our ability to continue providing electricity to rural areas.

Over the years, Oregon electric cooperatives have experienced increasing challenges and lengthy periods of time when securing approval for routine maintenance, upgrades or replacement of our power lines. Most of this work is driven by not only the need to meet annual State and Federal safety requirements but also the need to replace aging infrastructure. These permitting challenges are exacerbated by Federal employee turnover which creates conflicting and inconsistent requirements due to wide variability in the new personnel's interpretations of their agency's rules and regulations.

For example, in May 2010, Central Electric began the process of renewing rights-of-way permits with the Bureau of Land Management. These permits are a legal requirement because they allow the utility to have power lines on federally managed lands. Most of these permits were originally issued in the 1950s and 1960s. This was done at little or no cost to the utility because of the shared understanding that these installations were essential to the well-being of rural Oregon's people and economies. Because these permits have an expiration date, Central Electric has submitted 32 permits for renewal with a processing fee of $45,000 and even after 4 years, we are still waiting for renewed permits. While we fully appreciate the importance of valid measures to protect the government, we must voice concern over efficiency of our Federal agencies when prior to renewal of a permit there is a requirement for completion of an extensive environmental impact study in areas where power lines have been in place for the last 50 years.

More than 38 percent of Central Electric's distribution lines are underground. Some of this underground cable is reaching the end of its life expectancy and is in the process of being replaced. We pride ourselves on our safety record and the reliability of our electric infrastructure. For several years, we have been replacing existing underground cable on lands managed by the Forest Service. The lengthy period of time it requires to acquire approval to complete this work is having an impact

on the safety and reliability of the electricity we provide to our members. Central Electric recently completed the replacement of a 2.1 mile section of underground cable, immediately adjacent to a well-developed road in the same location as the prior cable. The Forest Service required 9 months to just approve our application to proceed with the project. Comparatively, our utility can complete a similar project, in its entirety, on non-federally managed lands within 1 month. Last week, we were informed by the Forest Service that prior to receiving approval to relocate a power pole a distance of 6 feet, it would first require an archaeologist to inspect the site and perform shovel probes.

Not only is maintenance of our electric infrastructure required by State and Federal law, it is a requirement stated in the rights-of-way permits issued from the Federal land agencies. We are now confronted by an extensive, difficult and expensive application process—including a 30-day public comment period—in order to conduct required routine maintenance on a power line that has existed for more than 50 years. We question the efficiency and need for the burdensome process to gain approval to perform maintenance on our facilities that is already a condition of the right-of-way permit.

Unfortunately, Central Electric's experience with the land management agencies is not an isolated incident. Other Oregon electric co-ops have experienced similar delays, frustrations and lack of customer service ethic. This type of conduct is unacceptable to utilities not just because of the adverse impact on safety and reliability, but also because our member-owners will suffer the consequences of higher electric rates due to the costs of delays and burdensome permitting activities.

- Midstate Electric Cooperative, headquartered in La Pine, Oregon, sought approval for four (4) permits from the BLM in 2009. One project that consisted of a line extension resulted in the BLM losing the file. They later informed Midstate the deadline for the review process had passed. In 2012, while still waiting for approval they were informed that wind and solar projects took precedence over power line permits. It has now been 5 years since the initial application was submitted and Midstate is still waiting for approval of these permits.
- Wasco Electric Cooperative, headquartered in The Dalles, Oregon, cited a "horrible experience with the BLM," noting that it required 18 months to receive a permit for 1.5 miles of power line. A process that should have required only 1 or 2 months to complete needlessly cost the co-op and its members a significant amount of money due to the delay. Wasco management states that when working with the BLM there is an extraordinary lack of customer service, approachability and accountability.

All of the examples previously cited pale in comparison to the BLM's proposed measures to protect the greater sage grouse in Oregon. In January of this year, the BLM released its Draft Environmental Impact Statement (EIS) for management of the greater sage grouse. While co-ops fully understand the need to protect the sage grouse, measures presented in the EIS would have severe consequences for several Oregon cooperatives.

One proposed measure requires burying power lines that currently exist in sage grouse habitat. Not only is this measure not technically feasible, it is cost prohibitive. Harney Electric Cooperative, headquartered in Hines, Oregon, serves slightly more than 4,000 members spread over approximately 20,000 square miles in southeastern Oregon and northwestern Nevada. Their service territory is approximately the size of the State of West Virginia. Harney Electric has determined the financial impact to burying power lines would cost a staggering $400,000 per co-op member. Faced with this financial burden they could no longer operate their business and electric service to members would terminate.

Midstate Electric Cooperative, also impacted by the proposal to bury power lines in sage grouse habitat, estimates it would be faced with the financial burden of $115 million, resulting in a 33 percent rate increase to members. Central Electric, which has 464 miles of transmission and distribution lines through sage grouse habitat, would be burdened with an expense estimated at $241 million to bury its power lines.

Additional measures proposed in the EIS recommend permanent or seasonal closures of any road currently used to access electric infrastructure. This would limit the ability of co-ops to quickly and efficiently access their infrastructure for mandated inspections and maintenance, and emergency repairs. Catastrophic wildfires are another significant danger. The possibility of this danger is increased by the access restrictions which will inhibit proper maintenance of the right-of-way and restrict a co-op's ability to mobilize and protect their lines when fire does strike.

It is beyond the time that our Federal land managers work collaboratively with electric co-ops to develop common sense reform to their current practices. As one Oregon co-op manager noted, "We are not the enemy." These operational and cultural problems will not be resolved overnight and must involve long-term solutions. Co-ops must receive assurances that solutions will be implemented that preserve our history of providing safe, reliable and affordable electricity to our members. If you review the mission statements of our Federal land agencies, you will find the words "serving people", "caring" and "productivity." It is my hope there is a revisiting of these mission statements and the words become action combined with results.

Thank you for the opportunity to testify. I would be pleased to answer any questions.

Mr. TIPTON. Thank you, Mr. Markham.

I now recognize Mr. Randall Miller, Director of Vegetative Management for PacifiCorp in Salt Lake City, for your testimony. Please proceed, sir.

STATEMENT OF RANDALL H. MILLER, DIRECTOR, VEGETATIVE MANAGEMENT, PACIFICORP, SALT LAKE CITY, UTAH

Mr. MILLER. Thank you, Mr. Chairman. I appreciate the invitation here to address this important topic.

PacifiCorp serves customers in the northwestern United States, including sections of Chairman Hastings' district back in Washington, and yours, Mr. DeFazio, in Oregon. We cross 33 different national forests. And each national forest is subdivided into three, maybe four, districts. We work with dozens of BLM offices, half-a-dozen national parks, as well as at least one Federal wildlife refuge. So our foresters have extensive experience working with Federal land managers.

In the wake of the August 14, 2003 black-out, the Federal Energy Regulatory Commission adopted, essentially, a zero tolerance policy for trees encroaching on transmission lines that are part of an interconnect, the Western, Eastern, or Texas Interconnect. The challenge for industry is complying with the zero tolerance policy on a system that consists of hundreds of thousands of miles of line that reticulate a vast continent. And under and adjacent to those hundreds of thousands of miles of line grow millions of trees, any one of which has the potential to contact a line, with catastrophic consequences. With a zero tolerance policy, that is a large responsibility to live up to.

Industry works to live up to that through what we call integrated vegetation management, which is an adaptation of integrated pest management—the pest, in this case, being incompatible vegetation that could grow and conflict with power lines. We find that Federal officials here in Washington, DC are largely supportive with the concepts of integrated vegetation management. They have worked with us and signed on to an MOU in 2006, which they are renegotiating now in good faith to renew. They have worked on a desktop guide that largely supports the concepts of integrated vegetation management.

The difficulty that we have is the decentralized decisionmaking structure of Federal agencies. Each local district, each local region, each local office has autonomy on what can and cannot be done in their district, without right of appeal from us. We get good coopera-

tion from any of these people. They understand the issues of vegetation management. They understand the importance of the electrical grid. Others do not. And they may oppose us.

We find that at district boundaries, which are ecologically arbitrary, decisions can change abruptly. Or, we can have personnel changes, due to retirement or transfers. And our relationship can go from cooperative to antagonistic overnight, just by the addition of a single individual. And we wind up with situations such as those related by my colleague, Mr. Markham.

Mr. DeFazio, I appreciate your comments that we cannot accept a patchwork of decisionmakers on a local basis who may or may not understand the larger issues of the importance of the electrical grid to us. And we need to have continuity of policy and decisionmaking on Federal lands. And I appreciate you holding this hearing toward that end. Thank you very much.

[The prepared statement of Mr. Miller follows:]

PREPARED STATEMENT OF RANDALL H. MILLER, DIRECTOR OF VEGETATION MANAGEMENT, ON BEHALF OF PACIFICORP AND THE EDISON ELECTRIC INSTITUTE, SALT LAKE CITY, UTAH

My name is Randall H. Miller, and I am the Director of Vegetation Management for PacifiCorp, where I administer vegetation management on roughly 16,000 miles of transmission and 45,000 miles of overhead distribution lines throughout the Intermountain West and Pacific Northwest. I appreciate the opportunity to testify before this joint subcommittee hearing on behalf of PacifiCorp and the Edison Electric Institute (EEI).

PacifiCorp serves more than 1.7 million customers in six western States. It is a subsidiary of Berkshire Hathaway Energy, and does business as Pacific Power in California, Oregon and Washington, and as Rocky Mountain Power in Idaho, Utah and Wyoming. Environmental respect is a core value of Berkshire Hathaway Energy, a value that is emphasized from the top, and influences the entire organization, including activities of PacifiCorp's vegetation management department. As a utility that covers a wide geographic area of the western United States where there are substantial Federal land holdings, PacifiCorp has a good deal of interaction with Federal land managers. For example, PacifiCorp facilities cross 33 national forests, dozens of BLM jurisdictions, as well as at least seven national parks and two Federal wildlife refuges.

EEI is the premier trade association for U.S. shareholder-owned electric companies and serves international affiliates and industry associates worldwide. Our U.S. members serve 97 percent of the ultimate customers in the shareholder-owned segment of the industry and 71 percent of all electric utility customers in the Nation.

In my written testimony, I will address two problems—the criticality of keeping trees from power lines, and the difficulties imposed by the decentralized decisionmaking structure of Federal agencies in keeping trees from power lines. In the course of my testimony, I will offer integrated vegetation management as an environmentally sound, cost effective way of keeping trees from power lines, and suggest the forest service adopt a policy of utilizing integrated vegetation management on Federal lands throughout the country.

Electricity is the only commodity that is manufactured, transported, distributed, delivered and consumed in the same instant. Electrification was named by the National Academy of Engineers (2000) as the greatest engineering accomplishment of the 20th Century, ahead of automobiles, aviation, space travel computers and the other great innovations of the 1900s—none of which would have been possible without abundant, safe, reliable electric power. Maintaining that abundant supply of safe, reliable electric power is crucial in ensuring America's national and cyber security as well as economy by ensuring smooth functioning of industry, commerce, government, and domestic life.

The system that makes it all possible is comprised in part of hundreds of thousands of miles of transmission lines that reticulate North America. These lines are divided into three interconnects—eastern, western and Texas. Interconnected lines allow transmission of electricity to areas of greatest need, which can shift due to weather conditions. The system is efficient insofar as it has reduced the need to

build power plants that may only be needed occasionally to cover peak loads in particular localities. While interconnects are efficient, they have been vulnerable to failure in cases of widespread high demand associated with region-wide heat waves. Failures have occurred three times in the past 20 years, when heavily loaded lines were knocked out of service after sagging into trees. Electricity from these lines was diverted to other lines, overloading and causing them to shut down, sending their lost capacity to other heavily loaded lines, knocking them out of service, eventually creating a series of cascading events that resulted in widespread blackouts. The most notorious of these three grid collapses occurred on August 14, 2003, where 50 million people in eastern North America were left without power, some for weeks.

The August 2003 blackout led to intense review by utilities, the Federal Energy Regulatory Commission (FERC), the North American Reliability Corporation (NERC) and others. For the utility industry, the most significant result has been development of a vegetation management standard by NERC approved by FERC. The standard mandates up to $1 million a day penalty for utilities that allow trees to grow into transmission lines that are subject to the standard with the objective of preventing cascading blackouts caused by trees. The ramifications of the NERC vegetation management standard is that FERC has a zero-tolerance policy regarding vegetation contacts with power lines. The challenge for the utility industry is how best to comply with zero tolerance when they are confronted by hundreds of thousands of miles of lines that span a vast continent. Particularly when under and adjacent to these lines grow many millions of trees that could potentially grow into and interfere with electric facilities.

One way industry has responded is through development of national consensus standards through the American National Standards Institute. The *American National Standard for Tree Care Operations* (ANSI A300) was issued in nine parts by the green industry, including representatives from the USDA Forest Service and National Parks Service. The International Society of Arboriculture has also published best management practices to accompany the ANSI A300 series.

ANSI A300 Part 7 (2012) adapts the principles of integrated pest management to a principle called integrated vegetation management (IVM). I wrote the accompanying IVM best management practices for the International Society of Arboriculture. In the case of integrated vegetation management, the "pest" populations are "incompatible" plants. Incompatible plants might be noxious weeds, invasive plant species or any vegetation that managers consider inappropriate for a given site. In a utility context, the inappropriate plants are often those that have the potential to interfere with or limit access to electric facilities at some point in their life.

ANSI A300 Part 7 defines IVM as a system of managing plant communities in which managers set objectives, identify compatible and incompatible vegetation, consider action thresholds, and evaluate, select and implement the most appropriate control method or methods to achieve their established objectives. The choice of control method or methods is based on their environmental impact and anticipated effectiveness, given site characteristics, security, economics, current land use and other factors.

The ideal objective for the utility industry is to use IVM principles to establish plant communities comprised of species that will never interfere with the electric facilities (Miller 2014). A useful tool is a biological control known as cover-type conversion, which provides a competitive advantage to short-growing, early successional plants, allowing them to thrive and successfully compete against unwanted tree species for sunlight, essential elements and water. It often requires selective use of herbicides against incompatible species to enable desirable species to become established. The early successional plant community is relatively stable and tree-resistant. As this community becomes increasingly established, the need for intervention decreases. In the long run, industry considers this type of biological control to be the most appropriate method, at least where it can be done effectively.

The wire-border zone concept is an important management philosophy that can be used in many areas and applied through cover type conversion. W.C. Bramble and W.R. Byrnes developed it in the mid-1980s out of research begun in 1952 on a transmission right-of-way in the Pennsylvania State Game Lands 33 Research and Demonstration project (Yahner and Hutnick 2004).

The wire zone is the section of a utility transmission right-of-way under the wires and extending on both sides to a specified distance. The wire zone is managed to promote a low-growing plant community dominated by grasses, herbs and small shrubs (e.g. under 3-feet at maturity). The border zone is the remainder of the right-of-way. It is managed to establish small trees and tall shrubs (e.g. under 25-feet in height at maturity). The concept may be modified to accommodate side slope and changes in topography. When properly managed, diverse, tree-resistant plant com-

munities develop in wire and border zones. The communities not only protect the electric facility and reduce long-term maintenance, but also enhance wildlife habitat, forest ecology and aesthetic values. It can't be applied everywhere. For example, in some fire-prone areas, the border zone may not be indicated, as it may contribute ladder fuels that could exacerbate the spread of wildfire. However, wherever it can be applied, it has proven useful in enhancing wildlife habitat and protecting electric facilities.

The benefit of IVM and cover type conversion is that it works with nature, rather than against it, decreasing costs and the utility's footprint over time. Furthermore, IVM can create opportunities to enhance the environment. For example, the EPA is actively supporting pollinator protection. The National Pollinator Protection Campaign, a collaboration of over 140 groups dedicated to promoting pollinators in North America, endorses integrated vegetation management on utility rights-of-way for expanding pollinator habitat comprised of meadow or prairie species. Those communities are consistent with industry's objectives as well, as the species that comprise meadows and prairies will never interfere with the use of the transmission lines. A central point is that rather than looking at transmission corridors as sacrifice areas, industry, government, private environmental groups and the public working together can use them as areas of opportunity to provide much needed habitat that may be otherwise threatened, while at the same time protecting the Nation's electric supply.

The utility industry considers integrated vegetation management to be a sustainable, cost effective and environmentally sound approach to protect the critical electric grid. Federal agency management in Washington, DC has agreed insofar as they were signatories to the 2006 MOU with EEI Member utilities, which emphasized application of IVM principles. They have also participated in developing the *American National Standard for Tree Car Operations* (ANSI A300), including Part 7, IVM. Many local managers agree and consider IVM to be the best approach in maintaining electric utilities that cross Federal property. However, at least from industry's perspective, others seem to view electric rights-of-way as loss areas, and work to impede maintenance, including vegetation management.

The inconsistent viewpoints of Federal land managers creates difficulties for utilities because local authorities are empowered to make their own decisions for what is or is not appropriate in their jurisdictions. The arrangement creates unpredictable directives regarding what is or what is not authorized on utility corridors on Federal lands—in spite of land managers ostensibly working with the same policies and procedures. Many utilities express frustration that requirements can change dramatically at district boundaries, which are ecologically arbitrary. In other cases authorization changes substantially when one individual transfers or retires and is replaced with someone with different views. To provide an understanding of the degree of difficulty can create, recall that PacifiCorp's facilities cross 33 different national forests. Each national forest is divided into three or four districts, each with independent decisionmaking authority. That means PacifiCorp foresters may have to work individually with well over 100 different governing authorities for the USDA Forest Service alone. Add to that a number of regions of the BLM, national parks and Federal wildlife refuges, all of which have ongoing personnel changes, and one can understand how working with Federal agencies can be so problematic and time consuming.

