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NEED FOR PROPER FOREST MANAGEMENT ON FEDERAL RIGHTS-OF-WAY TO ENSURE RELIABLE ELECTRICITY SERVICE

JOINT OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

JOINT WITH THE

SUBCOMMITTEE ON FORESTS AND FOREST HEALTH

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

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JOINT OVERSIGHT HEARING ON "THE NEED FOR PROPER FOREST MANAGEMENT ON FEDERAL RIGHTS-OF-WAY TO ENSURE RELIABLE ELECTRICITY SERVICE"

Wednesday, May 3, 2006
U.S. House of Representatives
Subcommittee on Water and Power, joint with the
Subcommittee on Forests and Forest Health
Committee on Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:05 a.m. in Room 1334, Longworth House Office Building, Hon. George Radanovich [Chairman of the Subcommittee] presiding.

Present: Representatives Radanovich, Walden, Napolitano, McMorris, Tom Udall, Grijalva, Herseth and Cannon.

STATEMENT OF THE HON. GEORGE RADANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. RADANOVICH. Good morning. Welcome to the Subcommittees on Water and Power and Forests and Forest Health.

We are meeting here today to hear testimony on the need for proper forest management on Federal rights-of-way to ensure reliable electricity service.

Today the Water and Power Subcommittee joins the Forests and Forest Health Subcommittee to examine how we can ensure forest health and provide electricity reliability. Those matters may seem unrelated to each other if you do live on the Atlantic coast, but for those of us who have Federal forests in our western backyards, they go hand in hand.

For too long many of us throughout the West have watched our forests deteriorate into a gas can waiting to explode. Improperly maintained electricity rights-of-way on our Federal lands is a prime example of what is going wrong. In fact, twice in 1996, Federal trees fell on power lines, causing fires and electricity outages for almost 10 million people in the West.

The picture here, which we have right there, taken in the Black Hills National Forest is a clear example of why we need to improve our electricity rights-of-way. Many of you may not be able to see that picture, but if you can, you still can't see the power pole that

is in that right-of-way because it is so clogged by growing trees within the right-of-way. There it is; thank you, sir.

Ten years later, rural communities still live in fear because of potential forest fires caused by inadequately maintained rights-of-way. At the same time electricity consumers have asked for and deserve reliable power supplies, especially after the 2003 Northeast Blackout.

As the Water and Power Subcommittee has witnessed, our electricity supply and delivery system hangs in a precarious balance that is only exacerbated by improperly maintained rights-of-way.

As a member of the Energy and Commerce Committee, I can also tell you how susceptible our national electricity grid is to mishaps. While the situation is not acceptable, it is getting better.

Last year Congress passed long-awaited national reliability provisions that included expedited vegetative management. In addition, the Forest Service and other Federal agencies are beginning to see why it is important to have uniform, consistent and timely management policies on our rights-of-way. But the agencies have a long way to go.

Time will only tell if they follow the right course to enhance our electricity reliability, reduce fire hazards, and protect the public from unacceptable risks and liabilities. This hearing is a step toward those win-win solutions.

In closing, I want to thank very much the Forests and Forest Health Subcommittee Chairman Walden for his leadership on this issue. And I also want to welcome today's witnesses and audience members who are representing the rural electric cooperatives. You have all traveled great distances to be here and participate in this important hearing, and I do appreciate that.

I thank you for being here. I look forward to working with you and my colleagues on this issue.

I now recognize Representative Walden, the Chairman of the Forests and Forest Health Subcommittee, for his opening statement. Greg.

[The prepared statement of Mr. Radanovich follows:]

Statement of The Honorable George Radanovich, Chairman, Subcommittee on Water and Power

Today, the Water and Power Subcommittee joins the Forests and Forest Health Subcommittee to examine how we can ensure forest health and provide electricity reliability. Those matters may seem unrelated to each other if you live on the Atlantic Coast. But, for those who have federal forests in our western backyards, they go hand-in- hand.

For too long, many of us throughout the West have watched our forests deteriorate into a gas can waiting to explode. Improperly maintained electricity rights-of-way on our federal lands is a prime example of what's gone wrong. In fact, twice in 1996, federal trees fell on power lines, causing fires and electricity outages for almost ten million people in the West. This picture, taken in the Black Hills National Forest is a clear example of why we need to improve our electricity. Ten years later, rural communities live in fear because of potential forest fires caused by inadequately maintained rights-of-way.

At the same time, electricity consumers have asked for and deserve reliable power supplies, especially after the 2003 Northeast Blackout. As the Water and Power Subcommittee has witnessed, our electricity supply and delivery system hangs in a precarious balance that's only exacerbated by improperly maintained rights-of-way. As a member of the Energy and Commerce Committee, I can also tell you how susceptible our national electricity grid is to mishaps.

While the situation is not acceptable, it's getting better. Last year, Congress passed long-awaited national reliability provisions that include expedited vegetative management. In addition, the Forest Service and other federal agencies are beginning to see why it's important to have uniform, consistent and timely management policies on our rights-of-way. But, the agencies have a long way to go. Time will only tell if they follow the right course to enhance our electricity reliability, reduce fire hazards and protect the public from unacceptable risks and liabilities. This hearing is a step towards those win-win solutions.

In closing, I want to thank Forests and Forest Health Chairman Walden for his leadership on this issue. I also want to welcome today's witnesses and audience members representing the rural electric cooperatives. You have all traveled great distances to be here and to participate in this important hearing. I thank you for being here and look forward to working with you and my colleagues on this issue.

STATEMENT OF THE HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WALDEN. Thank you very much, Mr. Chairman. The basic issue at hand today is one of simple fairness. Those utility operators that follow the rules, that comply with their contractual obligations, that do the allowed and appropriate vegetative management within the rights-of-way should not be held responsible for firefighting costs incurred through no fault of their own.

In cases where utility operators are actually prevented from doing necessary maintenance, where they are not allowed to remove trees and snags that can ignite fires, liability should not even be a consideration.

Yet the fact that we are having this hearing today shows the basic issues of fairness are often not reflected in actual practice and policy.

One example, the problem incurred near my home when, in 2003, a tree on Federal land fell on the City of Cascade Locks' power line, creating a 360-acre wildfire, and leading to a subsequent bill for $312,000 being charged to the City for firefighting costs.

Had the City not done appropriate and agreed-to vegetative management, one could argue the Forest Service should have held the City liable, but this wasn't the case. All parties agreed the City regularly trimmed trees and limbs adequately and properly within the right-of-way. That case is still pending. If it is not resolved equitably, city residents will have to foot the bill for a fire they did not cause and cannot afford, and this is simply unfair.

