

Statement of
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U.S. Department of Agriculture
Before the
Subcommittee on Water, Power, and Oceans
House Committee on Natural Resources
United States House of Representatives
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Concerning

Discussion Draft, “To amend the Federal Land Policy and Management Act of 1976 to enhance the reliability of the electricity grid...”

Chairman and members of the subcommittee, thank you for the opportunity to present the U.S. Department of Agriculture’s views regarding the discussion draft to enhance the reliability of the nation’s electricity grid by facilitating vegetation management on Federal lands.

The Discussion Draft

The discussion draft would add a new section 512 to the Federal Land Policy and Management Act of 1976. Section 512(a) would require federal land managers to provide direction to ensure that all existing and future rights-of-way for electric transmission and distribution facilities on federal lands include provisions for utility vegetation management, facility inspection, and operation and maintenance activities that:

- Are developed in consultation with the holders of the right-of-way;
- Enable the holder to operate and maintain these facilities in good working order and comply with federal, state and local electric system reliability and fire safety requirements;
- Minimize the need for case-by-case or annual approvals for routine and emergency vegetation management activities; and
- When review is required, provide for expedited review and approval.

Section 512(b) (2) (A) (i) and 512(b) (4) would require federal land managers to review and approve vegetation management, facility inspection, and operation and maintenance

plans within 30 days, and would require that the Secretary use the agency's categorical exclusion process under National Environmental Policy Act of 1969 to exclude from documentation in an environmental assessment or environmental impact statement any vegetation management plans developed for existing rights-of-way. Under Section 512(b) (1), plans would not have to cover the entire right-of-way.

Section 512(b)(5) would provide that once the vegetation management plan is approved, the holders of the right-of-way would have to provide the federal land manager with only notification of anticipated activities in the coming year, a description of those activities, and certification that the activities are in accordance with the plan. If vegetation on or adjacent to a right-of-way does not meet clearance requirements under federal, state, or local standards, the affected federal land manager would have only 3 business days, even in non-emergency situations, to approve the holder's request to conduct vegetation management activities to meet those requirements. If approval is not given within that timeframe, the holder may take action after providing notice to the federal land manager.

Under section 512(f) holders of a right-of-way would be shielded from liability if the affected federal land manager failed to authorize vegetation management activities that are required to comply with Federal, State, or local system reliability and fire safety requirements. Section 512(g) would encourage development of training for employees and section 512(h) would mandate implementing regulations.

The Department recognizes that reliable delivery of electricity is essential to the America's welfare and economy, and that fire and service disruptions that result from contact between vegetation and power lines threaten public safety and resources and place a potential burden on rate payers. The Forest Service is eager to work with the subcommittee on this legislation. However, some of the discussion draft's provisions are unnecessary to the extent they duplicate existing requirements in Forest Service policies and special use authorizations. In addition, the Agency cannot support provisions that, as currently written, would:

- Unduly restrict the Secretary's ability to exercise appropriate management authority over the national Forest System;
- Impose review and approval deadlines, which would be unreasonable for many field staffs to meet under current resource constraints, and which would expose the Agency to liability if unmet; and
- Eliminates strict liability for electric transmission and distribution facilities, which are a high-risk use and occupancy of federal land, and eliminates liability for negligence.

The Forest Service also cannot support provisions that would allow utilities without Agency involvement to cut trees on National Forest System lands that do not pose an imminent threat to electric transmission and distribution facilities, particularly when those trees are outside of authorized rights-of-way.

The Current Program

The Forest Service administers approximately 70,000 special use authorizations, including 2,700 authorizations for power lines, covering about 18,000 linear miles. Those facilities serve as critical links in the national electricity grid. Helping to ensure structures and adjacent natural resources are maintained in a way that protects them from damage or destruction is an important and challenging part of Agency operations. Program staff manages approximately 70,000 special use authorizations and processes nearly 6,000 proposals for new uses annually. This makes it imperative for utilities planning maintenance work to contact the responsible field office as far in advance as possible. The Agency's response time varies depending on the capabilities of each field office, the level of work planned, and conditions in the planned area.

The Forest Service works collaboratively with holders of electric transmission and distribution line rights-of-way to develop appropriate vegetation management plans that allow holders to provide for reliability, minimize the risk of forest fires, and comply with applicable federal, state, and local requirements. These plans should include procedures that allow for emergency removal of trees that pose an imminent threat without prior approval from the Forest Service. The Agency's 2013 vegetation management guide specifies for field staffs the procedures and practices that should be included in operation and maintenance plans for power lines. This guide states that where vegetation conditions inside or outside the authorized right-of-way pose an imminent threat to power line facilities, utility companies may remove those threats immediately without prior approval from the Forest Service. The guide provides for all other vegetation management activities to be planned and coordinated with the Agency to ensure utilities and their contractors are aware of any existing conditions that could present a threat to them or to the public and to ensure that the requisite environmental review, if any is conducted.

The Agency is well aware of the frustrations experienced by some utilities due to delayed responses for maintenance approvals and inconsistency across field offices, and is taking steps to address these concerns. Members of my staff communicate regularly with utilities to address specific issues and to discuss programmatic efforts to improve agency responsiveness. Staff members attended the Western Utilities Group meeting this month in Washington, D.C. and discussed the Agency's efforts to improve procedures for transmission line maintenance, including enhancing vegetation management directives and permit clauses, completing review of the federal vegetation management MOU with the Edison Electric Institute (EEI), developing web-based special uses training, conducting reviews of special uses business practices, and holding an Agency executive energy forum, scheduled for June of this year.

To enhance cooperation and efficiency in maintenance of electric transmission and distribution line rights-of-way, the Agency encourages utilities to meet with field personnel, explain required actions, and work collaboratively to develop plans for getting work done. 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 in 2013 with power company executives 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, Xcel energy, in partnership with national forests of the Colorado Front Range, has provided funding for treating the live and dead fuel component of stands outside of the corridor. A five-year operating plan was completed and signed in June 2014 for a five-year investment of \$1.2 million. The 5-year plan outlines reducing hazardous fuels on 3,350 acres and addresses 326 of 400 high priority structures across three National Forests. In addition, a fire science analysis by USFS and Xcel scientists has been published. The document discusses the joint science to guide vegetation clearance standards and vegetation treatments for prevention of damage to lines and other infrastructure.

We look forward to assisting the subcommittee with the legislation and future discussions on Agency efforts to improve reliability. Chairman and members of the subcommittee, this concludes my statement and I would be happy to answer any questions you may have.