Local decisionmakers who oppose utility vegetation management can delay timely authorization for required routine maintenance. They can add redundancy and repetition in reviews and work requirements and add delay without a corresponding benefit. At other times, they can deny permission to remove dead and dying trees or other vegetation that poses a threat to transmission facilities, which can create unnecessary risk. Living trees continue to grow toward the power lines and dying trees continue to threaten to fall on electric facilities regardless of a decision timeline, so the inability to carry out routine maintenance can lead to emergency situations. All of these factors can unnecessarily raise costs, expose the electric grid to outages, including catastrophic grid failure, and increase fire risk.

That is not to say these problems are universal. On the contrary, some districts understand the issues, and cooperate in the context responsible land management. Furthermore, there have been positive developments such as those sited by my colleague Mike Neal, with the 2006 memorandum of understanding among EEI member utilities and Federal agencies, which is being renegotiated, and the desk top guide, which is helpful. Arizona Public Service and Xcel Energy have also reached memorandum's of understanding on a region basis in their respective service territories. PacifiCorp is working with the Intermountain Region of the Forest Service to reach a region-wide understanding on integrated vegetation management. These are all encouraging developments and indicate a willingness among many Federal

land managers to serve the public's need for safe reliable electricity while maintaining sound stewardship over Federal land.

Yet, PacifiCorp and other utilities continue to encounter problems with local Federal decisionmakers. Cyber security, national security, industry, commerce and domestic life are dependent on flawless functioning of the electrical interconnects. That is why FERC has a zero tolerance policy for tree contacts on interconnected transmission lines. The benefits electricity provides are too important to be left to a patchwork of independent assessments made by individuals who may or may not have electric or vegetation management training and may or may not understand the ramifications of their judgment on the electrical system. Industry would like to see broader policy directives that not only take into consideration important environmental and land management issues, but also take into account the importance of the electric interconnect, the negative impact trees can have on it and the cost maintenance of the electric grid has to the public. Moreover, industry would like to see decisions based on research, rather than opinion, and from that perspective, that means leveraging proactive integrated vegetation management in creating plant communities that contribute to the environment without threatening the Nation's electric supply. If protecting the electric grid is so important that the Federal Government cannot tolerate contacts between trees and interconnected transmission lines, all facets of the government should work with industry to help meet that objective.

Thank you for holding this hearing. PacifiCorp and EEI look forward to working with you further on these important issues.

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Mr. TIPTON. Thank you, Mr. Miller.

I would now like to recognize Mr. Michael Neal, Manager for Forestry and Special Programs for the Arizona Public Service Company in Phoenix, Arizona.

Mr. Neal, welcome, and thank you for being here, and please proceed.

STATEMENT OF MICHAEL NEAL, MANAGER, FORESTRY AND SPECIAL PROGRAMS, ARIZONA PUBLIC SERVICE CO., PHOENIX, ARIZONA

Mr. NEAL. Thank you, Mr. Tipton, for having us here today. And I will echo what Randy said on this very important subject.

Managing and clearing vegetation with or near right-of-ways has been and continues to be very difficult, whether the right-of-way is located on private or Federal land. While integrated vegetation management and utility vegetation management requirement impacts less than a fraction of a percent of overall Federal lands, the consequences of not effectively managing right-of-ways and power line corridors can be significant and catastrophic.

The failure to appropriately manage vegetation right-of-way corridors can result in destructive wildfires caused by direct power

line contact, or through indirect contact when trees are close enough to the power line that spark-over can occur. These fires destroy natural resources that take decades to recover. They result in loss of habitat critical for recovery of endangered species, and they destroy irreplaceable archeology and historic sites. They cause extensive and expensive property damage, and can even lead to tragic loss of human life. They also jeopardize reliability, electric service, and even national security.

The utility industry is not only concerned about the encroachment of vegetation within the right-of-way, but hazard trees growing outside the permitted right-of-way. These hazard trees can fall on the power lines, potentially causing a power outage, or even a catastrophic wildfire. In many cases, the utilities don't have the right to remove these trees. In spite of this, utilities are often held liable for suppression costs and damages when these off-right-of-way hazard trees cause a wildfire.

In recent years, utilities have literally paid out millions of dollars to cover these costs. Utilities believe that Federal agencies, as the official land managers, have the responsibility and obligation to manage these outside hazard trees. The utilities recognize the challenges faced by land management agencies as they work under various multi-use mandates. However, when Federal agencies approve power line right-of-ways, it is important that they recognize the primary use of that strip of land is for the safe and reliable delivery of power from one location to another.

Some of the hazards inherent to power line facilities demand that vegetation management be the main priority over less compatible uses. It is important to understand that significant impacts or changes to the natural flora and fauna within the right-of-way took place often decades ago, at the time of construction, when these corridors were initially cleared. Since that time, utilities have simply maintained these clear corridors, with no further significant environmental impacts. Yet, in many cases, standard vegetation management activities are subject to significant environmental review, even though this critical required maintenance has been carried out for years.

In my previous testimony 8 years ago—I was here—I reported on a memorandum of understanding which was signed by the Federal agencies in EEI on behalf of its member companies. The MOU recognized technical standards and requirements for maintaining reliability and signals to all Federal land managers that meeting them is a priority. This was a step in the right direction. However, upon implementation, the MOU had little or no impact at the regional forest district or local level. It, essentially, was a guideline, rather than a forcible policy. This MOU has now expired, and is presently being revised by the utility industry and the various Federal agencies. Representatives of the electric utility industry and Federal agencies are working in good faith to update and improve the MOU.

In addition, the Forest Service recently published a desktop guide for utility vegetation management, as Randy mentioned. The agency solicited input from the utility industry to provide greater clarity regarding decisionmaking associated with UVM activities.

Once again, while the desktop guide is a positive step, it is only a guideline with no requirement to follow it in the field.

Inconsistency and misunderstanding between utilities and Federal agencies must be eliminated, and we are working toward that with a renewed MOU. Legislation is needed to ensure that electric utilities are able to manage power line right-of-ways on Federal lands efficiently and in a timely manner. The issue of liability related to off-right-of-way hazard trees also needs to be addressed in legislation. Such legislation, in conjunction with the MOU and a desktop guide, will ultimately provide for safe, reliable delivery of electricity, while protecting natural and cultural resources.

And, again, Chairman, thank you for having us here today.

[The prepared statement of Mr. Neal follows:]

PREPARED STATEMENT OF MICHAEL NEAL, MANAGER, FORESTRY AND SPECIAL PROGRAMS, ARIZONA PUBLIC SERVICE CO., PHOENIX, ARIZONA

My name is Mike Neal, and I am the Manager of Forestry and Special Programs for Arizona Public Service (APS), where I administer some 6,000 miles of transmission and 11,000 miles of distribution lines throughout Arizona. APS' power lines cross 5 national forests, 4 BLM districts, 4 wildlife refuges, 11 units managed by the National Park Service and 3 National Monuments managed by the Bureau of Land Management (Agua Fria, Ironwood Forest and Sonoran Desert).

The management of the power lines on Federal lands is an integral component of APS' program to protect the security and reliability of the grid. I appreciate the opportunity to testify before this joint subcommittee hearing on behalf of APS and the Edison Electric Institute (EEI).

APS, Arizona's largest and longest-serving electricity utility, serves more than 1 million customers in 11 of the State's 15 counties. With headquarters in Phoenix, APS is the largest subsidiary of *Pinnacle West Capital Corporation* (NYSE:PNW).

EEI is the premier trade association for U.S. shareholder-owned electric companies and serves international affiliates and industry associates worldwide. Our U.S. members serve 97 percent of the ultimate customers in the shareholder-owned segment of the industry and 71 percent of all electric utility ultimate customers in the Nation.

It has been 8 years since APS and EEI first spoke before Members of the House and Senate about problems associated with managing rights-of-way (ROWs) on Federal lands.

Managing and clearing vegetation within or near ROWs has been, and continues to be very difficult, regardless of whether the ROW is located on private or Federal land. While Integrated Vegetation Management (IVM) and Utility Vegetation Management (UVM) requirements impact "less than a fraction of a percent" of overall Federal lands, the consequences of not effectively managing the ROWs and powerline corridors can be significant and catastrophic.

The failure to appropriately manage vegetation in ROW corridors can result in destructive wildfires caused by direct vegetation—powerline contact, or through indirect contact when the trees are close enough to the powerline that spark-over can occur. These fires destroy natural resources that can take decades to recover. They result in the loss of habitat critical for the recovery of endangered species. They destroy irreplaceable archaeological and historical sites. They cause extensive and expensive property damage, and can even lead to the tragic loss of human life. They also jeopardize reliable electric service and even national security.

The utility industry is not only concerned about the encroachment of vegetation within the ROW, but also "hazard trees" growing outside the permitted ROW. A hazard tree is a tree that has been assessed and found likely to fail and cause an unacceptable degree of injury, damage or disruption. These "hazard trees" can fall into the power lines potentially causing a power outage, or even a catastrophic wildfire. In many cases the utilities don't have the right to remove these trees.

In spite of this, utilities are often held liable for suppression costs and damages when these off-ROW hazard trees cause a wildfire. In recent years utilities have literally paid out millions of dollars to cover these costs.

The utilities believe that the Federal agencies, as the official land managers, have the responsibility and obligation to manage these outside the ROW hazard trees. This is no different than protecting the public from hazardous trees in a campground.

The utilities recognize the challenges faced by land management agencies as they work under various multiple-use mandates. However, when Federal agencies approve power line ROWs it is important that they recognize the primary use of that strip of land is for the safe and reliable delivery of power from one location to another. Some of the hazards inherent to power line facilities demand that VM be the main priority over less compatible uses.

The character of the electric grid has changed considerably since the Energy Policy Act of 1982, and EPAct 2005 will accelerate those changes. As a result, where power lines cross Federal lands, these lands should be considered first and foremost as essential components of the Nation's critical infrastructure.

It is important to understand that any significant impacts or changes to the natural flora and fauna within the ROW took place often decades ago at the time of construction, when these corridors were initially cleared of vegetation. Since that time, utilities have simply maintained those cleared corridors, with no further significant environmental impacts. Yet in many cases, standard vegetation maintenance activities are subject to significant environmental review even though this critical, required maintenance has been carried out for years.

In my previous testimony 8 years ago, I reported on a Memorandum of Understanding (MOU) which was signed by the U.S. Forest Service, the Bureau of Land Management, the Fish and Wildlife Service, the Environmental Protection Agency, the National Park Service, and also EEI on behalf of its member companies. The MOU recognizes the technical standards and requirements for maintaining reliability and signals to all Federal land managers that meeting them is a priority. This was a step in the right direction; however, upon implementation the MOU had little or no impact at the Regional, Forest, District, or local level. It essentially was a guideline rather than an enforceable policy. This MOU has now expired and is presently being revised by the utility industry and the various Federal agencies. Representatives of the electric utility industry and Federal agencies are working in good faith to update and improve the MOU.

In addition, the Forest Service recently published a "Desktop Guide for Utility Vegetation Management." The agency solicited input from the utility industry to provide greater clarity regarding decisionmaking associated with UVM activities. Once again, while the desk guide is a positive step, it is only a guideline with no requirement to follow it in the field. The jury is out as to whether the desk guide will have any meaningful impact at the Forest or District level.

EEI, the Utility Arborist Association, vegetation management managers and the Federal agencies have been in discussion, as I mentioned earlier, to revise the MOU. During these discussions we received valuable feedback from the Federal agencies about concerns they have regarding utility vegetation management (VM) programs. Agencies perceive that utilities are often not consistent in their approach to VM activities, and in many cases, give little or no notice regarding VM activities being performed on Federal lands. Inconsistencies and misunderstandings between the utilities and the Federal agencies must be eliminated, and we are working toward that with the renewed MOU.

In conclusion, legislation is needed to ensure that electric utilities are able to manage power line ROWs on Federal lands efficiently and in a timely manner. The issue of liability related to off ROW hazard trees also needs to be addressed in legislation. Such legislation, in conjunction with the MOU and the desk guide, will ultimately provide for the safe, reliable delivery of electricity while protecting natural and cultural resources.

Thank you for holding this hearing. APS and EEI look forward to working with you further on these important issues.

Mr. TIPTON. Thank you, Mr. Neal.

I would now like to be able to recognize Ms. Lydia Grimm, Manager of Environmental Planning and Analysis for the Bonneville Power Administration, based in Portland, Oregon.

Thank you for being here, and please proceed with your testimony.

STATEMENT OF LYDIA GRIMM, MANAGER, ENVIRONMENTAL PLANNING AND ANALYSIS, BONNEVILLE POWER ADMINISTRATION, PORTLAND, OREGON

Ms. GRIMM. Thank you, Mr. Chairman, members of the committee. I appreciate very much the opportunity to be here today to talk about this issue.

As you know, Bonneville is a power marketing administration within the U.S. Department of Energy. We supply about half of the energy supply in the Pacific Northwest, and we actually operate and maintain over three-quarters of the high-voltage transmission system in the Northwest. So this means about 15,000 circuit miles of transmission lines, and about 8,500 miles of access roads throughout the Northwest. So, as you can imagine, maintaining that is a pretty big job. But we have a fantastic transmission field organization that is really good at keeping the lights on.

But our mission is really to maintain a very safe, reliable, and efficient transmission system that is cost-effective for ratepayers. And we try to do this with safety in mind first. Operating a high-voltage system in particular, there are a lot of hazards for both our workers and the public that may be in and around these transmission corridors. So we focus on making sure there is a lot of good clearance.

Of course, vegetation management, as we have been talking about, is critical. Particularly on high-voltage systems like ours, you don't need to have anything touching the lines; they will arc. And with high voltage, they will arc a long distance. So you have to work really hard to not only clear and maintain lower-growing communities, but you need to keep an eye on those hazard trees. And so that is our priority.

But we are also, as others have mentioned, embarking on a significant amount of maintenance. Bonneville recently celebrated its 75th anniversary, and we are also seeing an aging infrastructure. So we have a very big program going on right now to work on replacing individual components as they age: wood poles, steel components, as well as rebuilding segments of line on these existing transmission corridors. We have a very big program, moving forward, to make sure we have a robust system going to the next 20, 30 years.

Because of the scale of where we operate, we actually are on about 1,500 miles of Federal lands, particularly Forest Service and BLM, some refuges, some Park Service, et cetera. But it is primarily Forest Service and BLM. And I think, unlike some of the other testifiers here today, we are somewhat unique in that we are also a Federal agency. So we are understanding of the responsibilities that the Federal land managers have. We are also responsible for some of the same environmental statutes and compliance.

I think we found our best path forward with them is communicating regularly, coordinating regularly with the local managers. They know the ground the best, they can identify issues and concerns. And we typically work really well together to address individual concerns they may have.

For example, we have worked well on the Bridger-Teton National Forest there, had some significant bark beetle issues. And one of the things we did was help change our practice for how we do the

lop and scatter of the vegetation management to reduce the size of the material left behind, so it wouldn't create new habitat for beetle. So we do try to address that on an individual basis.

I think the main message from our standpoint, though, is that it is really better coordination and communication that can really help. We are working on a national permit with the Forest Service right now that will help us set a consistent standard for all of the actions that we do on our existing right-of-ways and in existing operation and maintenance plans, and so we are looking forward to getting that completed.

But that is all I have. If you have any questions, I am happy to answer. And thank you, again, for the opportunity.

[The prepared statement of Ms. Grimm follows:]

PREPARED STATEMENT OF LYDIA GRIMM, MANAGER, ENVIRONMENTAL PLANNING AND ANALYSIS, BONNEVILLE POWER ADMINISTRATION, PORTLAND, OREGON

Thank you Mr. Chairman, I appreciate the opportunity to provide the committee with information about the Bonneville Power Administration's experience with the management of electricity rights-of-way on Federal lands.

As background, the Bonneville Power Administration (BPA) provides nearly three-quarters of the electricity in the Pacific Northwest, and maintains a network of approximately 15,000 circuit miles of high-voltage electric transmission lines and over 8,500 miles of access roads. BPA's electric transmission system operates in seven States—Oregon, Washington, Idaho, and portions of Montana, Nevada, Wyoming, and California. About 1,500 miles of BPA's transmission system is located on lands managed by the U.S. Forest Service and the Bureau of Land Management.

Vegetation management is a major component of BPA's maintenance of the transmission system. We need to keep vegetation a safe distance away from our transmission facilities, including our transmission lines and access roads. We must be able to get to these facilities to carry out routine and emergency maintenance, and we must make sure that nothing falls into or grows too close to the transmission line. If vegetation is too close to our lines, it can arc over and cause serious injury or death to someone nearby, it can cause an outage of the line, or it can start a fire. This can also happen when a line overheats on a hot day or when it is carrying a high power load, and as a result, stretches and sags closer to the vegetation below. For example, in August of 1996, a very hot day created sag in some lines which led to arcing into an orchard tree that grew too high, and caused an outage that extended to parts of Canada and 10 Western States. Over 7 million residences and businesses lost power.

BPA has an extensive vegetation management program designed to ensure the safety and reliability of BPA's transmission system while protecting the environment. BPA's vegetation management is guided by a number of safety standards, including the National Electrical Safety Code, which defines the minimum safe distance between objects or workers and energized lines. In addition, BPA adheres to the North American Electric Reliability Corporation (NERC) Reliability Standards, as well as those developed by the Western Electricity Coordinating Council (WECC) the regional entity responsible for coordinating and promoting bulk electric system reliability for the western interconnected transmission systems. These standards require BPA to define specific heights and distances for trees and other vegetation near its transmission lines. In addition to NERC and WECC standards, BPA adheres to a program of inspection, monitoring, maintenance, and reporting regarding vegetation management associated with its transmission facilities. A Category 1 grow-into outage [1] can result in potential NERC fines up to $1,000,000 per day and also require BPA to implement a mitigation plan which may be even higher in cost.