This case and numerous others demonstrate a clear need to develop uniform and consistent policies concerning the proper management of electricity rights-of-way so that vegetation can be managed in a timely manner, and liability can be shared fairly and equitably.

I am glad to report that some progress is being made in this regard with a national memorandum of understanding being developed between the Forest Service and trade associations representing electric utilities. In addition, I have had personal discussions with representatives of the Forest Service who have expressed their commitment to working with Congress and the utilities in finding resolution to these important issues.

I look forward to the hearing today and hearing from all of our witnesses. I appreciate your coming today to help us better understand these issues. And I would like to thank the Water and Power

Chairman, Mr. Radanovich, for his time and work on these crucial issues.

Thank you, Mr. Chairman. We look forward to your witnesses.

[The prepared statement of Mr. Walden follows:]

Statement of The Honorable Greg Walden, Chairman, Subcommittee on Forests and Forest Health

The basic issue at hand today is one of simple fairness. Those utility operators that follow the rules, that comply with their contractual obligations and that do the allowed and appropriate vegetative management within right-of-way corridors, should not be held responsible for fire fighting costs incurred through no fault of their own. In cases where utility operators are actually prevented from doing necessary maintenance, where they're not allowed to remove trees and snags that can ignite fires, liability should not even be a consideration—-yet, the fact that we're having this hearing today, shows that basic issues of fairness are often not reflected in actual practice and policy.

One example of the problem occurred near my home, when in 2003, a tree on federal land fell on the City of Cascade Locks' power line, creating a 360 acre wildfire and leading to a subsequent bill for $312,000 being charged to the City for fire fighting. Had the City not done appropriate and agreed vegetative management, one can argue that the Forest Service should have held the City liable—but this was not the case; all parties agreed that the City regularly trimmed trees and limbs adequately and properly within their right-of-way. This case is still pending. If it is not resolved equitably, city residents will have to foot the bill for a fire they did not cause and cannot afford—this is simply unfair.

This case and numerous others demonstrate a clear need to develop uniform and consistent policies concerning the proper management of electricity right-of-ways, so that vegetation can be managed in a timely manner and liability can be shared fairly and equitably. I'm glad to report that some progress is being made in this regard, with a national memorandum of understanding being developed between the Forest Service and trade associations representing electric utilities. In addition, I've had personal discussions with representatives of the Forest Service who have expressed their commitment to working with Congress and the utilities in finding resolution to these important issues.

I look forward to hearing from all our witnesses today, in hope that we can work together to effectively address this topic in a positive way. And I'd like to thank Water and Power Chairman, Radanovich, for his time and work on these crucial matters.

Mr. RADANOVICH. Thank you so much, Greg. I will now turn to the Ranking Members of the two subcommittees for their opening statements.

I first recognize the Ranking Member of our Water and Power Subcommittee, Mrs. Grace Napolitano. Grace.

STATEMENT OF THE HON. GRACE NAPOLITANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. NAPOLITANO. Thank you, Chairman Radanovich and Chairman Walden. And I was just thinking of what you were saying about the clear need to develop uniform, consistent policies. But what about the budget to be able to carry them out, Greg? I mean, when you said that, that was something that really triggered in my mind, because it isn't just getting a total, consistent policy development across the nation, but the ability for the Forest Service to have the funding to be able to carry it through. I am sorry, it is just one of those things that hit me as I was listening to you.

Mr. Chairman, both Chairmen, thank you so very much for holding this hearing. But as I was reading the testimony presented to us, and as I prepared for this morning's hearing, I was not only

frustrated, but I was wondering why this hearing is needed. After all, electric utilities and rural cooperatives have been installing and maintaining many thousands of miles of power distribution lines for decades.

Can it be true that the Forest Service and other agencies make it so difficult and expensive to maintain these critical power lines? Everybody loses when there is a power failure.

When the power is out, people's lives are in danger. We lose control of the technology that makes our society function. And we also try to protect our cities with expensive flood control systems, we spend billions to secure airports with fancy scanners and other technology, yet our critical electric grid is threatened by dead trees.

I very much look forward to hearing more about the vegetation management along these utility corridors, and how we can make them work better, and possibly to explore additional information to create better use of discarded dead trees. I certainly am looking forward to the testimony, Mr. Chair.

Mr. Udall is delayed. He will submit his statement for the record.

[The prepared statement of Mr. Tom Udall follows:]

Statement of The Honorable Tom Udall, a Representative in Congress from the State of New Mexico

Thank you, Mr. Chairman. I would like to welcome witnesses from the National Rural Electric Cooperative Association, who are in Washington, DC for their Annual Legislative Conference this week. I also note that this is the fifth hearing this Congress held in conjunction with a lobby week for the Forests and Forest Health Subcommittee.

For many electric cooperatives and utilities, tree contact with power lines is a leading cause of power outages and can cause wildland fire. For example, the Federal Energy Regulatory Commission concluded that the August, 14, 2003 blackout in the Northeastern United States was due to overgrown trees interfering with power lines.

I look forward to hearing more from the Forest Service about their communication with the electric cooperatives and utilities, and where there is room for improvement in communication systems. Some of the concerns that we hear on this issue have to do with inconsistency and vagueness of regulation. It appears that the Forest Service needs to improve communication and provide for consistent guidelines dealing with rights-of-way.

Furthermore, I note that this is in large part a budgetary issue, and a question of priorities of this Administration. There is much that can be said about this year's Forest Service budget—from selling our public lands to dramatic cuts in important programs. Yet, this Subcommittee did not hold an oversight hearing on the Forest Service budget this year.

Several witnesses raise concerns about the threat of wildland fire from power lines. While the Forest Service claims thinning forests to prevent wildland fire is a key priority, this Administration continually funds hazardous fuels reduction far below what was Congressionally authorized. This year's combined Agency request for hazardous fuels reduction is roughly 491 million, far below the 760 million that was authorized under the Healthy Forests Restoration Act of 2003.

Many of these power lines are connected not only through our Federal lands, but also through state and private lands. Unfortunately, this Administration has also underfunded important Forest Service programs intended to encourage cooperation with state and private entities. This year's budget request includes a significant cut to State and Private Forestry, including the budget for State Fire Assistance. I commend Ranking Member Rahall for his request for increased funding of State Fire Assistance.

Thank you, Chairman Walden. I look forward to hearing from our witnesses today.

Mr. RADANOVICH. Thank you, Mrs. Napolitano. And next I recognize Ms. McMorris for any opening statement.

STATEMENT OF THE HON. CATHY McMORRIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Ms. MCMORRIS. Thank you, Mr. Chairman. I join my colleagues in welcoming today's witnesses and members of the rural electric cooperatives here with us today.