In general, BPA's policy is that trees or other vegetation in the rights-of-way may not grow over 10 feet tall at maturity, unless they are in a deep canyon so they could not possibly grow into the line. BPA also selectively removes "danger trees"—trees that could potentially grow, fall, or bend into the lines—from the area next to the right-of-way. We select them for removal based on the overall condition of the tree, the stability of the ground around the tree, the tree species, and any other

[1] A "Category 1 grow-into outage" is an outage caused by vegetation growing into lines from vegetation inside and/or outside of the right-of-way. NERC Reliability Standard FAC–003–1.

defect that might cause the tree to be "unstable" and likely to fall into the transmission line.

Vegetation management is done using a number of techniques tailored to the unique characteristics of the landscape. Typically manual cutting with chainsaws is the primary method, and sometimes mechanical cutting is used. We may apply herbicides on smaller trees or incompatible brush, or do follow-up herbicide treatments on stumps. We manage vegetation in the rights-of-way to achieve a maintenance-free period, which tends to be 3 to 4 years on the west side of the Cascades, and 3 to 8 years on the east side of the Cascades.

In 2000, we developed our vegetation management program in consultation with stakeholders and the public in a programmatic Environmental Impact Statement. Further, before each site-specific vegetation management action, we walk through a number of planning steps to ensure the activity is tailored to the specific area and that site-specific environmental factors are taken into account.

In addition to our extensive vegetation management program, BPA also undertakes regular maintenance of the transmission structures themselves. The maintenance work can be as simple as replacing several old wood transmission poles with new wood poles. It can also mean the more comprehensive rebuilding of entire segments of aging lines with new poles, new conductors, and access roads improvements and reconstruction. As part of our ongoing maintenance of BPA's transmission infrastructure, BPA is working steadily to repair, rehabilitate, or replace components whose current condition warrant such actions. For example, for Fiscal Year 2014, BPA expects to replace over 450 wood pole structures, undertake 75 miles of wood pole line rebuilds, and replace steel components on approximately 200 miles of lattice steel lines. BPA expects to continue at this pace as long as it is needed, which may be for the next several years.

In undertaking its vegetation management and maintenance activities on Federal lands, BPA works to ensure that it is adapting its activities to the particular habitat standards and guidelines of the particular lands to the extent consistent with the reliability standards for electrical transmission. BPA undertakes an environmental analysis for all of its vegetation management, wood pole replacement, and line rebuilds, and coordinates with the local Federal land managers. For example, both the Forest Service and Bureau of Land Management were cooperating agencies in the development of BPA's programmatic vegetation management environmental impact statement and endorsed its adoption and the associated site-specific planning framework. For simple wood pole replacements, BPA typically notifies individual districts of the planned replacements, and engages with local managers if there are specific issues to address. For rebuilds, BPA typically invites the local Federal land managers to join as cooperating agencies in the environmental analyses conducted, and relies heavily on experts from these agencies to inform BPA as to local environmental conditions and concerns. While the low-growing vegetation management requirements and access road developments necessary for reliable electricity infrastructure are not always well-matched to the land management goals of a particular area, BPA works hard to try and address Federal land manager concerns. For example, we've partnered with the Bridger-Teton National Forest to manage our rights-of-way while minimizing bark beetle habitat from the ensuing felled trees. BPA is also in the middle of working collaboratively with the USFS in developing a national permit with associated operations and maintenance plan to further detail our cooperative interactions on BPA assets which cross USFS National Forests.

In BPA's experience, coordination and communication between BPA and the Federal land managing agencies is key to fostering a mutual understanding of our important Federal missions. It is critical that land management planning continue to acknowledge and incorporate the needs of a reliable energy infrastructure, and that transmission operation and maintenance acknowledge and incorporate the needs of Federal land management goals.

Thank you for this opportunity, and I am happy to answer any questions you may have.

Mr. TIPTON. Thank you, Ms. Grimm. Appreciate your testimony. I would now like to yield to a colleague from Wyoming, Mrs. Lummis, for purposes of introducing our final witness.

Mrs. LUMMIS. Well, thank you, Mr. Chairman, and I want to thank this panel. This is a very, very high-powered panel. And, as the last member of a very high-powered panel, I want to introduce

Mike Easley of Sundance, Wyoming. He is the CEO of Powder River Energy Corporation, which is a rural electric co-op. He has 29 years of experience working for electric cooperatives. He started out as a transmission design engineer and, of course, now is CEO of a very significant co-op in my State. Co-ops, as you know, are non-profits that essentially are owned by the same customers they serve.

Now, in States like Wyoming, we are about half federally owned. And some of the States that are represented on this committee are more than half federally owned. But, because of that, rights-of-way over Federal land are absolutely vital to the co-op's mission: delivering affordable and reliable power. So the costs associated with unnecessary red tape on Federal land gets passed on to their customers.

Mr. Easley, I am so pleased you are here, because your wealth of experience in navigating the Federal bureaucracy should help inform our committee about how Federal management of rights-of-way can be improved, both for the benefit of ratepayers and for the health of the land and the forests that surround these rights-of-way. So, welcome. So honored to have you here.

Thank you, Mr. Chairman. I yield back.

Mr. TIPTON. Thank you for that. And, Mr. Easley, we would now like to be able to hear your testimony.

STATEMENT OF MICHAEL E. EASLEY, CEO, POWDER RIVER ENERGY CORPORATION, CHAIR OF THE WYOMING RURAL ELECTRIC ASSOCIATION'S MANAGERS' COMMITTEE, SUNDANCE, WYOMING

Mr. EASLEY. Good morning, Mr. Chairman and committee. And thank you for the kind introduction. I am speaking today on behalf of the 11 electric cooperatives in Wyoming. I represent them via my chairmanship of the Managers' Group for the Wyoming Rural Electric Association.

Powder River Energy is a member-owned co-op. We have 28,000 meters that we provide electricity to, over 10,000 miles of power line across a territory that covers 16,000 square miles. We cover the northeast corridor of Wyoming. Our customers range from world-class coal mines, oil and gas, to agricultural-rural residential customers.

Today I am bringing the committee four examples of issues that we have had, problems of seemingly arbitrary decisionmaking, poor communications, and bureaucratic red tape that leads to delays and increased costs to our member-owners, and ultimately threaten our co-ops' abilities to keep the lights on.

First, one of our cooperatives, Carbon Power and Light, had been conducting regular maintenance on their right-of-way. And this was going through the Medicine Bow National Forest. They noticed trees that were apparently beetle-kill trees that were outside of the right-of-way that were at risk of falling through the power line and if that were to have happened, starting a very large fire. Carbon contacted the Forest Service. And after 2 years of excruciating frustration, they were finally able to start their right-of-way clearing project. But, unfortunately, it took a 2-year delay before they could finally start doing work.

When you take a look at that, and you think about the risk that Carbon was facing, especially when they were told they could not take any of the trees until all of these bureaucratic hoops were satisfied, the significant risk that the forest experienced was really something that folks finally paid attention to and were finally able to resolve. But it makes little sense, how that Federal process could delay a timely, common-sense resolution of the issue. Cut the trees down. Risk to life, to property, and forest health, I don't think, were taken into consideration.

What is really disturbing, following this experience that we have had with Carbon in Wyoming is another small co-op in the Big Horn National Forest. Their co-op's name is Big Horn. Big Horn had a similar problem, where they saw trees outside of the existing right-of-way that were causing problems. They contacted the Forest Service, were told to mark the trees. They marked the trees, they were told to cease and desist marking the trees. Ultimately, the Forest Service folks met with their board on January 29 of this year. They were told the Forest Service would get back to the board and the manager. They have yet to hear from them. Meanwhile, we have trees in that forest that are at risk of falling through the line.

It is astounding to me that a co-op could actually be held liable for damage caused by a tree outside of the right-of-way, and at the same time be prohibited from clearing that tree. It just makes no sense.

Wyrulec Cooperative applied to build a three-quarter-mile distribution line to extend power to a new customer. This distribution line covered about three-quarters of a mile of BLM lands. They were told to submit an application. They did all the environmental work, they submitted the application. Once that was done they were told that it would take 12 months and an additional $96,000 to study this. They re-routed the line, so it just crossed 50 feet of BLM land, and they were told it would cost $96,000 and 1-year time to cross a path of 50 feet.

Other issues that we had with the BLM right-of-way manifests from, I think, a problem of communication and coordination between the BLM and the RUS in the processing of rights-of-way. This has caused delays for most of our co-ops in Wyoming. Specifically, PRECorp has waited several years for easements to work their way through a process where one agency wants to streamline and the other agency prefers to have a very old and outdated form of approving easements and paperwork.

These are the four examples that I have of what I think are inefficient and ineffective ways that some of our Federal agencies operate. My hope today is that the testimony can help effect some changes. And I stand ready to answer any questions that the committee may have.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Easley follows:]

PREPARED STATEMENT OF MICHAEL E. EASLEY, CEO, POWDER RIVER ENERGY CORPORATION

Good morning Mr. Chairman and members of the committee. My name is Mike Easley and I am the Chief Executive Officer of the Powder River Energy Corporation (PRECorp), a rural electric cooperative based in Sundance, WY. PRECorp's mission is to deliver high quality, competitively priced electric power and services to

our member owners, while enhancing the quality of life by providing leadership and service in our communities. PRECorp provides 400 MW of power to 28,000 meters using 10,000 miles of power line across a territory that covers 16,000 square miles in Crook, Weston, Campbell, Sheridan and Johnson counties in northeast Wyoming. Our member owners are a diverse group, ranging from large industrial loads such as the world-class Powder River Basin Coal mines, oil and gas fields, to ranchers, farmers, urban residents and small businesses in northeast Wyoming.

I serve as the Chairman of the Wyoming Infrastructure Authority, an instrumentality of the State of Wyoming. I also Chair the Wyoming Rural Electric Association's Managers' Committee. It is in my capacity of the Wyoming Rural Electric Association Managers Committee that I will be testifying today and representing the concerns of all Wyoming's cooperatives on three very important topics—keeping the lights on, reducing forest fire risk, and rights-of-way (ROW) on Federal Lands.

PRECorp works very hard to develop and maintain good working relationships with our Federal agency contacts. We hold regular meetings with our local contacts and we work hard to develop relationships beyond the local level. Most recently I have had the opportunity to work with Neil Kornze, the newly confirmed director of the BLM, on issues of BLM right-of-way grants that are unique to rural electric cooperatives. Neil's understanding and support while we worked through this issue was critical to the successful resolution of this matter for PRECorp. Without his involvement and leadership, PRECorp's ROW issues might still be lingering.

That said, my testimony today is directed at problems PRECorp and many of Wyoming rural electric cooperatives have experienced with the BLM and the Forest Service over the past several years.

I have four specific examples to offer to the committee today that highlight problems of seemingly arbitrary decisions, lack of/or poor communication, and bureaucratic red tape that leads to delays, increased costs to our member-owners and ultimately threaten our ability to keep the lights on.

FOREST SERVICE—TREE CLEARING

First, one of our cooperatives, Carbon Power and Light (Carbon), had been conducting regular maintenance and clearing of rights-of-way (ROW). Personnel noticed several trees outside of the ROW (Forest Service trees) and noted if the trees fell, they would fall into their power lines. The cooperative took the initiative to contact officials in the Medicine Bow National Forest to bring this problem to their attention. Among other things they were told that if a tree outside their ROW fell into the lines and caused a fire, the cooperative would be held liable for damages! It should be noted that most, if not all, of the trees being cleared, or needing to be cleared, were dead due to beetle kill and were not viable living trees.

Carbon had to jump through many bureaucratic hoops, conducting one study after another that delayed the clearing of ANY trees for over 2 years and at a cost of over $1.6 million to their member-owners. Because of the delays, the cooperative was not able to clear all of the trees needed in one season. We were all very fortunate that a forest fire was not ignited by one of these dead trees falling into a wire. It makes little sense how bureaucratic Federal processes could delay the timely resolution of this issue. Risk to life, property, and forest health were not taken into consideration by the Forest Service. It is difficult to understand the liability for a Forest Service tree falling from outside the right-of-way into a power line could be assigned to the cooperative and at the same time that cooperative is prevented from cutting the tree by the Federal agency. Common sense would appear to dictate otherwise.

In another similar instance, three Forest Service representatives employed in the Big Horn National Forest informed Big Horn Rural Electric Cooperative (Big Horn) to mark trees they felt needed to be removed and prepare an inventory of the marked trees in both the permitted ROW and outside of the ROW. After marking the trees, Big Horn was informed by one of the same Forest Service representatives that they could not move forward. They were also informed they had marked too many trees and then Big Horn was threatened with legal action for defacing government property and using the wrong kind of paint when marking the trees. Upon submission of the inventory, the Forest Service representative stated some of the trees may be "merchantable" and the Forest Service would need to get with their timber harvest representatives. The Forest Service Supervisor met with the Big Horn Board of Directors on January 29, 2014 telling them that he would get back to them by late February or early March. They have yet to hear back from him.

BLM—RIGHTS-OF-WAY

Wyrulec Company, a cooperative in southeast Wyoming, needed to extend a line to serve an oil pipeline pumping station. The proposed extension, the most efficient and cost effective route, would have crossed three-quarters of a mile on BLM lands. The cooperative was given the green light to file the application, (which they did) along with the associated environmental work with the BLM. They were then told, without anyone from the BLM looking at the proposed extension in the field, the BLM needed $96,000 and 12 months to study the application.

Efforts to contact the BLM to invite them to visit the proposed project and physically see for themselves what they were asking went unanswered. The cooperative, in an effort to meet the needs of their member-owners, re-routed the line over 2 miles at a cost of $495,000 without ever hearing back from the BLM.

Finally, several of our cooperatives have over the past year experienced delays and uncertainty in the approval of new or renewal of existing ROW from the BLM, because of what appears to be an interagency dispute governing the approval process between the BLM and the Rural Utility Service (RUS).

Instead of accepting a blanket letter from the RUS stating that all Wyoming cooperatives are eligible to borrow funds from the RUS, the BLM insisted that every new and renewal application to be signed off on by the RUS, stipulating that particular cooperative seeking the waiver was eligible for RUS financing. This requirement has led to numerous delays in either maintenance projects, which threaten the reliability and maintenance of the grid, or in establishing new service hook ups. The result had been increased costs to electric cooperative members. Electric cooperatives operate on a not-for-profit basis. Each and every dollar we spend in dealing with bureaucratic red tape increases our costs and liabilities at the expense of our member-owners. These are folks that we all are supposed to be working for, not against.

The examples I have given today cause our member-owners (your constituents back home) to question the inefficient and ineffective ways some of our Federal agencies operate. My hope today is that my testimony and those of others persuade you and perhaps officials from the BLM and Forest Service that things need to change. Adding more rules, regulations and requirements in an effort to address these problems is not productive nor do they serve the public interest. There are simpler, easier solutions to these problems.

A first step would be to introduce common sense in the way that agencies fulfill their statutory requirements, while keeping in mind that they are here to serve the American people, not the other way around. Second I would suggest a process that sets clear expectations of performance for all parties involved, measures performance against expectations, and embraces transparency in presenting overall results.

Wyoming cooperatives stand ready to be part of the solution to help keep the lights on, reduce the chance of forest fires risk, and implement a process to properly manage ROW on public lands.

Thank you for the opportunity to be here today and to speak on behalf of all Wyoming's Rural Electric Cooperatives. I would be happy to answer any questions.

Mr. TIPTON. Mr. Easley, thank you for your testimony. And thank our entire panel.

At this point we will begin our questions for the witnesses. To allow all of our Members to be able to participate, and to ensure that we can hear from all of our witnesses today, Members will be limited to 5 minutes for their questions.

After the Ranking Member and I pose our questions, I will then recognize Members alternatively, on both sides of the aisle, in order of attendance. I now recognize myself for 5 minutes for questioning.

Mr. Miller, I think I would like to be able to start with you. If you may, can you maybe expand a little more in regards to decisions made by the Forest Service or the BLM to move forward with the approval of hazardous tree removal, how they differ from region to region?

Mr. MILLER. Thank you, Mr. Tipton. Some districts and some regions are very cooperative. In general, we need to mark the trees

and locate them, and simply submit a work plan for their removal. Permission is granted, and we can take care of the issue in a timely manner. In other cases, we are simply denied authorization to remove trees altogether, and in some cases there is a lengthy delay in the approval process between our submitting the trees for removal and authorization. So, it varies.

In general, I would say cooperation is very good with hazard trees. But there are exceptions, and those exceptions are troubling, because I think the great danger of hazard trees falling into our lines is catastrophic wildfire. And so we are very concerned about that.

Mr. TIPTON. When we are talking about that cooperation, I guess we would like to be able to have a little more clarity, in terms of where you say it does work well. Why are the agencies not working together?

Mr. MILLER. I am not sure that I can answer that. It has to do with local decisionmakers and their own personal opinions, at least as far as I can tell. They seem to be working with the same policies and procedures, yet they draw differing conclusions.

So, we are confused about why one district would come up with opposition to removing hazard trees, and the other one would cooperate fully. It is sort of a mystery to us.

Mr. TIPTON. So that quilt approach, in terms of policy, made from region to region, manager to manager, that is why you feel legislation might be necessary?

Mr. MILLER. Yes, sir.

Mr. TIPTON. Great. You know, Mr. Easley, it is interesting, just visiting on your comments. When you were talking about crossing 50 feet, $96,000. Did I hear that correctly?

Mr. EASLEY. That is correct.

Mr. TIPTON. What was your actual footprint on the ground?

Mr. EASLEY. The length of easement that Wyrulec was crossing of BLM land was a 50-foot length of right-of-way crossing the BLM land. The rest of the line extension was originally three-quarters of a mile on BLM land, and they were able to reduce that by rerouting the line and impacting a little more private land in order to accommodate that to get from the existing line to the oil field load.