Today's focus on bringing Federal government's vegetation management policies into the 21st century is much-needed. Rural communities in my district live in fear if devastating wildfires because their Federal neighbors haven't done their part to remove the dead and dying trees and brush that feed catastrophic wildfires. This literally adds fuel to the fire.

For example, last year's School fire in my district burned nearly 52,000 acres in eastern Washington, over half of which is managed by the Umatilla National Forest. The fire was started by a dead pine tree falling over 14,000-volt power lines on Department of Natural Resources land protected lands, causing the lines to arc and sending sparks to the ground, igniting grasses.

Meanwhile, the promise of low-cost hydropower and reliable transmission in the Pacific Northwest is constantly being compromised because of misguided notions from the Administration's Office of Management and Budget and Federal land management agencies. The problem is clear. In many areas there hasn't been proper maintenance of electric utility right-of-ways. This threatens our forests, and it threatens our communities.

We all recognize the problem, but the red tape and bureaucratic process that is currently attempting to deal with the problem is currently not working. The time for improving the situation is now.

Chairman Radanovich was right when he said that the agencies are getting better, but we can do more, and faster. Faced with the need for a safe community and reliable grid, the agencies can either be a part of the problem or a part of the solution. They can either really empower utilities to clear rights-of-way, or they can be a deterrent that ultimately leads to more environmental destruction and electricity blackouts.

I am convinced that the agencies are taking steps, but they must take bigger and bolder steps to seize the moment in this time of need. That is what this hearing is about.

We are joined by distinguished witnesses who have a direct understanding of why this hearing is being held, and know first-hand of the changes that need to take place. They are true leaders in the field.

I commend Chairmen Radanovich and Walden for holding this important hearing and look forward to hearing from today's witnesses.

[The prepared statement of Ms. McMorris follows:]

Statement of The Honorable Cathy McMorris, a Representative in Congress from the State of Washington

I join my colleagues in welcoming today's witnesses and members of the rural electric cooperatives here with us today. Your participation and attendance in today's hearing is true democracy in action.

Today's focus on bringing the federal government's vegetative management policies into the 21st century is much-needed. Rural communities in my district live in fear of devastating wildfires because their federal neighbors haven't done their part

to remove the dead and dying trees and brush that feed catastrophic wildfires—this literally adds fuel to the fire.

Meanwhile, the promise of low-cost hydropower and reliable transmission in the Pacific Northwest is constantly being compromised because of misguided notions from the Administration's Office of Management and Budget and federal land management agencies. The problem is clear: in many areas there hasn't been proper maintenance of electric utility right of ways. This threatens our forests and it threatens our communities. We all recognize the problem, but the red-tape and bureaucratic process that is currently attempting to deal with the problem is clearly not working.

The time for improving this situation is now. Chairman Radanovich was right when he said that the agencies are getting better, but we can do more—and faster. Faced with the need for a safe community and a reliable grid, the agencies can either be part of the problem or part of the solution. They can either really empower utilities to clear rights-of-way or they can be the deterrent that ultimately leads to more environmental destruction and electricity blackouts. I'm convinced that the agencies are taking steps, but they must take bigger and bolder steps to seize the moment in this time of need. That's what this hearing is all about.

We are joined by distinguished witnesses who have a direct understanding of why this hearing is being held and know firsthand of the changes that need to take place. They are true leaders in their fields. I commend Chairman Radanovich and Walden for holding this important hearing and look forward to hearing from today's witnesses.

Mr. RADANOVICH. Thank you, Ms. McMorris. We are now joined by the Ranking Member of the Forests and Forest Health Subcommittee, Mr. Udall. Good morning, Tom.

Mr. UDALL OF NEW MEXICO. Thank you, Mr. Chairman. Good to be with you this morning.

Mr. RADANOVICH. Thank you. And I understand, Mr. Grijalva, you have no opening statement, OK?

Mr. GRIJALVA. Right.

Mr. RADANOVICH. Ms. Herseth?

STATEMENT OF THE HON. STEPHANIE HERSETH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH DAKOTA

Ms. HERSETH. Yes, just a brief opening statement. Thank you, Mr. Chairman, and to Chairman Walden, as well as to our Ranking Members, Grace Napolitano and Tom Udall, for holding this hearing on a very important topic.

And thank you, Mr. Chairman, for having the insight of having a South Dakotan on our panel today. I know you have family in the southern hills, and I am sure that they have brought up a number of these issues with you. I also want to thank you for sharing some of the photos here of the beautiful Black Hills National Forest.

We can talk about this issue throughout the day, and we will be hearing from our witnesses shortly. But I think that when you look at the images we have here are, for part of the record today I mean it clearly illustrates the problem that we are here to discuss.

First let me say that it is my great pleasure to welcome and introduce a particular member on our witness panel today, Dan Hutt. Dan has been an active member in the cooperative community in rural electricity issues in South Dakota for his entire professional career. He has been the Manager of the Black Hills Electric Cooperative in Custer, South Dakota for the past 11 years, and he has been employed with that cooperative for more than 27 years.

He began his career there as a work order clerk, and has worked his way to his current position through hard work and leadership. Dan truly has a lifetime of experience on these issues, and I know he will provide invaluable insight on the issues we are discussing today.

Dan attended the Forestry Subcommittee hearing that Mr. Walden and I hosted in South Dakota last August, and he raised this particular issue with us then. And we used that opportunity to seek a meeting for Dan and other similarly situated co-ops with the supervisor of the Black Hills National Forest. I know that that meeting occurred, and I am anxious to hear the latest on the interaction with the Forest Service personnel in the Black Hills.

The Black Hills Electric Cooperative operates extensively throughout the Black Hills National Forest, a national forest with some of the most extensive private holdings of any in the national forest system. As such, Black Hills Electric has a long history of dealing with the Forest Service on right-of-way matters. In fact, as Dan will tell you in his testimony, his cooperative has over 1,000 miles of transmission and distribution lines in the Black Hills National Forest.

Because of his tremendous experience on this issue, I am looking forward to his testimony, and commit it to my colleagues. I feel these issues that we are here to discuss need to be addressed for a variety of reasons, not the least of which is public safety. So I thank you again for holding the hearing, and yield back.

Thank you, Mr. Chairman.

Mr. RADANOVICH. Thank you so much, Ms. Herseth.

Mr. Cannon joins us from Utah. Mr. Cannon, did you have any opening statement?

STATEMENT OF THE HON. CHRIS CANNON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. CANNON. Thank you, Mr. Chairman. I appreciate you holding this hearing, and I would like to just extend my thanks to Carl Albrecht for being out there with us today. Carl has been a good friend for a long time and is faced now with a problem of a relatively short right-of-way that goes over several forms of Federal land and also public and state land and is being held up by the very difficult process that we are addressing. So I want to thank Carl for being here, and thank you for holding this hearing. And I yield back.

Mr. RADANOVICH. Thank you, Mr. Cannon. Mr. Walden.

Mr. WALDEN. Thank you, Mr. Chairman. I, too, want to welcome a witness: Steve Eldrige from Umatilla Electric Co-op. Steve has been a real leader throughout the Northwest on energy issues, and I think you are going to be intrigued by his testimony today on this one, as well. We appreciate Steve making the trek out here.

So thank you for being here, Steve.

Mr. RADANOVICH. Thank you, Mr. Walden. With that I will introduce our first panel.

Mr. Steve Eldrige, General Manager of the Umatilla Electric Cooperative; Mr. Bobby Blair, Chief Executive Officer of the San Miguel Power Association, Ridgeway, Colorado; Mr. Dan Hutt, General Manager of the Black Hills Electric Cooperative in Custer,

South Dakota; and Mr. Carl Albrecht, the General Manager of the Garkane Energy Cooperative in Loa, Utah. And also Mr. Michael Neal, the Manager of Forestry and Special Programs in the Arizona Public Service in Glendale, Arizona.

Gentleman, welcome to the Subcommittee. And the way this works is you have all got five minutes to give your testimony. Feel free to be extemporaneous because your full written testimony is in the record already. And if you would abide by the five-minute rule, that would be great. These clocks are set to show that at five minutes. So after that we will open up for questions from Members on the dais here.

So Mr. Eldrige, welcome to the Subcommittee. And why don't you begin, and we will go right down the line.

STATEMENT OF STEVEN ELDRIGE, GENERAL MANAGER, UMATILLA ELECTRIC COOPERATIVE, HERMISTON, OREGON

Mr. ELDRIGE. Umatilla Electric Cooperative is located about 100 miles up the Columbia River from Portland, Oregon. We have 2,500 square miles of service area, a little over 9,000 members, 2,100 miles of power line, mostly overhead lines, about 500 miles of underground line. We average six customers per mile of line.

The portion of our service area that we want to address specifically today is in the Umatilla National Forest, in the Blue Mountains. In this area is where a lot of co-ops ended up serving because no one else would; very difficult terrain, extreme weather conditions, scattered electric customers, and Federal land, both U.S. Forest Service and Tribal lands.

And in these mountainous areas, we have four customers per mile, about $4,200 a year in annual revenue per mile of line, and about an $8 million investment in today's dollars.

We have 141 miles on the Confederated Tribes Umatilla Indian Reservation. And with the Confederated Tribes, we have a very good relationship with them. We pay a fee that is very reasonable to cross their lands. Many of the tribal members are long-time members of Umatilla Electric, and we just seem to be able to work through the issues that come up.

When the Bureau of Indian Affairs are involved, it gets much more complicated and takes a much longer time. But if it is an issue that local people can deal with, we invariably will settle it.

Now, as I said, we have Umatilla National Forest to deal with, too. And in our experience there, as well, when the District Ranger has the authority to deal with the issues as they come up, we have pretty good success. I visited with him, and I sensed that he was quite frustrated with not having the latitude that he felt was reasonable. And he expressed some of the issues that are coming our way. And we have a great concern about new processes that are being done without our input, and also the issue of strict liability.

So let us begin with the current regulations. Any ground-disturbing activity is subject to an environmental review, and ground disturbance can be a shovel full of dirt on. The required environmental review determines if the action is allowed or if there is an adverse effect to the environment or habitat. If the latter is found, then you have to comply with the Endangered Species Act, the

National Environmental Policy Act, the Historical Preservation Act, and other Federal statutes.

And I looked at the NEPA law, I hadn't looked at it for a long time. If you wanted to, you could read that it was an environmental event if you walked in the forest. And I think one of the problems we have is that there is not enough definition to what is actually required, or are the goals clear of what the Forest Service wants.

So if you would have an environmental effect, you have to have an approval by a botanist, a fish biologist, and a wildlife biologist from known fisheries and the U.S. Fish and Wildlife Service. Compliance with the Historical Preservation Act requires approval by an archaeologist. And if it is on tribal land or a potential tribal impact, then tribal representation is required.

And then if we are in a visually sensitive area, the Forest Service can require virtually whatever they wish to if they make that designation.

So each quarter the U.S. Forest Service lists all of the proposed activities on U.S. Forest ground. It also is listed publicly, but it also is sent out to an extensive list of interested parties.

Anybody can comment on the scheduled activities. They can request public hearings, they can recommend specific actions. And as we speak, I will give some examples of things.

In Central Oregon, which some of you may know is the new urban area in Oregon—a lot of very wealthy people live there, it is very scenic and so on—Mid-State Electric Co-op has an approved U.S. Forest Service trim line on a piece of land. A developer requested that they straighten this line and move it a quarter of a mile from its current location. They have been two years waiting for that approval. Straightening the line would actually lessen the impact on forest land because dies and so on would be lessened.

In Central Oregon you have to give three- to five-year notice. In Western Oregon, a timber sale was arranged with local officials. People from Washington, D.C. canceled the sale after everything was arranged.

The U.S. Forest Service developed a forest watershed plan on Ditch Creek and recommended that the only road in this area be closed, and it was a road that Consumers Power used to maintain a line that had been there since 1948. Consumers contacted the Forest Service, requested an appointment, sent in comments. They were assured they would have a meeting. Then they got a letter that the plan had been implemented because the U.S. Forest Service had determined that in consumers permit, they were not prevented from closing the road, so it just went and did so.

In our own case, on Weston Mountain, we had to move a pole because it was interfering with a ski lift. And we were told that this would be a significant event. And we couldn't understand why digging a pole hole 18 inches wide and six feet deep was a significant environmental event.

And they said the reason is that a mile down the hill is Looking Glass Creek which runs 11 miles into the Ground Round River, and in the Ground Round River are listed salmon. Therefore, it is a significant environmental event. And after a year of effort, the local ranger finally allowed us to do it, and of course, with

equipment, we disturbed the ground at about a 100-foot radius. But we stabilized it, we planted it. No dirt left the area.

Any of you who have been in the forest know there is a lot of bare ground, and not just digging pole holes will cause that. So Representative Walden, Chairman Walden covered the strict liability, and he is right on the mark. We have a danger pole that we told the U.S. Forest Service about in July. We still don't have permission to remove it. It could hit a line if it fell on its own in the prevailing winds.

So we don't have an ability to limit our exposure, but we are strictly liable up to $1 million. And then beyond that, normal negligence applies. What I think is needed is open dialogue and collaboration with utilities, the U.S. Forest Service to help us to understand what they are trying to achieve, and then put actual standards in the agreement.

That concludes my remarks. Thank you.