Mr. TIPTON. So a lot of money for very little impact.

Mr. EASLEY. That is correct, sir.

Mr. TIPTON. Great. You know what? One thing that I am very curious about, I know in Colorado we have a great concern on this, as well—and I will open this up to the panel, if others of you would like to be able to comment on this—when you are talking about having a liability outside of your designated corridor.

We have some big blue spruce, and we've got a lot of bark beetle kill that is going on right now. What is the actual impact, in terms of when you have a tree fall that is not in the corridor, which you may or may not be able to effectively get in and actually treat and be able to take care of? That falls on a line. Who is going to pick up the cost for those impacts?

Mr. EASLEY. Mr. Chairman, it is my understanding, from what we have been told, that the liability would lie with the electric co-

operatives. So, ultimately, in our model, Mr. Chairman, the guy at the end of the line would pick up that bill.

Mr. TIPTON. Great. Mr. Neal?

Mr. NEAL. And I will agree with Mike. Utilities have paid out for hazard trees that have fallen into the power lines. APS has paid for fires, hazard trees, they were bark beetle trees. The fortunate part of it, it was only 2 to 5 acres.

Mr. TIPTON. Yes. Now, when you say the electric co-op is liable and will pay, you are actually made up of members, aren't you? Real people?

Mr. EASLEY. Absolutely. And we consider every one of our members very real and very important, Mr. Chairman.

Mr. TIPTON. If you are from an area—interesting, looking down the list, the expanse of the West, in particular, that we are covering right now. You probably have people like we do in our district that are having a tough time right now. Will you pass on those costs to those ratepayers who are currently struggling because of bad management policies that we are seeing?

Mr. EASLEY. Mr. Chairman, the only people that an electric has to pass costs on to are the end customers at the end of the line.

Mr. TIPTON. So——

Mr. EASLEY. Everybody else——

Mr. TIPTON. So, effectively, what you are telling us is, because of bad management policies, inability to be able to get in, treat the right-of-ways, impacts that can fall in from out of the right-of-way areas, we are actually going to be punishing people through higher rates because of bad policy?

Mr. EASLEY. Yes, Mr. Chairman. My members and also the constituents of everybody here in this room.

Mr. TIPTON. Well, thank you for that. My time has expired. I would now like to recognize our colleague from New Mexico, the Ranking Member, Mr. Grijalva.

Mr. GRIJALVA. It is the Enchanted State, Mr. Chairman. But I am from Arizona.

[Laughter.]

Mr. GRIJALVA. Mr. Markham, in your testimony you highlight the importance to protect the sage-grouse habitat, but also the measures presented in the draft EIS would cause significant cost to several cooperatives, but not all. Specifically, the cost with having to bury—one of the alternatives, bury the power lines.

What do you consider to be durable mitigation measure for the sage-grouse?

Mr. MARKHAM. Doable mitigation? Did I hear correct, doable mitigation measures?

Mr. GRIJALVA. Durable.

Mr. MARKHAM. Durable.

Mr. GRIJALVA. That is going to last.

Mr. MARKHAM. OK. Well, as far as going back, I think that we have our overhead lines that have been in place for years. We need to be able to maintain those right-of-ways the way that we have existed. If you put in underground power lines, you are going to be disturbing the habitat much more, I believe, than with your overhead lines.

And so, we just ask that we have the ability to access that infrastructure to do our legally required maintenance.

Mr. GRIJALVA. OK.

Mr. MARKHAM. And we can work with the land agencies on minimizing and mitigating any impacts of our vehicles and work that we have to do on the line.

Mr. GRIJALVA. I ask that, Mr. Markham, because the effort, large-scale effort being undertaken by BLM right now to conserve sage-grouse and potentially preclude them from being listed as a species—so the final listing determination is going to hinge on the strength of the conservation measures in the State plans. The reason I bring that up is you testified that burying power lines would cost $400,000 per co-op member for the Harney Electric and $241 million total for Central Electric.

Has there been any calculation to the cost of the alternative? Let's say having to comply with an ESA if the sage-grouse is listed. It is not listed at this point.

And side question, you know, it is a shock number, $400,000 per co-op member. Is that cumulative over a period of time, or one shot?

Mr. MARKHAM. No, that is a one shot. But then you have your ongoing costs of maintenance of those lines in the future.

Mr. GRIJALVA. So you are telling me that, as a consequence of BLM's planning, that somebody would receive a $400,000 rate increase for that particular mitigation?

Mr. MARKHAM. Well, conceivably, yes, because that is the kind of expense you are looking at, underground transmission and distribution over in Harney Electric service territory. And so, in essence, it would put that co-op out of business. Because members can't pay that kind of——

Mr. GRIJALVA. So complying with ESA if the sage-grouse is listed, have you calculated what that cost would be?

Mr. MARKHAM. No, we have not.

Mr. GRIJALVA. So, it could be more than $400,000, one shot?

Mr. MARKHAM. What is that? I am sorry.

Mr. GRIJALVA. It could be more than the $400,000 increase at one shot?

Mr. MARKHAM. Yes, Yes.

Mr. GRIJALVA. If it is listed.

Mr. MARKHAM. Yes, it could, yes.

Mr. GRIJALVA. So your point earlier that it would be good to try to work through this now would——

Mr. MARKHAM. Yes.

Mr. GRIJALVA [continuing]. For all parties concerned would be important.

Mr. MARKHAM. Yes.

Mr. GRIJALVA. Mr. Neal, give me some examples—as people talked about—some specific examples where, when you have two different regional district or local-level land managers providing you with a different opinion.

Mr. NEAL. I can give you an example. When I was here 8 years ago, when I worked with the Tonto National Forest, it was probably the most difficult forest to work with to get approvals. We could not maintain the utility corridor. And, as Randy mentioned,

it is an arbitrary line between two ranger districts, because the district ranger is the authority there. And we couldn't remove trees.

Our company spent $3 million to keep going back to the same facility to remove trees within the right-of-way that were all Ponderosa pine that will eventually grow into the power lines anyway. And so you are eventually going to have to remove them anyway, as time goes on.

There was a change in leadership in the Tonto in the last 3 years. The person that is the forest supervisor there today is Neil Bosworth. And he is one of the most accommodating forest supervisors. He looks at us as a partner to work with and to manage the vegetation. And that is really what we need to get to, sir, is that common-sense approach that Mr. DeFazio mentioned earlier. But, you know, when you have that change in leadership, those are the examples that we have to deal with, as manager of that vegetation on the corridor.

Mr. GRIJALVA. Thank you, Mr. Chairman.

Mr. TIPTON. Thank the Ranking Member for his questions. Now I'd like to recognize Mr. Daines for his questions.

Mr. DAINES. Thank you, Mr. Chairman. Mr. Easley, in your testimony you talk about how utilities would like more flexibility to treat at-risk trees surrounding the transmission right-of-ways. I touched base with some of our Montana electric co-ops before this hearing, and I heard they have the same challenges of protecting the integrity of transmission lines in Montana. Because, frankly, the Forest Service can do a lot better job of treating these at-risk trees.

Mr. Easley, in your testimony you talk about this bureaucratic Federal process which delays the timely resolution of these issues. Well, I can tell you we deal with these issues in Montana forestwide in our State. In fact, on the House side we passed H.R. 1526, the Restoring Healthy Forests for Healthy Communities Act, which would restore active management of our forests, and reduce the risk of catastrophic wildfire and damage to utility lines.

In fact, the Missoula Electric Co-op has dealt with these challenges associated with lines through Federal forests and hazardous fuels. After increasing frustration with the lack of ability to prevent fire damage and the right-of-way, the co-op had submitted a request to replace a number of miles of overhead lines with underground in December. Just this month, the Forest Service has finally indicated they are going to evaluate that request.

The Forest Service has recognized the problem in its agreement with the co-op, but has delayed their action to begin the process of finding a solution. The result is increasing fire risk, more costly liability for the utility, and less reliability for the lines. And one solution, which is an aspect of this bill that we passed, H.R. 1526, is allowing State and local governments and individuals in local communities to be more involved in managing their public lands.

So, with that as background, I would like to see and hear some contrast around these regulatory hoops that have to be jumped through, contrasting what it is like to go through Federal processes versus State and local processes.

Mr. EASLEY. Congressman, our experience has been that the closer that you are to the people, the faster and the easier the solu-

tions are. Typically, if we have issues on State land, our relationships are such that we make a phone call and it is a very quick resolution. A decision can get made. That doesn't mean that we don't work very hard to have relationships with our Federal stakeholders, as well.

I don't think there is any question that people understand the danger of forest fires. It is taking that awareness and compelling people to actually make a decision that is difficult. And I believe, at the State level, they are empowered to make those decisions. I can't tell the difference in why. Maybe how they report to a Governor, versus reporting up through a larger bureaucracy. But we have much more response at the State level than we do with the Federal agencies.

Mr. DAINES. Well, there are many of us back here who believe that we would be better served to move more of this power and accountability back to States. Because, as we are hearing, they are more responsive and more accountable to getting the job done.

Mr. EASLEY. Congressman, I think States get it right.

Mr. DAINES. Thank you. Now, Mr. Markham, do you have a thought or an example, again, the difference between working through a Federal process versus State and local?

Mr. MARKHAM. Well, definitely I concur with Mr. Easley there, that the State goes much faster. We get delayed in the processes with the Federal agency. As I had mentioned, we are talking up to 4 years for us in permitting. We certainly have not had those issues with the State.

But there was just one example that I was going to cite, and I am sorry, I just forgot it. But I will stop with that. Yes, I believe from the State level it would be much more efficient.

Mr. DAINES. So let me ask a witness. What should be done to bring more accountability to these Federal agencies? Anybody have a thought on that?

Mr. EASLEY. Congressman, I would like to think that common sense would actually rule the day. But if common sense doesn't rule the day, then I believe there should be a serious look at action from the home office here, to help these agencies get the type of alignment they need to support the guy at the end of the line and the co-ops that are trying to run electric utilities.

Mr. DAINES. And just—yes, Mr. Miller? Or Mr. Markham?

Mr. MARKHAM. Yes. I believe—and it has been said here—there has to be some streamlined process with specific timelines in place. I could see if we were putting in a new line. But to just do maintenance on a system that is required not only by law, but by the permit that we hold—but to have specific timelines. And if those timelines are not met, then there are consequences for that.

Mr. DAINES. Yes, I am just struck. We would be out of business if we had, you know, 3-, 4-, 5-, 6-year delays in terms of trying to get something resolved. That is just unacceptable.

I think I am out of time here, Mr. Chairman. So, thank you.

Mr. TIPTON. Thank you, sir. I would now like to recognize the Ranking Member, Mr. DeFazio, for his questions.

Mr. DEFAZIO. Thank you, Mr. Chairman. To the Bonneville Power Administration, my understanding is that since BPA has rights-of-way that date from the 1930s and 1940s, that there is

some problem with the recognition of these as rights-of-way by the Federal agencies. I mean there is a power line there, they can see it, you built it, but, hey, they never officially recognize it. Or, if they did at the time, they don't have the paperwork. Is that right?

Ms. GRIMM. Yes, sir. There are occasional opportunities where we will have disputes where our pre-existing rights may be unrecognized, either because they are not in the form or of the type that the agencies are looking for now. And they will ask us to re-apply for our pre-existing rights.

Mr. DEFAZIO. OK. And what does re-applying for your existing rights consist of?

Ms. GRIMM. It consists of an application to either get a special use authorization from the Forest Service or a Federal Land Management Policy Act right-of-way from the BLM.

Mr. DEFAZIO. That would be as if you were building a new power line, even though you are not.

Ms. GRIMM. Correct.

Mr. DEFAZIO. So they could see it, but they say, "No, you've got to start from scratch." Right?

Ms. GRIMM. My understanding is they are concerned that they don't have the authorization in place for us to be there, and their expectation is that we will apply. And we have actually managed to do a coordination, where we will agree on what we will do, as a permit, without actually having to re-apply.

That is partly what the national permit that we are working on is, let's put aside the disagreement about the existing rights, and recognize it is a system that is in place. And here is what we need to do, and how we can agree on what the operation and maintenance will be, because that is typically what the issue is. It is not so much the rights, it is the how are we operating and maintaining, and how do we coordinate with them, so that they are not surprised, as land managers.

Mr. DEFAZIO. And what about what PacifiCorp is proposing here, with this basically, vegetative management that is appropriate for that region, that area, but is also requiring less maintenance? Do you do any of that?

Ms. GRIMM. Yes, we do try to actually promote low-growing vegetation that actually, in many cases, can benefit some of the local habitat. Because if you are looking in a forested area, sometimes this early stage forest—early stage habitat that we need to maintain at the low levels under the lines is actually beneficial.

Mr. DEFAZIO. Exactly. The rarest form of forest in western Oregon, according to the noted scientists, Jerry Franklin and Norm Johnson, is seral, early seral. And early seral doesn't get real tall. So you would actually be providing a tremendous net benefit, were you providing early seral underneath your lines, compensating for the fact that we don't harvest trees any more and create early seral by not applying herbicides, because some private lands, they use herbicides.

PacifiCorp, if you could just—your experience with this—I can't remember what you called it, but the integrated vegetation management, or whatever it was.

Mr. MILLER. I wrote the best practices for the International Society of Arboriculture for integrated vegetation management.

And the idea is cover-type conversion from species that may at some time in their life grow up and interfere with the facilities, to others that, at no time in their life will. And so, the idea is that we work with nature, allow these compatible cover types to take over a right-of-way, so nature does the work that we would otherwise have to do ourselves with intervention, be it mowing, be it spraying, or what have you.

So, the idea is, over time, to develop a compatible plant community that is cost-effective and can contribute environmentally, as you pointed out, with early seral forests. Prairie cover types are another one that is endangered in many areas of the country. Meadows. These all provide habitat for song birds, for pollinators, and others.

So, it is possible, through cover-type conversion, and through integrated vegetation management, to have environmentally beneficial plant communities that are also compatible with the use of the facilities.

Mr. DEFAZIO. And couldn't that be established through a national policy on the part of both of the Federal agencies in question here today?

Mr. MILLER. I would hope so. Government, industry, environmental groups, the public, all working together, I think we could do something like that, a common-sense solution, make it happen.

Mr. DEFAZIO. OK, thank you. Thank you, Mr. Chairman.

Mr. TIPTON. Thank the gentleman for his questions. Now I would like to recognize Mr. Mullin for his questions.

Mr. MULLIN. Thank you, and thank you all for being here. It is really sad that you even have to be here, to be honest. You are trying to provide a service to people like myself. I live in a very rural part of Oklahoma, and I understand what co-ops have to do, and I understand how hard it is to get the power to us. But it is almost—no, it is not almost—it is absolutely ridiculous that you guys are having to be here to explain what the hindrances are to abide by a contract that you are required by law to uphold, but yet you can't get it done.

And the biggest challenge that I have had in my personal business was having to fight the Federal Government to provide common-sense jobs to individuals that this administration is constantly saying they are trying to create jobs for. But yet, what is happening here is that you have bureaucracy at its absolute best.

And, David, you bring up a point about moving a pole 6 feet—6 feet? How long have you been trying to get this pole moved?

Mr. MARKHAM. Well, I can't remember how long it has been, exactly.

Mr. MULLIN. It has been that long?

[Laughter.]

Mr. MARKHAM. Yes, yes. It has been long enough that, for my right-of-way manager, it has created enough frustrations that he has had to come to me with the issue. So——

Mr. MULLIN. Have you figured what the cost would be, is this U.S. Forestry or BLM that is requiring you to do this?

Mr. MARKHAM. This is on Forest Service.

Mr. MULLIN. So the Forest Service, their extra requirement. Do you know what the cost would be?

Mr. MARKHAM. Just to move one pole, our cost is probably less than $10,000 to do the whole job.

Mr. MULLIN. What they are requiring you to do, or on normal circumstances?

Mr. MARKHAM. Oh—no, yes. Under normal—our cost just to relocate the pole 6 feet. At the most—you know, at the most, it would be, if we are replacing the pole, too, $5,000, $10,000, at the most.

Mr. MULLIN. Now, Mike, you had mentioned that the BLM—is that right—was wanting to charge you $96,000?

Mr. EASLEY. Congressman, this was for Wyrulec Co-op. After they did their routing and their own archeological work, per the agency's request, they submitted all that, and then they were told it would take $96,000 for them to pay the BLM to conduct their study and a year timeframe after what they have already——

Mr. MULLIN. So, $96,000 just to do a study for 50 foot of property.

Mr. EASLEY. That is correct.

Mr. MULLIN. I would be curious to what 50 foot of property is actually worth.

Mr. EASLEY. Well, there are some ranchers——

Mr. MULLIN. I mean I know New York and—it is high. But where I am from, I have a lot of land. If I get $96,000 per 50 foot, I might move to the city. I am kidding; I would never do that.

Mr. EASLEY. There are some ranchers behind me that I really can't talk about, that their land couldn't be worth $96,000, because if they could sell it for $96,000 for 50 foot, they would all be happy to do that.

Mr. MULLIN. Right, absolutely. We would. And I throw myself in that category.

But I just find it interesting that the biggest fight that we are having here is with this administration, I am assuming, because, David, you had made mention that they are streamlining solar and wind, right?

Mr. MARKHAM. Yes.

Mr. MULLIN. What do you mean by streamlining?

Mr. MARKHAM. Well, they are pushing their permits through quickly, through whatever process that we would hope that would be used with us, so that we can, you know, continue to maintain and upgrade our system for reliability. And so, when they were telling us that they have been directed that wind and solar take precedence on those permits over ours, that delays our ability to make our infrastructure reliable.

Mr. MULLIN. Now, if I am not mistaken, they have to have power lines, too, right?

Mr. MARKHAM. Yes, correct.