[The prepared statement of Mr. Eldrige follows:]

Statement of The Honorable M. Steven Eldrige, General Manager and CEO, Umatilla Electric Cooperative

Introduction:

Steve Eldrige has been the General Manager and CEO of Umatilla Electric Cooperative (UEC) since December of 1990 and has over 34 years of electric utility experience. Steve is currently Chairman of the Governor's Oregon Rural Policy Advisory Committee, Eastern Oregon Telecom, LLC, and the Oregon Rural Electric Cooperative Association Government Affairs Committee. He serves on the Boards of Pacific Northwest Generating Cooperative and the Good Shepherd Hospital Board of Trustees. Steve also represents UEC on the Bonneville Power Administration Power Function Review Committee and the Tri-Cities/Hermiston Group.

Testimony:

Umatilla Electric Cooperative's (UEC) service area is in North Eastern Oregon, approximately 200 miles east of Portland, Oregon along the Columbia River. Our service area continues East, around the towns of Hermiston and Pendleton into the Blue Mountains towards La Grande and Union. UEC serves about 2,500 square miles, has 9,500 members along 2,100 miles of power lines—mostly overhead lines, but also 540 miles of buried power lines.

The portion of our service area we wish to address today resides in the Blue Mountains. This area epitomizes areas in which electric cooperatives were created to serve—very difficult terrain, extreme weather conditions, scattered electric customers, and Federal land lines both U.S. Forest Service and Tribal. In UEC's case, there are approximately four year-round customers per mile of line who provide $4,200 per mile in annual revenue, with an investment of $8,000,000 in today's dollars.

UEC has 141 miles of primary line on the Confederated Tribe of the Umatilla Indian Reservation near Pendleton, Oregon. We have a very good relationship with the Confederated Tribes. We pay annual fees to serve on their lands and have been able to work through land use issues satisfactorily. Many of the Tribal members are also long time members of UEC. It just seems when a problem arises between local people and local people have the authority to resolve the issue, we usually quickly resolve the matter.

On the other hand, we have the U.S. Forest Service for Umatilla National Forests. In our experience, when the District Ranger is given sufficient authority to resolve issues, we usually are able to within a reasonable amount of time. We have growing concern over existing and planned regulations and great concern over the Strict Liability clause in U.S. Forest Service rights-of-way permits.

Let's begin with current regulations. Any "ground disturbing" activity is subject to an environmental review—ground disturbance is a shovel full of dirt or more. The required environmental review determines if the action is allowed or if there is "adverse effect to the environment or habitat". If the latter is found, then provisions of the Endangered Species Act and Historical Preservation Act among other federal statutes must be met. Compliance with the Endangered Species Act requires approval by a botanist, and both a fish biologist and a wildlife biologist from both the

NOAA Fisheries and U.S. Fish & Wildlife. Compliance with the Historical Preservation Act requires approval by an archeologist which can include Tribal representation. Additionally, if the activity is in a "visually sensitive" area, accommodation as determined by the U.S. Forest Service will be required.

Each quarter the U.S. Forest Service publishes all proposed activities scheduled to take place in the U.S. Forest Service. This list of proposed activities is also sent to a substantial list of interested parties. Anyone can comment on scheduled activities; request pubic hearings; or recommend specific actions. As we speak, a transmission line in Central Oregon is being upgraded with a requested move ★ mile from its current location. The current location has a valid U.S. Forest Service easement. The proposed move has been two years in process. The U.S. Forest Service and Bureau of Land Management require three to five years advance notice for proposed activities. In Western Oregon a timber sales project was arranged with local U.S. Forest Service to clear rights-of-way along a power line, but just before the sale took place, out of region U.S. Forest Service officials unilaterally cancelled the sale. This action places the power line in jeopardy and reduces public safety.

In our own service area, UEC had to move a single power pole to remove a potential hazard to skiers on Weston Mountain—the process took over a year to complete. The explanation we were given is that digging a hole in the ground for a power pole may have an adverse affect on the environment and habitat. We asked how removal of less than four cubic feet of dirt could be significant. The response was that Looking Glass Creek was down hill from this proposed power pole; Looking Glass Creek drains into the Grande Ronde River; and the Grande Ronde has endangered salmon. Although the District Ranger finally allowed the pole to be moved, it took over a year to get the approval simply because there was a remote possibility that the dirt from a hole six feet deep and 18" wide might travel one mile down hill into Looking Glass Creek then eleven miles down stream into the Grande Ronde River which does contain listed salmon.

UEC has a Special U.S.E. Permit with the U.S. Department of Agriculture Forest Service which expires December 31, 2006. This permit specifies that UEC is strictly liable for up to $1M and liable under the general laws of negligence for amounts greater than $1M. Our permit specifies what we are authorized to maintain, a right of way ten feet for buried lines and a right way of thirty feet wide for overhead lines. Any activities beyond this must be pre-approved in writing from the U.S. Forest Service unless an emergency exists, which can be dealt with, then, within 48 hours we are required to notify the U.S. Forest Service and hope for forgiveness.

Recently, we identified a dead danger tree more than 30 feet from our overhead power line with a request for permission to fall the tree because if it falls on its own with the prevailing winds it can, and probably will, contact our power line. We've been waiting since last July, 2005, for permission to remove this danger tree. (When a tree contacts a power line, sparks can result). So, we are subject to strict liability, but cannot limit sufficiently our exposure because we cannot act unless such action is pre-approved, in writing, by the U.S. Forest Service.

What is to be done? First of all, the Forest Service Special USE Permit must be re-written in consultation with the affected utility companies. If the U.S. Forest Service will be transparent about its goal and accommodating with utility owners, the public we both were created to serve will benefit.

Why is strict liability contained in our Special SE Permit? Unless there is a certainty that UEC will refuse to cover acts or omissions for which it is liable, the strict liability clause must be removed.

Thank you, Mr. Chairman, for giving me the opportunity to testify on an issue of such importance to the member-owners of Umatilla Electric Cooperative. I'd be happy to answer any questions you might have.

Mr. RADANOVICH. Thank you, Mr. Eldrige, for your testimony. Now, next is Mr. Bobby Blair of the San Miguel Power Association.

STATEMENT OF BOBBY BLAIR, CHIEF EXECUTIVE OFFICER, SAN MIGUEL POWER ASSOCIATION, RIDGEWAY, COLORADO

Mr. BLAIR. Thank you, Mr. Chairman. My name is Bobby Blair; I am the CEO of San Miguel Power Association Rural Electric Cooperative in the Rocky Mountains of Southwest Colorado. I also represent Tri-State Generation and Transmission Association. Tri-State is a generation of transmission cooperative owned and

serving 44 rural electric cooperatives in Colorado, Wyoming, Nebraska, and New Mexico. I am also on the Executive Committee for Colorado Rural Electric Managers' Association.

San Miguel Power Association serves approximately 12,000 meters, with a customer density of 6.6 consumers per mile of line. Included in the seven counties that we serve in the San Juan, the Uncompahgre, the Rio Grande, the Gunnison National Forests also are thousands of acres of BLM land.

Our biggest problem that we have in dealing with the Federal agencies, being the BLM and the Forest Service primarily, are the inconsistencies that we deal with in the field. They seem to be understaffed. Before we can clear our right-of-ways, we have to have approval and identify trees to clear. These trees, when we are allowed to go in and do trimming, they are very narrow in scope. They want pruning done instead of tree removal done. Many of the trees are large pines that, if they do fall, they are going to fall on the power line.

We have had several instances in the past several years where we have actually started forest fires. Thankfully, they have been controlled with small burns and were seen. But obviously in our area, it can happen in areas where we would not be as fortunate, and a fire would have a large head start before it is even identified.

We have a beetle-kill problem in that area. It has been estimated that we will lose 80 percent of the pines in our forests to this beetle kill if something isn't done about it. These are all becoming tender. And when trees die, they do fall. And when they fall, they are going to fall on our power lines, because we are not allowed adequate right-of-way clearance.

My colleague was speaking of the botanists and the biologists, and we deal with that, as well. And unfortunately, our situation is that many times information that we are getting is contradictory. It is very expensive to a small, not-for-profit cooperative that is owned by its consumers.

In my written testimony you see a couple of examples where we get one story from one, and another from another. And probably the most prevalent is we were removing an overhead power line approximately a mile and a half up the side of a mountain to some communication sites that we had not been allowed to maintain adequate clearance in that right-of-way over the year, and so there was a lot of growth that had occurred in that right-of-way.

We replaced that power line with one that was placed underground. We spend approximately $200,000 a year on tree-trimming alone in our service territory, and we trim trees 12 months out of the year. So we have a crew in removing the trees so that we can place the new power line.

Part of our requirement in the field, the individual in the field required that we remove the timber, and then we pull it back into the right-of-way, and place it so that it looks as if it had fallen naturally.

As this is happening, and it took us approximately three weeks and I am going to guess somewhere around $30,000 to achieve, while this is happening I get a letter from her boss asking this for our input as to the best way to remove the timber to mitigate the

fire danger. And obviously the answer was it was out once, let us just keep it out.

But these are the situations that we run into in the field, and they are getting to be more and more common.

Now, that being said, I do not want to leave the Committee with the impression that we have not had favorable dealing with any of these agencies, as well. We deal with several. There seems to be a tremendous rotation of employees. We may be dealing with one person one year who is not there the nest year, and that has been an ongoing problem.

But we do have one particular district that seems to take the approach that they want to help us achieve our objective within their guidelines.

And that is a refreshing view when you are dealing with the Forest Service, and they come out, and they look for every way possible to help you achieve your success and theirs, as well. Because it is not the case we seem to run into in a lot of areas: personal agendas, personal political views, or personal environmental views.

And I think that the cooperatives as a whole have a very good environmental record. We are very conscious about that. We are not asking for permission to do what we want, when we want, wherever we want; we just need a little bit of process and some consistency in dealing. When you go from one managed district to another with the same job, because our power lines don't end, it requires two permits.

It is the same project, it is the same forest, but it may be a different district, forest district. And so again, you start the process, and deal with different people on both sides, and start all over again.

These are some of the frustrations that we deal with, and of course the rest is in the written testimony. But I do appreciate the opportunity to come and be heard.

Thank you.

[The prepared statement of Mr. Blair follows:]

Statement of The Honorable Bobby Blair,
Chief Executive Officer, San Miguel Power Association

Thank you, Mr. Chairman. I appreciate your giving me the opportunity to testify on an issue of great importance to rural Coloradans. I am Bobby Blair, the CEO of San Miguel Power Association, a rural electric cooperative in the Rocky Mountains of Southwest Colorado. I also represent Tri-State Generation and Transmission Association. Tri-State is a Generation and Transmission Cooperative owned by and serving 44 rural electric cooperatives in Colorado, Wyoming, Nebraska, and New Mexico. I am also privileged to serve on the executive committee of the Colorado Rural Electric Manager's Association

San Miguel serves about 12,000 meters with a customer density of 6.6 per mile of line. Included in the 7 counties we serve are the San Juan, Uncompahgre, Rio Grande, and Gunnison National Forests. Also included are many thousands of acres of federal property belonging to the Bureau of Land Management (BLM).

There are very few locations within our service territory that a mile of line can be extended without breaching the boundaries of one of these agencies. We deal with three United States Forest Service (USFS) and two BLM districts. The permitting process for placing or upgrading power line has become a political game in which the rules change at the whim of their representative in the field. Many seem to be hard-line environmentalists whose personal and political views dictate how our job will go. There is little consistency from agency to agency, district to district, or even within the same offices. There seems to be no standard operating procedure.

In 2004 we were removing 1.5 miles of old overhead distribution line that crossed BLM land and replacing it with an underground line. We had never been allowed

to properly maintain safe clearances in our right-of-way for the overhead line so quite a few trees had grown up and had to be removed. After completing the underground job, the BLM representative insisted that we place the removed timber back into the right-of-way. She wanted it "placed as though it had fallen naturally". Hauling and arranging timber onto 1.5 miles of freshly disturbed wet dirt on the side of a mountain is no easy task. We lost weeks and many thousands of dollars to the process. Then came the salt in the wound. Just as we were putting the finishing touches on placing the timber, I received a letter from the supervisor in her office asking for our input on the best way to remove the timber to mitigate the fire danger.

During the winter of 2004 an avalanche knocked down a portion of a transmission line that was built in the 1950's in wetlands on USFS property. We are relocating the line outside of the wetlands and avalanche chute to a service road. This relocation will also greatly reduce the visual impact of the line. Obviously we were using the service road for access while removing the necessary trees to accommodate the new line. A small portion of the road has water flowing over it. Over the years people have driven around the source of the water which created another segment of road around it. In the field, the representative of the Forest Service prohibited us from using the loop and ordered that we mitigate the water on the original road segment. After spending three weeks and tens of thousands of dollars on hauling gravel and dirt and placing a culvert under the road, another Forest Service representative visited the site. She said: "that's a natural spring in a bottomless peat bog. Just leave it alone and use the loop." Shortly after the road situation was dealt with another arose. Progress was again stopped by USFS personnel. We were told we couldn't continue until a timber sale was held. This came as a surprise to us as we had spent months in the permitting process and nothing had been mentioned about a timber sale. It was estimated that it would take close to 6 weeks to complete the process. Someone would have to come and inventory and appraise the timber before it could be marketed. Then a sale would be held. When I asked her how much the timber might sell for, she replied "it could go for as much as $2,000". We were able to negotiate to purchase the timber ourselves for $2,400 and our guarantee that the timber would be used and not disposed of. The weather in the mountains always dictates a limited construction season and this job site is at an elevation of approximately 10,000 feet. Our construction season was lost to the permitting process and the personal preferences of an individual in the field.