Mr. MULLIN. Are they using yours, or are they putting in new ones?

Mr. MARKHAM. Well, most of the time they end up building them, or we build them for them, and they tie into ours.

Mr. MULLIN. But before they tie in, you are talking about new——

Mr. MARKHAM. Yes, exactly.

Mr. MULLIN [continuing]. New transmission lines. And here, you guys are just wanting to maintain the ones you have.

Mr. MARKHAM. That is correct.

Mr. MULLIN. So, not to put you in a tough spot, but I am going to, anyways—do you feel like this is agenda-driven?

Mr. MARKHAM. Absolutely, I do.

Mr. MULLIN. Would the panel agree with that?

Mr. EASLEY. Congressman, I think that we have good people out there, and they want to do the right thing. Common sense, to me, dictates what that is.

Mr. MULLIN. Common sense in Washington doesn't exist. I have looked for it, and I haven't found it yet.

Mr. EASLEY. And without a sense of direction, and the proper leadership, I don't think they are able to find that common-sense point.

Mr. MULLIN. I agree with that. Unity and allowing us to know what the rules are, we can comply. It is hard to comply with shifting winds.

Thank you for being here. And, Chairman, thank you for allowing us—or allowing me to go shortly over.

Mr. TIPTON. Thank you for your questions. I now recognize Mrs. Lummis for her questions.

Mrs. LUMMIS. Thank you, Mr. Chairman. I have a question for Mr. Easley. And I want to see if I understand the situation before I ask the question.

Now, as I understand it, Federal regulations exempt rural electric co-ops from paying rental fees for rights-of-way on BLM lands. Is that correct?

Mr. EASLEY. Congressman, that is correct.

Mrs. LUMMIS. OK. And to qualify for that exemption from paying rental fees you have to be eligible for financing from the Rural Utility Service. Is that also correct?

Mr. EASLEY. Yes, that is correct.

Mrs. LUMMIS. OK. There has been a system in place that allowed for just RUS to certify that co-ops are eligible for RUS financing. And then that would be the criteria by which the BLM would make the determination. Is that also correct?

Mr. EASLEY. Yes. Congressman, historically, that system was done on a case-by-case, permit-by-permit hand-off between RUS and the BLM.

Several years ago the RUS took the initiative to streamline their bureaucracy, and looked for a way to provide blanket-type authorizations to certify that co-ops were eligible for financing. Their idea of streamlining and providing a blanket approval process, that did not dovetail in with the BLM's need to have each project approved. And thus, a logjam of permits because of the differing processes and strategies between those two agencies.

Mrs. LUMMIS. So why—when it worked before to have these—they did use the blanket for a while.

Mr. EASLEY. Previously, it was a one-on-one—each permit was approved individually. And then, when RUS tried to streamline their processes and become more efficient, that initiative broke the BLM processes.

Mrs. LUMMIS. Now, how has the inability of BLM and the Rural Utility Service to work this out impacted co-ops in Wyoming and your customers?

Mr. EASLEY. It has delayed permits for, at least in PRECorp's case, up to several years. Last year I was able to bring this to the attention of Neil Kornze, who, when I told him the story, he was surprised.

Mrs. LUMMIS. Yes.

Mr. EASLEY. And, I mean, it didn't make sense to him. and I think we were able to push through the logjam and finally get the logjam broken. But the process has not been fixed. There still needs to be some sort of an official agreement, which I understand is being worked on between BLM and RUS. I believe that agreement has been in play for well over a year now, and I hope that at some point in the very near future, perhaps with this committee's and our testimonies' help, that they could bring this to resolution for the benefit of our co-op members.

Mrs. LUMMIS. Well, what is the BLM's justification for not accepting RUS's determination of who is eligible?

Mr. EASLEY. Congressman, I wish that I had the answer to that.

Mrs. LUMMIS. How can it take 2 years to resolve this? They are eligible or they are not. So how can it take 2 years?

Mr. EASLEY. I don't know.

Mrs. LUMMIS. Well, has the BLM expedited approval in any cases?

Mr. EASLEY. This is an interesting case. For Big Horn Co-op, the BLM was needing a service. And Big Horn said, "Well, we can't build"——

Mrs. LUMMIS. Electrical service?

Mr. EASLEY. They needed electrical service.

Mrs. LUMMIS. Oh, the BLM needed electrical——

Mr. EASLEY. The BLM needed a service, and they were able to expedite a permit for——

Mrs. LUMMIS. For themselves.

Mr. EASLEY. Yes, that is correct.

Mrs. LUMMIS. So they expedited the determination of RUS eligibility when it was their own service they were requesting. But if it is anybody else, this logjam has developed?

Mr. EASLEY. That is correct. Their permit was not caught up in the logjam.

[Laughter.]

Mrs. LUMMIS. Well, thank you, Mr. Easley. I need to digest it, so I will ask other questions in round two. I yield back.

Mr. TIPTON. Thank you for your questions. Mr. Cardenas, I now recognize you for your questions. Five minutes.

Mr. CARDENAS. Thank you very much, Mr. Chairman. Can someone at the witness table give your feedback to this committee on the issue of how do we create a better balance when it comes to protecting our Federal lands, when it comes to forest fires, et cetera? What kind of relationship should we have between private industry when they have power lines and rights-of-ways that we have granted to them, so—when it comes to the maintenance thereof and/or the awareness and the communication between the Federal Government and the private industry?

Mr. EASLEY. Congressman, I think that the key is proper alignment, alignment of purpose and alignment of action. And to the extent that the relationships that we need at the local level have

alignment and have a proper path to action, I think the parties can successfully do the right thing.

When the system is broken, as it appears it is at this point, it is going to require some very strong leadership to create that sense of alignment and that path to action.

Mr. CARDENAS. Thank you. So, for example, when it comes to the Forest Service and BLM providing clear guidance on—and timely approval of vegetation management activities and transmission on the upgrades, how is that happening today? Well or not so well? Can you give me some examples of that?

Ms. GRIMM. Thank you, Congressman. I can give some examples of where it is working well in the BPA area, particularly for things like rebuilds that we have. If we can get over the hurdle of the discussion about pre-existing rights or not, we actually work very well and do a joint environmental document for the rebuild work that we have, where we get the expertise of a local manager to identify things like wildfire issues and other access concerns.

So, we work to jointly do an evaluation. And that can tend to really help make sure that we are on the same page for either the analysis or the types of issues that need to be addressed to protect the communities.

Mr. CARDENAS. Can anybody give me an example of something that you could recommend, or the feedback process between private industry and the Federal Government, the agencies, when it comes to how do you communicate with each other and make each other aware of how to create better practices?

That is basically what I am getting at, is that communication availability strong, or is it something that we have a lot of work to do?

Mr. NEAL. In my opinion, again, it gets back to the individual decisionmaker that you are working with at a local level. I will give you—this isn't a West thing—I am going to give you a couple examples that I got from Duke Energy, because once they knew I was testifying, they reached out to us, because they have an issue in Florida.

One was Ocala National Forest, where they meet with the local decisionmaker, they go out in the field, they discuss their vegetation management activities that they are going to perform. And that process takes 2 weeks, and they are just going back out and performing vegetation management.

The other example was Apalachicola National Forest, where they weren't allowed to cut trees at all until the NERC standard FAC003 came into play. Then they had to do an EA that cost them $200,000. It took them 2 years to get that approved. And during that time, the Forest Service did a controlled burn, burned down their facility pole. It was out of power for—it said 6 hours here. And it was a compliance line that was 230 kV and above.

Mr. CARDENAS. So, for example, you just gave an example where an agency time element seemed to create an issue, and then an actual event occurred, such as a fire, and then they lost a facility. So again, communication. Did the Federal Government just say, "Oops"? I mean was there formal correspondence back and forth on at least admittance of why that happened? And—or more and equally important is whether or not anybody was willing to say

that they admit that there are better practices and whether or not they are attempting to do something to arrive at better practices, in reality.

Mr. NEAL. I think the communication was there, from my understanding. The interesting part was the forester I was talking to is—you know, if somebody destroys one of their poles, they bill them. So they billed the Forest Service for that pole, and they refused to pay.

On the other side of that, if they were the ignition source and started the fire, the utility is going to pay for it, because it is in their permits.

Mr. CARDENAS. Yes, go ahead.

Mr. MILLER. Congressman, I can't help but think that it may not expedite the process at all, but if there was an appeals process, some place that we could turn to have decisions examined, whether or not they meet a continuity of purpose, and policies that are consistent throughout the country, if local land managers knew that their decisions were going to be subject to scrutiny, it might be helpful. Not saying that it would always work out in our favor, but at least we could have an appeals process so that decisions may not be so arbitrary as they seem to be, from our perspective.

Mr. CARDENAS. Yes. Well, I would hope and pray that the appeals process isn't Congress.

Mr. MILLER. I am not suggesting that, no.

Mr. CARDENAS. Then only God can help you there.

[Laughter.]

Mr. CARDENAS. But that is a great point. And, again, I think that best practices is something that both government and private industry need to communicate with each other, in order for us to arrive at better practices in real life.

Thank you very much, Mr. Chairman. I yield back my time.

Mr. TIPTON. Thank the gentleman for his questions. Now recognize Mr. Gohmert for his series of questions for 5 minutes.

Mr. GOHMERT. Thank you, Mr. Chairman. I do appreciate everybody being here. As someone who has national forests—a couple of them—in my district in east Texas—it is not the area of Texas that is flat and has mesquite, so we know a lot about trees.

But one of the things that we have seen in recent years, we had a 2-year drought in east Texas, the worst in my lifetime, and we had a lot of trees die in our national forests. And I could not believe we couldn't get a decision from this administration to say, "Go ahead and cut the dead trees before they get diseased, before they get bugs." It was shocking. It would have meant millions of dollars for the Federal Government and for local government. We could not get them to make a decision. And, as you know, knowing trees as you do, it is not a good idea to just let dead trees sit out there until they fall over, diseased or eaten up.

Then, to follow up some of the questioning from my colleague, I didn't realize, but, you know, if the Forest Service or the BLM negligently fail to do their job by allowing you to go in and eliminate hazardous trees, and something goes wrong because BLM or Forest Service didn't do their job and let you out there quickly enough to eliminate the hazard, I understand you pick up the tab for their negligence. Is anybody aware of that happening? Yes, sir?

Mr. MARKHAM. Yes. We—Congressman, we had a situation. Our neighboring co-op, Midstate Electric Co-op in central Oregon, they had a situation where they were waiting for a response to get approval to remove this endangered tree. It did end up coming down and taking down a power line. It started a major forest fire. And, ultimately, it cost the co-op millions of dollars. And that is a true-life story.

Mr. GOHMERT. So they had to pay, even though they were ready to go, and it was the government's negligence in failing to give them permission to take out a hazardous tree. That is——

Mr. MARKHAM. Yes, sir.

Mr. GOHMERT. All right. It is staggering. Well, does anybody have a reason that you can give why a utility should be strictly liable for the negligence of the government?

Mr. EASLEY. Congressman, no.

Mr. GOHMERT. Any other comments on that issue? Because obviously, the ratepayers are the ones that will either pay for it, or you go out of business, as a co-op. Yes, sir?

Mr. EASLEY. Congressman, just to highlight that point, the Wyoming co-ops have been told that we would be liable if a tree falls into the line of the right-of-way. Now, thank God that we haven't had a catastrophic fire as a result of that. But just last year, Big Horn Co-op took the forest representatives and showed them where a very small fire had started at the base of a pole, because the tree was in the line. Fortunately, we had a wet spring last year, and the fire was just grass around the pole.

And that example, in itself, happened and occurred prior to the Forest Service folks coming to the Big Horn board this year, and getting even more dialog with the co-op. And, ultimately, still, nothing has been done. So, it is——

Mr. GOHMERT. So they did come out and look at—they could see that it was a problem, and they still didn't——

Mr. EASLEY. But it was just a really small fire around the pole, it wasn't the big disaster. But——

Mr. GOHMERT. So it has to be a really big fire to get their attention.

Mr. EASLEY. Apparently.

Mr. GOHMERT. Well, in that case, what would you say was the biggest problem in getting this addressed?

Mr. EASLEY. Again, I believe that good people are there. I believe they understand the issues. But the path to action, for whatever reason, they are limited——

Mr. GOHMERT. Well, that is what I am asking, if you have an idea of what that reason may be. Why it takes so long to get them to move.

Mr. EASLEY. I wish that I—if I knew the answer to that, that would be a lever that I would try to pull. But, apparently, absent some direction and maybe clear instructions——

Mr. GOHMERT. Well, do you have a suggestion for clear instructions?

Mr. EASLEY. Well, I—being a small government person, one more additional regulation would have its consequences, as well. But absent—if we can't get common sense to work, and we can't get good relationships to work, and we can't get things to work when Forest

Service supervisors show up at a board meeting and talk to the directors, I think, at that point, what else is left besides some strong mandates that would at least relieve the utility from having liability for a fire?

Now, maybe if it was strict liability on their part for failure to act, maybe that would get folks' attention.

Mr. GOHMERT. OK, thank you very much.

Mr. TIPTON. Thank the gentleman. Now recognize Mr. Labrador for his questions.

Mr. LABRADOR. Thank you. Thank you all for being here. Mr. Markham, you have stated in your testimony that Central Electric has been waiting 4 years and spent $45,000 for the BLM to renew their 32 permits you submitted. Has the BLM indicated if or when the permits you submitted might be approved?

Mr. MARKHAM. No, sir. We have not received any feedback on that.

Mr. LABRADOR. So, have you made inquiries to the agency?

Mr. MARKHAM. Yes, we have been in communication with them, yes.

Mr. LABRADOR. And have they been responsive to your inquiries?

Mr. MARKHAM. Not very responsive. But——

Mr. LABRADOR. What do you mean by that?

Mr. MARKHAM. I guess I will pass this example along here. I laugh about it, it is really not an issue. But we have a lot——

Mr. LABRADOR. Well, sometimes all you can do is laugh when you see incompetence; I understand.

Mr. MARKHAM. Well, we have an issue there that we have been working with the Forest Service on. My right-of-way manager has been emailing and leaving telephone messages, with no response over a number of days. Once it was found out—determined that I was testifying here, our phones at the office started ringing off the hook to find out what was going on. It really shouldn't take me coming here and testifying before this committee before our phones start ringing.

Mr. LABRADOR. Maybe we should have you testify every week. Maybe you will start getting responses to your questions.

[Laughter.]

Mr. MARKHAM. Well, maybe every other week.

Mr. LABRADOR. So, when permit approval or renewal from the BLM takes a lengthy amount of time, what kind of aversive impacts can it have on your company's ability to provide safe and reliable electricity to your customers?

Mr. MARKHAM. Congressman, safety is the number-one priority to the public and to our members. And that is the ultimate. But, of course, it can increase our costs, because you have delays, which creates additional labor. You have costs of material that don't decrease in price.

But we have a real reliability issue that comes down to safety. And so, when you are dealing with infrastructure that needs to be replaced, and it can get 30, 35 below, which it did in December in central Oregon, and if that infrastructure has been delayed getting replaced, and we have a power outage during that time, you just don't go out and repair the power and bring it back up to everybody. You have cold load pick-up. It could take a week to 2 weeks

to get power back up. And you have done tremendous damage, not only risking somebody's life, but their pipes are going to freeze, other problems. And so, it is a severe safety issue.

Mr. LABRADOR. OK, thank you. Mr. Miller, you have discussed this a little bit, the FERC relations mandate up to $1 million a day penalty for utilities that allow trees to grow into transmission lines. That is correct, right?

Mr. MILLER. That is correct, Congressman.

Mr. LABRADOR. Can you explain how some decisions by Federal land managers your company works with are preventing PacifiCorp from fulfilling that mandate?

Mr. MILLER. The mandate has never prevented us from fulfilling that mandate. Often what they say is that you can get the minimum clearance necessary to fulfill the mandate. It is not the most efficient way to go. It costs our ratepayers more, and it doesn't fulfill what I would consider to be the best practices for vegetation management.

But I do not recall a single case where they have said, "You cannot fulfill the strict requirements of that mandate." They are actually quite lax. They say, "You keep trees from contacting"—right now they say, "Keep trees from contacting interconnect transmission lines." As of July 1 there will be a buffer zone that we can't encroach upon. But there has never been such a case. But that doesn't mean that we were doing the right thing, or serving our customers the best——

Mr. LABRADOR. So what would be the right thing?

Mr. MILLER. The right thing would be what we would consider to be integrated vegetation management, to take trees that at some time in their life could interfere with the power lines, remove them, and try to cultivate a plant community comprised of species that at no time in their life would allow that plant community to grow in and do the work that we would necessarily have to do otherwise, so we don't have to keep coming back repeatedly and pruning trees, taking the top out of them.

Trees that have no future, you know, a 100-foot tree underneath a 50-foot power line isn't going to work. We have to artificially keep coming back and pruning it. Better to remove it, and plant—or allow low-growing species of shrubs, grasses, flowers, and that sort of thing, which——

Mr. LABRADOR. And why won't they let you do that?

Mr. MILLER. We are mystified. Many do. But we are confused about why others would not. They simply, I don't think, understand the concepts of integrated vegetation management or the effect that their decisions may have on the greater national good, in terms of service reliability.

Mr. LABRADOR. Excellent. So how important is it that land management decisions affecting transmission lines not be left to independent assessments made by individuals who may not have electric or vegetation management training?

Mr. MILLER. That is correct.

Mr. LABRADOR. How important do you think that is, that you actually have people with that experience?

Mr. MILLER. I think it is critical. We would never hire someone that doesn't have that experience to work on our system, yet we

are beholden to decisions made with people that seem, at least from our perspective, to lack that training.

Mr. LABRADOR. Thank you very much. I yield back my time.