It has been estimated that the forests within our service territory will lose up to 80% of the trees to the devastating pine beetle. This combined with several years of drought conditions has left the area very susceptible to forest fires. Properly cleared and maintained rights-of-way can act as natural fire barriers as well as provide access for firefighters. Trees contacting power lines in poorly maintained rights-of-way will actually become the cause of forest fires as we have experienced several times in recent years. The forest service does not allow us to trim trees until they have been identified by their personnel. Because they are understaffed this process usually takes several months to achieve. Once they have been identified our tree crews trim as directed by the agencies. Usually the allowed trimming is very minimal which causes us to trim each area more frequently. San Miguel Power spends in excess of $200,000 a year on tree trimming alone. I am not aware of a single location in a heavily forested area where we have been allowed proper adequate clearance for a power line. The Forest Service and BLM have participated in meetings and symposiums to deal with a variety of fire mitigation measures. I find attendance very frustrating when the most logical measure would be to keep the fuel away from the ignition source.

To say that we have no favorable dealing with these agencies would be misleading. In my opinion one USFS district in particular could serve as a model for all others. The Norwood district seems to look for ways to help us achieve our objectives while remaining in compliance with their rules and regulations. They take a common sense approach to their duties and keep their personal preferences and politics out of the process.

The Bush Administration and Congress have been preaching reliability and infrastructure to deal with the nations growing energy needs. However, it is these same agencies of the federal government that are providing the greatest deterrent to achieving their stated goals.

We are not asking for a free pass to build whatever we want wherever we want it. We are asking for a streamlined process with consistent procedures and requirements. This would go a long way toward removing the expensive personal preferences and political views of under qualified personnel in the field. It would also relieve some of the staffing shortfalls that these agencies are experiencing.

Thank you, again for holding this hearing of great importance to the member-owners of my electric cooperative. I would be happy to answer any questions you might have.

Mr. RADANOVICH. Thank you, Mr. Blair. Next is Mr. Dan Hutt of the Black Hills Electric Co-op. Welcome to the Subcommittee. You may begin your testimony.

STATEMENT OF DAN HUTT, GENERAL MANAGER, BLACK HILLS ELECTRIC COOPERATIVE, CUSTER, SOUTH DAKOTA

Mr. HUTT. Thank you, Chairman Radanovich and Chairman Walden, Members of the Subcommittee, and a special thank you to Representative Herseth for that nice introduction.

Chairman Walden, I would like to also thank you for visiting the Black Hills of South Dakota last August, and for holding a Subcommittee hearing there. You have first-hand knowledge of the area and some of the challenges we face.

I appreciate the opportunity to address the Subcommittees on Forest Management Practices as they relate to electric service. I am a native of the Black Hills with a degree in biology and 27 years of experience with electric cooperatives serving the area. I have also served on the Bureau of Land Management, the Dakotas' Resource Council, and I am currently an alternate member of the Black Hills National Forest Advisory Board.

Black Hills Electric Cooperative has approximately 1,000 miles of transmission and distribution power lines within the boundaries of the national forest, with 250 miles of that on Black Hills National Forest special-use permits.

The cooperative provides permanent electric service to dozens of national park, national forest, U.S. geological survey, and state game, fish, parks facilities. We also provide service to fire departments and other emergency responders, communications facilities, and fire suppression camps.

Through the management practices of the past few decades, much of the Black Hills National Forest is overpopulated with unnaturally dense and unhealthy stands of Ponderosa Pine trees. The overcrowded forest conditions and the severe drought of recent years have created ideal conditions for unprecedented infestations of the mountain pine beetle. The millions of dead and dying beetle-infested trees have contributed to the already-excessive fuel loads, creating dangerous conditions that support large, intensely hot unmanageable wildfires. Please refer to the testimony at the Subcommittee's hearing in Hill City, South Dakota, in August of 2005 for details of the forest conditions.

The forest conditions have a major impact on the cost and reliability of electric service in the cooperative service territory. Since 2000, almost 200,000 acres have burned in intense wildfires. Black Hills Electric Cooperative sustained greater losses in those fires than any other private property owner. Miles of power line were completely destroyed, and a substation was permanently disabled.

Falling trees and wildfires have been the single-largest cause of power interruptions on the cooperative system over the past five years. The cooperative has spent extensive resources to combat the

danger of beetle-infested trees and other trees weakened by decades of forest management practices.

The cooperative is discouraged from adequate clearing by requirements of advance payment at market price for totally unmarketable trees cut during right-of-way maintenance. The cooperative has a legal obligation to serve all within its service territory. With the present forest conditions, the risk to provide that service is astronomical. One spark from a falling tree, severe winds, or an equipment failure could ignite an inferno that would be devastating to Black Hills communities and for the cooperative.

My cooperative has enjoyed a good working relationship with Black Hills National Forest for many years. From the Forest Supervisor to the men and women in the field, there is a universal dedication to the mission of the Forest Service. The deplorable condition of the forest is not the result of bad people doing a lousy job, or the result of the management practices these talented people would have preferred. It is the consequence of a system that is broken and needs to be fixed or replaced.

In the little time I have left, I offer the following suggestions for improvement of Federal lands. My written statement addresses them in greater detail.

One. Include forest health as a major objective in all forest planning.

Two. Review, reform, and streamline the planning process.

Three. Include utilities in timber sales, forest improvement projects, and planning processes.

Four. Review and improve fire suppression management practices to enhance effectiveness and lower costs.

In conclusion, I would like to thank you for inviting me to testify today. Forest health is vitally important to this nation's health, and to the reliability of this electric power system.

I am encouraged by the Subcommittee's interest in the topic. Thank you.

[The prepared statement of Mr. Hutt follows:]

Statement of Dan Hutt, General Manager and Executive Vice President, Black Hills Electric Cooperative, Custer, South Dakota

Thank you Chairman Radanovich and Chairman Walden, Members of the Subcommittees, and a special thank you to Representative Herseth from my home state. Chairman Walden, thank you for visiting the Black Hills of South Dakota last August and for holding a subcommittee hearing there. You have first-hand knowledge of the area and some of the challenges we face.

I appreciate the opportunity to address the subcommittees on forest management practices as they relate to electric service. My name is Dan Hutt. I am a native of the Black Hills with a degree in biology and twenty-seven years of experience with the electric cooperative serving the area. I have also served on the Bureau of Land Management Dakotas Resource Council and am currently an alternate member of the Black Hills National Forest Advisory Board.