Mrs. LUMMIS [presiding]. The gentleman yields back. The Chair recognizes the gentleman from California, Mr. McClintock.

Mr. MCCLINTOCK. Thank you, Madam Chairman. Mr. Miller, let's continue on Mr. Labrador's line of questioning. You said that many forest managers do not allow you even to remove a tree under a 50-foot power line; you have to come back and keep topping it. But others do allow that. That tells me this is discretionary among the different managers that we have running our forests. Is that accurate?

Mr. MILLER. Yes, Representative. From my perspective, that seems to be an accurate——

Mr. MCCLINTOCK. All right. I think that we need to start holding these managers accountable for their actions. I would like to know their names. I would like to know the names of the forest managers who have forbidden this sort of practice, which is obviously discretionary to their own judgment. These are people of extraordinarily poor judgment, and we need to know who they are, so that we can start removing them from a position of public trust, where they are menacing the public interest with their poor judgment. Can you provide us such a list?

Mr. MILLER. Yes, Representative, we could do that. We did that sort of thing about 10 years ago, when we were working with Federal agencies. And it wound up not solving the greater problem.

Mr. MCCLINTOCK. I would like each of the different witnesses here to provide us with the names of the forest managers that are using their discretion—abusing, I should say, their discretion in such a manner. We have to start holding these folks accountable. You know, one of my greatest frustrations is we hear these stories, and it is always faceless managers that are never accountable. We need to start holding them accountable. So would you be kind enough to do that, all of you? Great, thank you.

Mr. Markham, I presume you have a great deal of experience just observing the management of our forest lands, because of your association with them. How would you describe the Federal land-use principles of forest management on these public lands? Would you say that it is more the greatest good for the greatest number in the long run? That was Gifford Pinchot's vision of the U.S. Forest Service. Or has it become something very different, benign neglect, basically look but don't touch? How would you describe the overall principles?

Mr. MARKHAM. Congressman, during part of my testimony, when I mentioned looking back at the mission statements, I went to look at the mission statements of the BLM and the Forest Service. As I mentioned, I saw words in there about serving, about serving people, responsibility, those sort of things. And back when co-ops, we were getting lines out to rural areas, it was a great relationship.

But somewhere, somehow, over the last 10 years, is where we have seen a change. And it has become more difficult. And I truly don't know if it is because, as we have a turnover in land managers, that their interpretation of the Federal policies and rules are different, but it definitely has not made us a priority to keep our

reliable service and safe service to our members. And so, it definitely has changed from what the mission statements say right now to what we are actually seeing out in the field.

Mr. MCCLINTOCK. OK. Do any of the companies have a different perspective on that? Do you generally agree with that assessment?

Let me ask you this. How do these policies for removing dead or hazardous trees differ from 10 years ago. You sort of touched on that already. You said that the attitude had changed dramatically over the past 10 years. Was there a time 10 years ago when these hazardous trees were routinely removed without obstructions from the Forest Service to the Bureau of Land Management?

Mr. NEAL. I would say in our case, Mr. McClintock, we were able to remove dead trees as part of our maintenance program. And then, when we had a bark beetle infestation into Arizona that lasted 3 years, we ended up having to do a phase one consultation on hazard trees outside the right-of-way. And then we had to do an environmental assessment for all maintenance activities on our utility corridors.

Mr. MCCLINTOCK. Before you could even address the question of dead timber.

Mr. NEAL. Correct.

Mr. MCCLINTOCK. How would you describe the overall health of our forests, compared to 10 years ago? Are they improved or declined?

Mr. NEAL. In my opinion, sir, they have declined.

Mr. MCCLINTOCK. Mr. Markham?

Mr. MARKHAM. Congressman, in my opinion, they have declined.

Mr. MCCLINTOCK. Mr. Easley?

Mr. EASLEY. I would agree with the previous comments, sir.

Mr. MCCLINTOCK. Mr. Miller?

Mr. MILLER. I would also say they have declined. And bark beetle issues are becoming very pronounced, in terms of forest health issues.

Mr. MCCLINTOCK. In response to questions over new wind and solar integration, one of you mentioned that it requires separate lines. Why is that?

Mr. MARKHAM. Congressman, that was me. These require separate lines to integrate with, many times, co-op lines, or it could be with BPA's lines, depending on——

Mr. MCCLINTOCK. You can't use existing transmission lines for wind and solar. You have to put in new lines because——

Mr. MARKHAM. Well, they could tie into existing lines. But there always has to be an extension from the development to get it to where it is tying into. So there are going to be new lines.

Mr. MCCLINTOCK. I see. Thank you.

Mrs. LUMMIS. The gentleman yields back. The Chair now recognizes the gentleman from California, Mr. LaMalfa.

Mr. LAMALFA. Thank you, Madam Chairman. All of you are in a pretty difficult spot. You have mandates and regulations to ensure the safety of your lines through these areas. That makes sense. So, you have not got the cooperation to do what you really need to do.

Mr. Miller, you were talking earlier about the minimum way to do it—in my words—and then the right way to do it. And so, I

think you found that in some areas you do have the ability, depending on what unit you are in, to do it the correct way. I mean it is common sense. You called it integrated vegetation management. That is wise. And it only took me 90 seconds to understand the concept in a short amount of time in the room here, yet you feel like you can't get the managers of the forest, BLM or whatever, to understand or to hear you.

Is that correct? They won't hear you, or they can't? Are they bound by regulations? Because what you are talking about is a corridor that needs to be managed a certain way to be wise. You don't want to keep topping the same tree over and over again. It doesn't make sense. Would you expand on that a little bit?

Mr. MILLER. I want to emphasize that the vast majority of land managers with whom we work get it and they cooperate. There are a minority who seem to view transmission corridors as sacrifice areas in the forest, and seem to look at it as their duty to protect the lands from the type of work that we need to do. So there is——

Mr. LAMALFA. A sin has already been committed, if you want to call it that.

Mr. MILLER. Right.

Mr. LAMALFA. The lines are there, they have been approved, they are not going away.

Mr. MILLER. That is correct.

Mr. LAMALFA. Unless they hope to make them go away. Is that in the back of the minds, or something?

Mr. MILLER. I really can't speak for them. And, again, it is a minority of people, but I think they look upon utilities with suspicion, and they look upon the corridors, at least from my perspective, as sacrifice areas.

Mr. LAMALFA. Except when they need their own line put in.

[Laughter.]

Mr. MILLER. Well, yes. Yes, sir. It is frustrating for us. And we don't really understand it, because we think that we have a good system, and we also know that we have the support of land management officials here, within the beltway.

Mr. LAMALFA. And so who is on the hook if a fire is caused, and they blame the transmission lines, who is on the hook for millions of dollars worth of damages?

Mr. MILLER. Invariably, it is the utility.

Mr. LAMALFA. Yes. So you are in a Catch-22 on both ends of the equation. You want to do what you know you should be doing, but are delayed in doing so, or prevented from doing so.

Mr. MILLER. We are still liable, right. Yes, sir.

Mr. LAMALFA. Mr. Markham, I want to just come back to a simple one. Why did you have to move the pole 6 feet?

Mr. MARKHAM. There was a new service that we needed to drop in, so it required moving the pole 6 foot.

Mr. LAMALFA. Oh. So it wasn't a requirement by a regulator, it was more of you helping your customer with a need.

Mr. MARKHAM. Right. That is correct, Congressman.

Mr. LAMALFA. And so an archeological survey would be needed to see if there is a particular type of lizard or something, 6 feet away, or——

Mr. MARKHAM. I have read the email, and——

Mr. LAMALFA. Some ruins?

Mr. MARKHAM [continuing]. It never explained, Congressman, what it was for. It just said that an archeologist would have to come out, perform a study and a shovel probe.

Mr. LAMALFA. If you surveyed people on the street that are power users and pay the bills, how do you think they would view the wisdom, or the——

Mr. MARKHAM. Well, I think they would as shocked as I was when I read the type of delay because that was going to be required before we received a permit.

Mr. LAMALFA. OK. I appreciate this panel traveling the way you have had to to do this. As Mr. Mullin mentioned, it is kind of, actually, a little bit embarrassing for us that are supposed to be governing, to see that this has to be done. So, one thing we will be following up with will be we have seen, you two gentlemen, that there has been very cooperative areas. You have some forest units that work very well, very collaboratively, and others that do not.

So, would you be in favor, or help in a push to have a consistency amongst all of them, that it isn't just up to one——

Mr. MILLER. Very much so. If that was an outcome that came out of this hearing, or this process, I think it would be very favorable.

Mr. LAMALFA. And you have seen maybe that was that way years ago, but now, in the last few years, an attitude has changed. Different managers come in, or revolving door managers, and the last one doesn't know what the previous one was doing. What does that look like to you?

Mr. NEAL. I think part of it, sir, is that as mentioned earlier, it is a lack of training. They don't understand that electrical grid, and they don't understand the results of vegetation management. And there are people that get that because they have that type of background.

Mr. LAMALFA. Why does it take more than 90 seconds to understand that?

Mr. NEAL. It doesn't take more than 90 seconds.

Mr. LAMALFA. OK, thank you.

Mr. NEAL. But——

Mr. LAMALFA. I have to yield back, my time is over. But I appreciate it.

Mrs. LUMMIS. The gentleman yields back. The Chair now recognizes the gentleman from Missouri, Mr. Smith.

Mr. SMITH. Thank you, Madam Chairwoman. It is great to see you there. Before I get to my questions, let me first say that I am deeply impressed by the electric utilities' ability to keep the lights on in rural America. In spite of all the Federal regulation being handed down by this administration, we have heard today about the tremendous liability placed on utilities by the Forest Service and the Bureau of Land Management's failed, inconsistent policies, policies that are filling our public lands with dead trees that pose an extreme fire hazard, and risk disrupting our electrical grid.

Layer on top of that a new rule from the EPA on the waters of the United States that may require Federal construction permits to build power lines over every puddle of water they cross; greenhouse gas rules on both new and existing power plants that seek to eliminate coal-fired electric generation, which happens to power 84

percent of my congressional district; and closed-door endangered species listings that, as was mentioned in this testimony turned in today, could require utilities to spend millions burying power lines, and you have a perfect storm of government regulation that threatens to disrupt the generation, transmission, and distribution of electricity.

I am eager to work with the members of this committee and the witnesses gathered here today to develop creative solutions to the problems that mismanaged public lands pose to our electrical grid.

My first question is for Mr. Markham. In your written testimony you brought up numerous examples of bureaucratic delay and regulatory confusion that have created significant problems as you try to provide reliable electricity at the lowest cost possible to your member owners. Have you ever tried to figure out what the cost of regulation is to your ratepayers? And do you think it accounts for 10 or 20 percent of the cost of keeping the lights on, or more?

Mr. MARKHAM. Congressman, I haven't completely figured out what that cost is, to add in all the expenses, but I will tell you right here that I believe it to be somewhere around 50 percent.

Mr. SMITH. About 50 percent?

Mr. MARKHAM. Yes.

Mr. SMITH. Wow. Do you think Congress can pass legislation that could help ease that pain of the 50 percent?

Mr. MARKHAM. I think, in this case, what we are talking about here today, Congressman, yes, I do believe so. There are some things in the Northwest that are specific that we have, a lot of costs going into Fish and Wildlife initiatives, those sort of things.

But, yes, we came here, and I don't remember how many years ago, to try and get some of these things changed, where the accountability—and we have been talking a lot about accountability for delays that potentially could cause a forest fire by a tree falling that—why should co-ops be responsible for that, that maybe it is time to look at some type—revisit some type of mandate, so that we are not burdened with that liability.

Mr. SMITH. When I travel across the eighth congressional district in southeast Missouri, the number-one concern that I hear from individuals over and over is out of control government regulations, whether it is the coal power plant rules, wood-heating stoves. I view it as a war on rural America, in fact, with a lot of the different regulations coming forward.

But an interesting number that really concerns me is that in 1960 there were 22,000 pages of rules and regulations; 54 years later, currently, there are over 174,000 pages of rules and regulations. What I believe is that it is time for Congress to be the branch that actually passes the laws, instead of the agencies promulgating every aspect of our way of life.

And with your testimony there, saying that these government regulations affect 50 percent of the cost, that cost has to go on to someone else. And those other people are the ratepayers and my consumers, our consumers, the citizens that I represent. And the best thing that we can do is to reform these regulations and make sure that we have a government that works for the people, not the people working for the government.

With that, Madam Chairwoman, I am very good.

Mrs. LUMMIS. I thank the gentleman. He yields back. And the gentleman from Arizona has some follow-up questions.

Mr. GRIJALVA. Thank you very much, Madam Chair. Two requests, I think.

First is, Mr. Markham, for the committee, some verification as to the 50 percent, half the cost, to ratepayers. And some verification to the $400,000 per customer figure that you mentioned, in terms of burying the lines. Just, I think, those figures are so important that if we could get some verifiable information from yourself, that would be very helpful to the committee.

It was addressed to Mr. Miller, but I think the whole committee answered my colleague's question about naming names. As you provide that to the committee, I think it would be important that we just don't besmirch an individual because of one particular incident, or a personality conflict, that we document what deliberate action that land manager or that agency took to prevent the delivery of reliable, accessible, and affordable power to those rural areas.

So, I would, in the spirit of fairness—not just naming names, which is an interesting precedent for this committee, and an interesting request that you have in front of you, or mandate, but I think you need to tell us what were those deliberate actions that prevented you from doing that.

We have talked regulatory. We have talked to the management issue, resource issues. For the entire panel, we heard a lot about those two things today, resources. Given the fact that—and I agree with it, that the right-of-way is a subsidy extended so that we make sure the co-ops deliver to rural America the power that they need through the Federal lands, what is the impression about the delays, the lack of uniformity, different management prerogatives?

The resource side of it, staffing, losses caused by shrinking budgets and appropriations, and a slower response time. Do you think there is a resource issue that this committee should deal with, as well? For the entire panel.

Mr. EASLEY. Congressman, I think in today's world, every business is faced with doing more with less. And, as the CEO of our company, we have continually tried to get more value out of our existing resources for our members.

Mr. GRIJALVA. So it is not a resource question.

Mr. EASLEY. I think, in the cases that I have cited, the Big Horn case, Carbon, Wyrulec, I don't believe it is a lack of resources. I believe it is a lack of will to accomplish what needs to be done——

Mr. GRIJALVA. And a liability issue, which you want part of the legislation——

Mr. EASLEY. Yes.

Mr. GRIJALVA [continuing]. That exempts you from any liability, regardless. Correct?

Mr. EASLEY. I did mention that as a potential way to shift the conversation and put more of the responsibility back on the agency, Congressman.

Mr. GRIJALVA. Regardless of the resource base that they have.

Mr. EASLEY. Yes.

Mr. GRIJALVA. Interesting. Any other response?

Ms. GRIMM. In our experience there are some capacity limitations. When we are asked to engage with local managers, sometimes they do tell us, "We don't have the people right now to get back to you" in either a survey or analysis. So we often do have to wait until they are—free up.

Mr. GRIJALVA. Thank you.

Mr. NEAL. What we have done, through cost-share agreements, is fund positions with the BLM and Forest Service, and that does help expedite the process, because they will reach out to the people that need to be part of the approval process. So that does help, but it falls on the utilities to pay for funding that position.

Mr. GRIJALVA. And that position, as I understand it with APS and the Forest Service in Arizona, it is specific to the energy questions that come up. Right?

Mr. NEAL. Well, it directly regards any maintenance activities——

Mr. GRIJALVA. OK.

Mr. NEAL [continuing]. Or new construction projects that we have going on.

Mr. GRIJALVA. Thank you. Yield back, Madam Chair, and thank you very much for the indulgence.

Mrs. LUMMIS. The gentleman yields back. The Chair recognizes herself for one last question. This panel has traveled a long way to be here today, and we thank you kindly for your testimony.

My question is this: Does anyone have a burning desire to say something that you wish that we had asked during the last couple of hours?

[No response.]

Mrs. LUMMIS. Well, I will consider that a very successful panel, then. Thank you very much to this wonderful panel of witnesses.

Members of this committee may have additional questions for you, and we would ask you to respond in writing. The hearing record will be open for 10 business days to receive these responses. With tremendous gratitude, on behalf of this committee, I thank the panel and excuse you. We will now hear from our second panel of witnesses.

[Pause.]

Mrs. LUMMIS. Thank you, gentlemen, for joining us today. We are pleased to be joined by Mr. Jim Peña, Associate Deputy Chief of the National Forest System for the U.S. Forest Service here, in Washington, DC; and Mr. Ed Roberson, Assistant Director for the Renewable Resources and Planning for the U.S. Bureau of Land Management here, in Washington, DC.

Each of the witnesses' written testimony will appear in full in the hearing record, so I ask the witnesses to keep your oral statements to 5 minutes, as outlined in our invitation letter to you, and under our committee rules.

I now recognize Mr. Jim Peña for 5 minutes.

STATEMENT OF JIM PEÑA, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, WASHINGTON, DC

Mr. PEÑA. Thank you, Madam Chairman, Ranking Member Grijalva, and the rest of the committee. My name if Jim Peña, I

am the Associate Deputy Chief of the National Forest System for the U.S. Forest Service. Thank you for inviting me here this morning—it still is morning—to testify and answer your questions about the proper management of electricity rights-of-way on the National Forest System lands. You have my official testimony, as you mentioned, for the hearing record.

The electric transmission permittees and the Forest Service share two principal goals. First is enabling the transmission of energy to rural and urban communities across the Nation; and second is protecting national forest from wildfire. To that end, I want to share with you our efforts and challenges in three areas.

First, I want to tell you what we have been doing in order to increase appropriate consistency in managing vegetation within power line corridors, and address imminent vegetative threats to power lines. In January of this year we released a national desk guide for vegetation threats to power lines within power line corridors. That desk guide explains imminent threat, and makes clear that pre-approval is not required to eliminate imminent threats to power lines. The guide uses forest policy and references industry standards to create a framework for consistency and right-of-way vegetation management among our ranger districts and national forests.

In addition, later this year we hope to have an updated memorandum of understanding signed between the Edison Electric Institute and all Federal land management agencies. We also encourage an open-door policy at all levels of the agency, so that permittees can raise and resolve issues with our staff at any level. We strive to create a culture of responsiveness. I believe these are important steps in that direction.

Second, I want to emphasize that permittees here today are our partners. Together we can address some of the major challenges associated with wildfire risk. We know how wildfire can devastate a forest. We also understand what it means when communities lack reliable energy. Secretary Vilsack understands this firsthand, and personally was involved in orchestrating a first-ever summit between electric utilities and our agency leadership to look at how we can work together beyond the right-of-way corridor. We are now beginning to see examples from that partnership that we hope will result in thinning national forests to create more sustainable stand conditions so that, when wildfires do occur, their impacts are minimized on both the national forests and to utility infrastructure.

As an example of cooperation, the U.S. Forest Service is developing a national permit with associated operations and maintenance plans to further detail our cooperative interactions with the Bonneville Power Administration assets, which cross national forests.

Last, while we are making significant strides in addressing these challenges, as noted in the written statement, our capacity to respond is limited by the resources that we have available. We look forward to a discussion with the committee to look at opportunities to enhance those capacities through the retention of fees or other means.

We also enjoy an overall positive working relationship with transmission partners, and look forward to working together to

continue to accomplish our mutual goals, providing electricity to communities across the Nation, and protecting the forest landscape we all treasure.

Madam Chairman, thank you, and at this point that concludes my statement. And I would be happy to answer any questions you may have.

[The prepared statement of Mr. Peña follows:]

PREPARED STATEMENT OF JIM PEÑA, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE

Chairman Hastings, Ranking Member DeFazio, and members of the committee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's views on Proper Management of Electricity Rights of Way on National Forest System Lands.

The nearly 193 million acres that comprise the National Forests and National Grasslands are located in 42 States and Puerto Rico and comprises 9 regions of the United States. The Mission of the Forest Service is to sustain the health, diversity and productivity of the Nation's forests and grasslands for present and future generations. Electric Transmission line Rights-of-Way across the National Forest System are critical for meeting the needs of the Nation and rural America. The Department is committed to support the resilience and sustainability of rural America and ensure a well maintained infrastructure is in place to support those communities. The Forest Service permits some 18,000 miles of electrical transmission lines across the National Forest System, ranging from 1 kV residential lines that connect homes to the electric grid to 500 kV transmission lines that move power within and across States.

Forest vegetation in portions of the National Forest System is extremely susceptible to large wildfires, which endanger communities and impact watersheds and pose a considerable threat to power line structures. Today, I will focus on how this risk of wildfire affects utilities, electrical power and the reliability of the electrical grid.

The Agency and utilities have become increasingly concerned about ensuring electricity transmission rights-of-way and the areas just beyond the rights-of-way are appropriately maintained to manage the risk of wildfire. The Forest Service has established a couple of partnerships with electric utilities beyond the rights-of-way limits to implement thinning prescriptions for tree harvest and appropriate natural and activity [1] fuel management to change and reduce the behavior of wildfire adjacent to and near the transmission line. The intent of these treatments is to remove enough of the stand structure so that the residual stand structure causes the fire to drop from the tree canopy to the ground, where the flame lengths are 2 to 4 feet and wildland fire crews can safely contain the fire with hand and machine fire line, thereby reducing the risk of line damage and power transmission interruption.

The Agency reports 113 wildfires igniting from direct contact between power lines and trees or the arcing of electricity from the power lines to vegetation in 2013. In 2012, the Agency documented 232 wildfires igniting from power line corridors. Fires that burn into or ignite from power line corridors place a significant economic burden on rate payers and American taxpayers through higher agency fire suppression and rehabilitation costs, industry replacement of damaged power line infrastructure and the cost of purchasing or rerouting power and reliability for local communities, in addition to the loss of power critical for domestic and public service needs.

In response to potential wildfire impacts to and from power lines, the Forest Service released in December 2012 a National Desk Guide for vegetation maintenance of electric transmission lines. This document provides guidance for the development of appropriately consistent vegetation management in the Operation and Maintenance plans as required by the permit. A key element of the Desk Guide is a reemphasis of the responsibility of utilities to immediately remove vegetation that poses an imminent threat to power line infrastructure. The National Desk Guide emphasizes that where transmission lines face imminent threat from vegetation, utilities may treat that vegetation without waiting for Forest Service approval; however, notification to the Forest Service is required. Later this year the Department anticipates signing a revised interagency Memorandum of Understanding (MOU)

[1] The combustible material resulting from or altered by forestry practices such as timber harvest or thinning Dictionary of Forestry—Society of American Foresters.

with the Edison Electric Institute which will set consistent vegetation maintenance standards between Federal land management agencies and utilities.

Also, in order to address the challenge of assuring appropriate consistency in managing threats to power lines, the Forest Service continues to meet with the Western Utility Group (WUG) on a regular basis. Between the WUG and the Forest Service a process has been devised and Regional key contacts identified to address issues and concerns with location and project-specific maintenance requirements. In addition, the National Office has an open door policy for addressing issues and concerns that are either interregional or cannot be resolved locally. The Agency Lands and Realty Management Directorate continues to be involved in resolving specific issues and Agency-wide challenges to ensure appropriate consistency and proper right-of-way management. The key to ensuring that power line corridors are well maintained is the development and implementation of operating and maintenance plans. These plans specify and authorize entry and vegetation removal standards needed for long-term permit management. Given current agency funding and staffing capacity, currently, over 25 percent of the agency's power line permits are expired and less than half of the permits have current operating and maintenance plans. The Department has identified energy transmission as a priority within the Agency's Lands and Realty Management budget line and we make as much progress as we can within that capacity. The process for developing a vegetation management plan (part of the operation and maintenance plan) should not be a cumbersome one. While an environmental analysis is required, the agency understands that by issuing the permit, there is an implied commitment to allow the permittee reasonable access and capability to perform their required maintenance within the framework of existing law. These plans should be developed at the time of permit issuance and reviewed annually at the beginning of the maintenance season.

In addition to working proactively with utilities in reducing and eliminating vegetation and fire risks, many forest supervisors work with utilities in wildfire pre-suppression planning. The utilities participate actively as part of a potential wildfire interagency incident management team in wildfire suppression scenario drills and pre-season preparation. The Department's intent is to encourage as much of this type of coordination as possible.

The Department recently embarked on an initiative to look at reducing fire risk beyond the right-of-way limits. The Secretary of Agriculture convened the Western Utilities Summit last spring (2013) with power company executives and State public utility regulators to explore partnership opportunities for increasing the pace and scale of forest restoration and fire mitigation work. Pilot projects where utilities are contributing to reducing their risk and the fire risk within fire-derived ecosystems have begun. As an example, the Xcel energy partnership with national forests of the Colorado Front Range will provide funding for treating the live and dead fuel component of stands outside of the corridor. Furthermore, as a result of the dialog from the Summit, utilities and regulators, along with the Forest Service, have begun a detailed analysis of the economic benefits of a vegetation-management partnership to companies and rate payers, so they can decide if these investments in forest restoration and fuels reduction beyond the corridor limits are wise investments for their rate payers and investors to manage wildfire risk.

The Department estimates that there are almost 7,000 miles[2] of transmission lines in the West traversing National Forests with moderate to high fire risk. As drought, extreme heat and high wind conditions persist across large geographic areas; the potential for multiple wildfire events to impact electric reliability is significant. (The States with the most miles of transmission lines traversing high wildfire hazard ecosystems are Arizona and California.)

The Department strongly endorses a robust, well maintained, utility infrastructure to service rural and urban America and is working to reduce the risk of catastrophic wildfire to both the forests and critical infrastructure. In addition, the liability cost, both social and monetary, associated with wildfire ignitions originating from electricity transportation are a focal point for avoidance and reduction. The Department is actively committed to that goal.

Mr. Chairman and Ranking Member DeFazio, this concludes my statement and I would be happy to answer any questions you may have.

Mrs. LUMMIS. Thank you, Mr. Peña.

I now would like to recognize Mr. Ed Roberson for 5 minutes.

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[2] USDA Forest Service.

STATEMENT OF ED ROBERSON, ASSISTANT DIRECTOR FOR RENEWABLE RESOURCES AND PLANNING, BUREAU OF LAND MANAGEMENT, WASHINGTON, DC

Mr. ROBERSON. Thank you, Madam Chairman and Ranking Member Grijalva and members of the committee. Thank you for letting me testify, or giving me the opportunity to testify today. I am Ed Roberson, I am the Assistant Director for Resources and Planning for the Bureau of Land Management.

As you know, ma'am, we manage about 245 million acres of Federal land, according to multiple use and sustained yield. In one of those uses, the BLM works closely with thousands of utility companies to manage rights-of-way for transmission and distribution of electric power. We value these partnerships, and the vital services that electric utilities provide.

The BLM administers over 15,000 authorizations for electric transmission and distribution, ranging from low voltage to 500 kV lines. Unwanted vegetation in and near utility rights-of-way can pose risks to infrastructure—trees that make contact with power lines can cause power outages or fires or pose threats to public safety, private property, natural resources. Utilities must manage vegetation near their transmission and distribution lines to prevent black-outs and wildfire, and BLM takes its responsibilities in managing and administering these rights-of-way seriously.

When issuing a right-of-way grant to a utility, BLM includes an analysis of the activities necessary for ongoing maintenance and operation of those transmission lines. The BLM also includes standard terms and conditions for vegetation management agreed upon by both the agency and the right-of-way holder.

Under the terms and conditions in its grant, a utility company may conduct certain maintenance activities, such as trimming, pruning, or weed management without further authorization. Utility companies can often obtain BLM authorization to remove hazardous trees through a streamlined NEPA process. For major actions beyond the scope and terms and conditions in the grant, BLM approval is needed. These actions may require additional analysis, depending on the resources affected, the action to be taken, and the previous analysis that was completed.

The BLM strongly encourages early and ongoing communication about vegetation management concerns, to make sure that there are no surprises. We recognize the value of advanced planning for future maintenance needs of utility companies, and we take every opportunity to work collaboratively with our stakeholders to address those needs.

The National Cohesive Wildland Fire Management Strategy represents a collaborative approach to restoring and maintaining resilient landscapes, creating fire-adapted communities, and managing wildfire response in a complex environment. The strategy highlights the importance of working with communities to identify values and infrastructure, including electric transmission facilities, which are prioritized for hazardous fuel work.

Electric transmission rights-of-way can be an important component of a network of fuel breaks that contributes to a more resilient landscape. The BLM is committed to protect people, property, and resources from wildland fire. Hazardous fuels projects help BLM to

protect communities and resources, and help utilities to protect their infrastructure. We view utilities as an important partner in helping to accomplish our mutual goal of mitigating the risks posed by wildland fire.

Along with the other agencies and Edison Electric, BLM also looks forward to signing a new MOU later this year that formalizes the cooperative approach to management of integrated vegetation, as was discussed on the first panel. The MOU facilitates a variety of mutual goals, including reliable electric service, safety, reduced risk of wildfire, streamlined administrative processes. The MOU includes a set of integrated vegetation management practices, and prioritizes cooperation, timely communication, and consistent management. The parties are currently working toward renewal of this MOU.

The BLM also works closely with utilities that hold multiple rights-of-ways, including Arizona Public Service and Idaho Power, to establish master agreements that provide standard terms and conditions to enhance consistency across BLM offices, and create greater efficiency and predictability for utility operators. The BLM values our partnership with utilities, and we will continue to work to further the collaboration and improved communication to accomplish our shared goals.

Thank you for the opportunity to be here, and I would be glad to answer any questions.

[The prepared statement of Mr. Roberson follows:]

PREPARED STATEMENT OF ED ROBERSON, ASSISTANT DIRECTOR, RESOURCES & PLANNING, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

INTRODUCTION

Thank you for the opportunity to provide the Department of the Interior's views on the management of electricity rights-of-way on Federal lands. The Bureau of Land Management (BLM) works closely with thousands of public, private, and cooperative utility organizations to manage rights-of-way (ROW) for the transmission and distribution of electrical power. The BLM values these partnerships and the vital services that electric utilities provide for local communities and the Nation.

The BLM manages roughly 245 million acres of Federal land according to its multiple use, sustained yield mission. As one of many uses of BLM-managed public lands, the BLM has issued thousands of miles of rights-of-way for electricity transmission and distribution under the Federal Land Policy and Management Act (FLPMA) and other authorities. Currently, the BLM administers over 15,000 authorizations for electric transmission and distribution facilities, ranging from low-voltage 12 kilovolt (kV) lines to high-voltage 500 kV lines and related infrastructure.

The growth of vegetation within utility rights-of-way can, in some cases, pose risks to the infrastructure needed to provide a continuous supply of electrical power. Trees can fall or otherwise make contact with overhead power lines, sometimes resulting in power outages or fires, which pose threats to public safety, private property, and natural resources. Ground fires can create heat damage to facilities or burn wooden power poles. To provide a dependable supply of electricity, utilities must manage vegetation near their transmission and distribution lines to prevent blackouts and wildfires. The BLM takes its responsibility for the administration of these rights-of-way seriously and values the opportunity to work with utility companies to serve our communities, and works simultaneously to meet its obligations for the management and protection of natural and cultural resources on the public lands.

VEGETATION MANAGEMENT IN RIGHTS-OF-WAY

When issuing a right-of-way grant to a utility company, the BLM completes an analysis required by National Environmental Policy Act (NEPA) and other statutes, including consideration of activities necessary for the ongoing maintenance and operation of transmission lines. The BLM includes standard terms and conditions for

the management of vegetation, agreed upon by both the agency and the right-of-way grant holder, when issuing the right-of-way grant. In addition, the analysis may consider other resources or activities appropriate for the location or management needs of a particular right-of-way.

Under the terms and conditions typically included in right-of-way grants, a utility company may conduct certain activities after notifying the BLM, but without requiring further BLM authorization. These activities include minor trimming, pruning, and weed management to maintain the ROW or facility. BLM authorization, typically through a permit, is needed prior to the cutting and removal of any timber or vegetative resources that have market value. The utility company can often obtain BLM approval for the removal of hazard trees through a streamlined NEPA process, such as a categorical exclusion. Before the utility company conducts major actions within the ROW, but beyond the scope of the terms and conditions in the ROW grant or actions outside the ROW boundary, BLM approval is needed. These actions may require additional environmental analysis. In general, the degree of analysis required for a specific vegetation removal action depends on the resources affected, the scope of the action to be taken, and the analysis that had been previously completed. To facilitate efficiency, the BLM strongly encourages early and ongoing communication with our utility partners regarding vegetation management needs and concerns.

The BLM appreciates any opportunity to work collaboratively with all our stakeholders and partners, including utility companies, and recognizes the value of advance planning for future maintenance needs when possible. Ongoing communication and coordination are also critical to ensuring that both the BLM and the utility can respond to undesirable vegetation in a timely manner.

HAZARDOUS FUELS MANAGEMENT

The National Cohesive Wildland Fire Management Strategy represents a collaborative approach to restoring and maintaining resilient landscapes, creating fire adapted communities, and managing wildfire response in a complex environment. The BLM is committed to protecting people, property, and resources from wildland fire, and uses a proactive approach to treat hazardous fuels. In fiscal year 2013, the BLM completed nearly 290,000 acres of hazardous fuels reduction treatments, including thinning, salvage, and prescribed burns. Because the factors that cause increasing hazardous fuel loads cross jurisdictional boundaries, the Department prioritizes that highest priority treatments in the highest priority places. The 2015 DOI Budget for Wildland Fire Management also includes $30 million for resilient landscapes. This cross-cutting program will provide the opportunity to target specific landscapes, including areas outside the wildland-urban interface, and enhance integration of activities between fire and non-fire programs toward shared restoration and ecological objectives.

The BLM routinely works with partner organizations to engage in land and watershed restoration, community preparedness, and hazardous fuels reduction activities. Departmental agencies employ an integrated approach to wildland fire management, including the prioritization of hazardous fuels treatments to mitigate the potential risk of wildfires. Utilities that hold ROW grants are an important partner in this approach.

Electrical transmission ROWs are often located where they can provide significant potential for the establishment of fuel breaks and for linking hazardous fuels reduction projects to manage a stronger network of fuel breaks that contributes to more resilient landscapes. Such projects help the BLM to protect communities and natural resources from wildland fire, and the utilities to ensure protection of their electricity transmission and distribution infrastructure. The Cohesive Strategy highlights the importance of working with communities to identify community values and infrastructure, including electricity transmission facilities, to be prioritized for proactive mitigation of wildfire risk. Hazardous fuels reduction projects that protect vital infrastructure can also help the Department of the Interior to protect rural communities from wildland fire, and the presence of important infrastructure is one of the factors that the Department considers in prioritizing hazardous fuels projects. We view utilities as an important partner in helping to accomplish our mutual goal of mitigating the risks posed by wildland fires to health and safety, infrastructure, private property, wildlife habitat, and other vital resources.

COOPERATIVE APPROACH

Under the Energy Policy Act of 2005, which directed Federal land managing agencies to expedite approvals necessary to allow the owners or operators of electric transmission or distribution facilities to comply with standards for vegetation man-

agement that imminently endanger the reliability or safety of the facilities, the BLM and other Federal agencies have worked toward further collaboration with utilities. The BLM is a party, along with other Departmental agencies, the Environmental Protection Agency, the Forest Service, and the Edison Electric Institute (an association of shareholder-owned electric companies), to an interagency Memorandum of Understanding (MOU) that formalizes a cooperative approach to streamline the management of vegetation near utility facilities. The MOU facilitates a variety of mutually accepted goals, including maintaining reliable electric service, improving safety, reducing the likelihood of wildfires, reducing soil erosion, reducing environmental risk, streamlining administrative processes, and incorporating integrated vegetation management (IVM) where appropriate, among others. Under the MOU, the parties agreed to a set of IVM practices intended to protect human health and the environment and to the principles of cooperation, timely communication, and consistent management, among others. The current MOU has expired, but its operational principles are still in use and the parties are currently working toward renewing and updating the MOU.

The BLM has also worked closely with utilities that hold many BLM rights-of-way, such as Arizona Public Service, NV Energy, and Idaho Power, to establish master agreements that provide standard terms and conditions that can be applied to multiple right-of-way grants. These agreements enhance consistency across BLM offices and create greater predictability and efficiency for the utility operators as they do business with the BLM. In Idaho, this cooperation has led to increased efficiency in the approval of operations and maintenance proposals for transmission rights-of-way and associated infrastructure.

CONCLUSION

The BLM values our partnerships with the holders of electrical transmission and distribution rights-of-way, and we will continue to work toward further collaboration to accomplish our shared goals. We believe that early and coordinated planning and communication are essential to ensure that vegetation management can occur expeditiously and that ROW holders can comply with standards for vegetation management. We appreciate the opportunity to continue to work closely with ROW holders, and the committee's attention to this issue. Thank you for the opportunity to be here, and I would be glad to answer any questions.

Mrs. LUMMIS. Thank you, panel. The Chair now recognizes herself for 5 minutes.

Mr. Roberson, were you here to have the advantage of hearing our first panel?

Mr. ROBERSON. Yes, ma'am.

Mrs. LUMMIS. Did you have the opportunity to hear Mr. Easley discuss his concerns about Rural Utility Service's determinations of eligibility of co-ops for BLM's right-of-way status?

Mr. ROBERSON. Yes, ma'am.

Mrs. LUMMIS. Do you recognize a problem there?

Mr. ROBERSON. Yes, ma'am. There—would you——

Mrs. LUMMIS. How is that resolvable?

Mr. ROBERSON. We are currently working with RUS and the U.S. Department of Agriculture on an MOU that streamlines the process. We had an agreement in place 6 years ago, or 8 years ago, and it really did not solve the problem, because we have—and their analysis, they provide certification that a member utility is eligible for a non-rental.

We also, in looking at that, part of the requirement is what type of facility goes in, and who the facility serves, what that rural service area is. So, we take into account those things that have slowed down our process. Right at this moment, and—my understanding is in the not-too-distant future we will have a new agreement with them to resolve that issue.

We have been able to drop back. Last year we had 50 utilities that were waiting to hear about their determination non-rental. We are down to 24. When we get this agreement in place, we plan to move that to zero.

Mrs. LUMMIS. So you don't take RUS's word for it about who is eligible for RUS financing, even though RUS is the Federal agency that makes that determination?

Mr. ROBERSON. Again, we see a four-level determination being made. Their determination that the member qualifies is slightly different from the areas served—who is served. We look at that, as well, in making the final determination negotiations with RUS.

Mrs. LUMMIS. Is that clear in your rules?

Mr. ROBERSON. That is the way we have been operating. And, as I said, we are working on a new MOU to try to reconcile, to streamline a little better, because we still have a cognitive dissonance between RUS and us about exactly what they are analyzing and how they are making their determination, compared to what our requirement is and the Federal land——

Mrs. LUMMIS. And why is that? Why is there this cognitive dissonance? I know it is not unique to Federal agencies. But it does seem to be pretty common in Federal agencies, where the Federal agencies have a cognitive dissonance, and then works to the detriment of people who pay for electricity in this country.

Mr. ROBERSON. In some cases, as we have found in doing more collaborative and cooperative work with the Forest Service on planning, we have different laws that we operate under. And our regulations that descend from those laws sometimes, when a new process is put in place, we have to find alignment. And I think one of the members of the first panel talked about that alignment, and that is what we are working on right now with RUS.

Mrs. LUMMIS. Thank you, Mr. Roberson. Mr. Peña, quick question for you. You mentioned the Forest Service desk guide, and quoted the emphasis that utilities are responsible to immediately remove vegetation that poses an immediate threat to power line infrastructure. Did you have an opportunity to hear the first panel?

Mr. PEÑA. Yes, I did.

Mrs. LUMMIS. Thank you, Mr. Peña. Their testimony indicated that, in spite of their willingness to fulfill the obligation to immediately remove vegetation, that they have had delays and disjointed decisionmaking and denials to prevent them from doing what your desk guide calls for. How do you respond to that?

Mr. PEÑA. I think it would be good to be able to get a little more information from them on if it was an imminent threat, or if they are talking about normal, routine maintenance plans that may cover a greater extent, because the direction that we have had—and I have been a line officer from a district ranger to forest supervisor on the ground, and for 20 years, and I don't have that understanding. I don't think imminent threat is a problem. We should be able to have them remove imminent threats immediately.

Mrs. LUMMIS. Thank you, gentlemen. My time is expired. Appreciate your testimony.

The Chair now recognizes the gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Madam Chair. Just to follow up with the Forest Service, I do have the cover letter for the desk guide. But it says, "This guide does not supercede any existing plans or directives. Nor is it a substitute for legally binding operating plans. It does not attempt to address all environmental concerns. Instead, it seeks to balance requirements and needs of integrated forest"—blah, blah, blah, blah.

I guess my question is—and you heard from the first panel where we are having problems with consistency, even between ranger districts, and definitely between forests. Why can't existing right-of-ways fall under categorical exclusion for maintenance?

Mr. PEÑA. Oftentimes they can, and they do. It depends on the level and activity of disturbance, and the controversy that activity may generate, and the types of other resources that may be affected. Typically, on a normal right-of-way, where you are not doing things that are controversial, like applying herbicides, getting involved——

Mr. DEFAZIO. Well, that is controversial in certain quarters. But in any case, yes. But my point, I mean, is there general guidance in your desk guide that, except for unusual and extraordinary circumstances, these should be categorically excluded activities?

Mr. PEÑA. No. I think our guidance is to follow the NEPA policy of the agency, and determine the appropriate level, based on the work that is being——

Mr. DEFAZIO. So, if we were to develop a plan for integrated vegetation management which is appropriate for the affected ecosystem, could we then go to categorical exclusions?

Mr. PEÑA. A scenario I could see, in responding to the gentleman's suggestion on how we move more effectively, is we do work with the utility to develop a management plan that covers multiple years, do NEPA once, and that is covered. Then, as long as we maintain and renew that, once that NEPA is expired or no longer appropriate, I would think that we could maintain that existing situation, once we have it in place, with a much lower level of analysis. Sometimes it takes——

Mr. DEFAZIO. I am still having trouble with this. I mean, how about this issue we are having in Oregon, where we have existing rights-of-way, the towers are there, but the Forest says, "Oh, no, you've got to apply for a right-of-way," it is like a new right-of-way?

Mr. PEÑA. The only thing I can say about that is we have a lot of rights-of-way on national forests that predate the requirements for permits. And so, trying to track the records—it is obvious that the developments are there, and it is being used. I think the example with Bonneville Power Administration of how we are going to resolve that in the long term is probably the course of action that we should explore more broadly.

Mr. DEFAZIO. But the example I used was, we lack early seral on west side Oregon. If we just said, "OK, we know it would be beneficial for a whole range of species, and it would be compatible with industry guidelines if they developed this," and if they removed the coniferous vegetation and we allowed early seral stage development, which doesn't get to heights which would be problematic, and managed for that, I mean, it seems to me that there just needs to be a simplified process here.

I mean your people—you know, you are not overstaffed in your agency, you have a lot more important things to do than over-regulating existing rights-of-way, and/or going through a repetitive process or a new process for an existing right-of-way because you don't have the paperwork from 1934, or there wasn't any in 1934. So, again, I am concerned.

The MOU that BLM is going to develop, is that going to allow for categorical exclusions and integrated vegetation management?

Mr. ROBERSON. Yes. Yes, Congressman DeFazio. And one example from Congressman Tipton's own area, where we have actually built on that integrated vegetation management, on the Uncompahgre Plateau, we have worked with the local community, the other land management agencies, and the utilities, to find a way to build the corridor into a mosaic landscape with the early seral, as you discussed, so that you have better habitat for wildlife, and you have better fire resilience and resistance. You can fight the fire better. And we are using that line as a fire break.

So, I think we like to think that we are getting to a place where we are smart from the start, where we meet with these utility companies early, and talk to them about the full needs that they are going to have through the life of that right-of-way, that we use the cohesive strategy, as I mentioned in my testimony, and try to figure out how can we meet multiple objectives in the most efficient manner.

Mr. DEFAZIO. OK.

Mr. ROBERSON. That is going to take cooperation up front. I met with quite a few of the Members who spoke today, and we are committed to work with them, and listen to them, and work——

Mr. DEFAZIO. OK. My time has expired. Thank you. Appreciate it, thank you. Thank you very much.

Mrs. LUMMIS. I thank the gentleman. The Chair now recognizes the gentleman from California, Mr. LaMalfa.

Mr. LAMALFA. Thank you, Madam Chairman. Mr. Roberson, I heard hope in some of what you had to say there, in that—and responsiveness, that you really seem to want to get there with an MOU that is going to work long term, that doesn't have to reinvent the wheel every time somebody has an issue.

But, Mr. Peña, I didn't really hear answers as to how we are going to go forward. Both you gentlemen, you heard out loud the frustrations of the panel before you. Yes? Right?

Mr. PEÑA. Yes.

Mr. LAMALFA. OK. So then, when you take that—I always want to take it back to the kitchen table, to our average Americans that hear what goes on with their land, the way it is managed, how it affects their power, its reliability, its costs. And when they hear this stuff, you folks, as agency people, aren't you embarrassed after a while, that this is what it takes to do simple things? Both of you.

Mr. PEÑA. I will respond. Yes, it does. I also am mindful that, in many cases—and what I heard was—it isn't an issue. We do get it done right. And so, I think what we are committed to continue to focus on is how do we increase the capabilities of all the units to respond to requests across the board more effectively and efficiently.

When I think of the situation we have now compared to 10 years ago, the resources that we have to deal with and respond to special use requests of all types, it is not the same as it was. And I think that, in spite of that, we are still responsive to a higher degree than I felt like we got portrayed as today. I have no doubt those examples are real. I also have no doubt that in many cases—many, many cases—we are being responsive, and we are taking proactive ways to——

Mr. LAMALFA. Well, let's drill down on that. I am sorry, my time is always limited here. But some units—and I will give credit where it is due—it works very well. And some units, you have a unit manager who seems to have an attitude, you can't get any cooperation out of. So, how can somebody at the higher levels here, from top down, enforce a little more consistency with what we know is going to work, what has worked, instead of needing—you know, somebody might decide you need a NEPA every time you want to do the slightest thing.

I mean, once and for all, you have a corridor that needs maintaining. The integrated vegetative management makes very good sense. Why can't we just get to the end result, and not have to restudy it or re-permit it every time? So—and the first part, please: consistency of good policy across unit to unit.

Mr. PEÑA. I think the desk guide is a beginning. I think revising some of our regulations, based on what we learned about the desk guide, could be a piece.

Also, getting more line officers to training on special uses. We have joint training we put on between the BLM and Forest Service for line officers. I have been to it, I have spoken at it. It is invaluable in helping people that don't have a lot of experience dealing with special uses, to understand the perspectives of the permittees, and how to be more responsive, and how to redeem agency responsibilities in a timely manner.

Mr. LAMALFA. What is so hard about the training to have somebody understand that there are power lines running through here that need to be trimmed? And vegetative management makes sense. What is so tough that it takes so——

Mr. PEÑA. I don't think that is tough. And that is not the issue, I don't believe. I think the issue is—in my own experience, is that line officer is dealing with, probably 100 other permittees that are asking for things to be done. They are trying to get other work done that they have to coordinate and budget time for and assess risks on which is the biggest thing that needs to get done today. And so——

Mr. LAMALFA. If there was a simpler template, if you are just going down a checklist, you do this and this, instead of so much micro-managing——

Mr. PEÑA. I think the thing that is the savior for all of us is if there are imminent threats, they have authority to go deal with those imminent threats. They don't have to wait. And I think that that is the answer for imminent threats.

To deal with the integrated vegetation management, that is going to take more planning, and to agree on how to apply that. But once it is done, it is done. And I think being able to get through that is the biggest challenge.

I have no doubt that the stories that were told here are frustrating, they would be frustrating to me. And, as a line officer, if I had a district ranger, or if I was a district ranger in that position, I would be embarrassed. I would want to take action on it.

But I also recognize that it is not as simple. Our line officers are asked to do a lot of things——

Mr. LAMALFA. Well, our job is to make it simpler here. So we need——

Mr. PEÑA. I know it.

Mr. LAMALFA [continuing]. To know about legislative—we legislate. Are there laws that we can change, or little things we can tweak? You mentioned controversy caused things that can delay it.

Now, what also needs to happen is that we need to have a little more guts within these organizations, that just the threat of an environmental group coming along and saying, "We are going to sue over this, over that." I mean, if it makes common sense, you finally have to stand up and say, "Go ahead and play your game, but we have to get some things done under known prescriptions that work. And if you don't like it, you just want to cause controversy," then we will back you if you carry out the mission.

And we are here to help if we trust that the funding is going where it needs to go, and we are here to help on legislative stuff, that you come with us and say, "Can we change this law a little bit? Because this is a road block to doing the type of thing that makes sense."

Madam Chair, I yield back. Thank you.

Mrs. LUMMIS. I thank the gentleman. I also thank the panel of witnesses for your valuable testimony. And I want to thank you for listening to the first panel, as well, gentlemen.

Members of this committee may have additional questions for you. And the hearing record will be open for 10 days to submit questions to you. We hope to receive your responses. We ask those responses be in writing, as per our usual practice.

Is there further business before this committee?

[No response.]

Mrs. LUMMIS. Without objection, we stand adjourned.

[Whereupon, at 12:17 p.m., the committee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

PREPARED STATEMENT OF THE HON. SCOTT TIPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Today, the House Committee on Natural Resources will hear from electric power providers in the West regarding the current challenges to operating and maintaining electricity rights-of-way on Federal lands, and ensuring reliable, low cost energy depended on by homes and businesses.

I would like to thank our utility witnesses for making the trip to be with us today, and for sharing their valuable insight on how to improve the existing regulatory framework so we can better protect critical infrastructure, safeguard local communities and species habitat, and reduce costs to ratepayers. We are also joined by officials from the two agencies tasked with managing lands through which transmission lines pass—the United States Forest Service and the Bureau of Land Management. I would also like to welcome the audience members of the rural electric cooperatives who have taken time out of their busy schedules to watch this hearing.

Rural electric cooperatives and investor owned utilities provide critical power supplies to millions of homes and businesses throughout the West. In order to route this supply across long distances, power providers receive special use permits from

the Forest Service and the Bureau of Land Management which provide them with rights-of-way to run and operate transmission and distribution lines on Federal public lands. While most utilities have the capability to actively manage vegetation within their rights-of-way, they and their customers depend on the Forest Service and the Bureau of Land Management to responsibly manage hazardous trees on Federal lands immediately outside the right-of-way. When these trees aren't properly managed in a timely manner, they inevitably fall into rights-of-way and onto transmission lines, causing massive blackouts, leaving homes, small businesses and schools, hospitals, and other critical services without power for days at a time. History has proven that improper vegetative management can lead to severe consequences. In 2003, for example, a downed tree hit a transmission line causing 50 million people to lose power across the northeastern United States.

Forest fires resulting from downed trees and lack of proactive management pose a direct threat to human health and safety. Failure to actively manage hazardous trees near transmission lines is irresponsible as stewards of the natural environment, and too often we fail to consider the species habitat destroyed in forest fires when making decisions about active forest management. Debris from these resulting forest fires pollutes water supplies for humans and species, and can cost tens of millions of dollars to mitigate. Ultimately the costs of wildfires caused by failure to remove hazardous trees fall on local communities and ratepayers, who bear the brunt of repair, rebuilding, and, in many cases, unfair liability costs.

Today's testimony will highlight the current lack of uniformity in Federal policy for managing hazardous trees near utility rights-of-way, and an untenable liability framework that discourages, and in some cases prohibits cooperation between power providers and Federal agencies to address hazardous conditions before they cause catastrophic wildfires. Under the status quo, determinations about whether or not to address emergency circumstances are too often dependent on the whims of local land managers, and utilities are prohibited from removing hazardous trees that threaten their lines, but are held strictly liable if the Federal Government fails to do its job and address hazards on lands they manage. This has to change. It is my hope that today's hearing will highlight what needs to be done to proactively mitigate hazardous conditions, safeguard local communities, and ensure reliable low cost power supplies for ratepayers. Again, I want to thank our witnesses for being here today and yield to the Ranking Member of the Committee.

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

Ball, Sarah K., Edison Electric Institute, Capitalizing on Conservation: The Ecological Benefits of Transmission Line Rights-of-Way

Daley, Beth, Green lines: What does it take to save a species? Sometimes, high-voltage power wires. Boston Globe article, Nov. 22, 2009.

Hurst, George A., Rights-of-Way for Wildlife, National Wild Turkey Federation Wildlife Bulletin No. 19, http://www.mdwfp.com/media/7662/rights-of-way.pdf.

PEPCO, Rights-of-Way Can Provide Valuable Habitat for Wildlife.

U.S. Fish and Wildlife Service, Managing Utility Rights-of-Way for Wildlife Habitat, National Conservation Training Center Course #TEC7179, http://nctc.fws.gov/courses/CSP/CSP7179/resources/ROWHabitat.pdf.