Black Hills Electric Cooperative has approximately 1,000 miles of transmission and distribution power lines within the boundaries of the national forest with 250 miles of that on Black Hills National Forest special use permits. The cooperative provides permanent electrical service to dozens of national park, national forest, U.S. Geological Survey, and state game, fish, and parks facilities. We also provide service to fire departments and other emergency responders, communications facilities, and fire suppression camps.

Due to the management practices of the past few decades, much of the Black Hills National Forest is overpopulated with unnaturally dense and unhealthy stands of Ponderosa Pine trees. The overcrowded forest conditions and the severe drought of recent years have created ideal conditions for unprecedented infestations of the

mountain pine beetle. The millions of dead and dying beetle-infested trees have contributed to the already excessive fuel loads creating dangerous conditions that support large, intensely hot, unmanageable wildfires. Please refer to the testimony at the subcommittee's hearing in Hill City, South Dakota in August of 2005 for details of the forest conditions.

The forest conditions have had a major impact on cost and reliability of electric service in the cooperative's service territory. Since 2000 almost 200,000 acres have burned in intense wildfires. Black Hills Electric Cooperative sustained greater losses in those fires than any other private property owner. Miles of power line were completely destroyed and a substation was permanently disabled. Thousands of families and businesses were without power.

Falling trees and wildfires have been the single largest cause of power interruptions on the cooperative's system over the past five years. The cooperative has had to expend extensive resources to combat the danger of beetle-infested trees and other trees weakened by decades of forest management practices. The cooperative is discouraged from adequate clearing by requirements of advance payment at market price for unmarketable trees cut during right-of-way (ROW) maintenance.

The cooperative has a legal obligation to serve all within its service territory. With the present forest conditions the risk to provide that service is astronomical. One spark from a falling tree, severe winds, or an equipment failure could ignite an inferno that would be devastating to Black Hills' communities and to the cooperative.

My cooperative has enjoyed a good working relationship with the Black Hills National Forest for many years. From the Forest Supervisor to the men and women in the field there is a universal dedication to the mission of the forest service. The deplorable condition of the forest is not the result of bad people doing a lousy job or the result of the management practices these talented people would have preferred. It is the consequence of a system that is broken and needs to be fixed or replaced.

In the little time I have left, I offer the following suggestions for improvement in the management of federal lands. My written statement addresses them in greater detail.

1. Include forest health as a major objective in all forest planning.
2. Review, reform, and streamline planning processes. Provide for the use of categorical exclusions or similar management tools for most projects. Review the effectiveness and advisability of all environmental requirements. Limit appeals and litigation of forest management decisions. Allow local forest managers more flexibility and place more weight on local comments received during the hearing process.
3. Include utilities in timber sales, forest improvement projects, and planning processes. Strengthen stewardship programs for fuel reduction on forest areas adjacent to private lands and utility ROWs. Plan timber sales so that they enhance utility ROWs. Remove barriers to utility ROW maintenance including prior notification, limited access, and fees for unmarketable trees. Remove beetle-infested trees from wildland/urban interfaces and areas adjacent to utility ROWs. Promote negotiation between federal agencies and utilities in the development or extension of special use permits. Encourage agency personnel to participate in free safety training provided by utilities.
4. Review and improve fire suppression management practices to enhance effectiveness and lower costs. Include utility structures in fire protection assignments. Remove the risk of strict liability from special use contracts and assess damages only in the case of proven negligence.
5. Amend or repeal 36 CFR 251 so that it does not encourage excessive analysis at the expense of special use permit holders.

In conclusion, I would like to thank you for inviting me to testify today. Forest health is vitally important to this nation's health and to the reliability of its electric power system. I am encouraged by the subcommittees' interest in the topic. Thank you, and I'd be happy to answer any questions you might have.

Mr. RADANOVICH. Thank you, Mr. Hutt. Next is Mr. Albrecht. Thank you, sir, you may begin your testimony.

STATEMENT OF CARL ALBRECHT, GENERAL MANAGER, GARKANE ENERGY COOPERATIVE, INC., LOA, UTAH

Mr. ALBRECHT. Chairman Radanovich and committee members, thank you for the opportunity to make comments today. There will be a couple of attachments to my testimony. First of all, a letter, my letter to DOE concerning section 368 of the Energy Policy Act, and an email I received from Congressman Matheson's office concerning section 368 as well.

I am Carl Albrecht, CEO of Garkane Energy, a rural electric co-op that serves electricity to areas of south-central Utah and north-central Arizona. We serve approximately 12,000 customers over 2,000 miles of line, 16,000-square-mile service territory from central Utah to the north rim of the Grand Canyon.

We serve four national parks: Zions, Bryce Canyon, Capitol Reef, and Grand Canyon, I think more than any utility in the country. Private landownership in these three major counties that we serve is only 5 percent to 10 percent. We also serve the Grand Staircase-Escalante National Monument, the Pipe Springs National Monument, the Glen Canyon National Recreation Area, three different national forests—the Kaibab in Arizona, the Dixie and Fishlake in Utah—considerable Indian lands, or considerable BLM lands and two Indian tribes.

We are presently working on a new transmission line near Bryce Canyon which involves four Federal agencies. We have been asked to study eight different routes for this line, which in my mind, under section 368 of the new Energy Policy Act, the agencies themselves should decide which route they prefer, and then let us know.

We realize we will have to pay the EA on the selected route, but we should not have to study eight different routes.

We filed with the Department of Energy for a corridor designation on this line in November of 2005, after the Energy Policy Act was passed last August. I don't see that it was included in the preliminary November 7, 2005 report to Congress on corridors and rights-of-way on Federal lands, and only one of our transmission lines was recognized.

It appears to me that the agencies themselves are lost and vague at best on the administration of section 368 of the Energy Policy Act.

We have a small hydro plant which we are in the process of relicensing with FERC. We just recently signed a settlement agreement with the Forest Service and the State of Utah, which has now been sent to FERC for their review and hopeful approval on the relicensing process.

We started this process in 2002, and to date have spent over $800,000 completing 29 separate studies for the various government agencies. We will spend over $1 million to renew this license when it is completed. I do want to thank the Forest Service for their efforts in helping us reach the settlement agreement.

During the winter of 2004 and 2005 the Northern Arizona region of our service area received record snowfalls. These snows took down over 100 trees along our power line which serves the north rim of the Grand Canyon. We had to hire heavy equipment to go in and clear access to 16 structures which were broken by fallen trees, at a cost of over $100,000.

We have asked the Park Service in the Kaibab Forest to allow us to clear more trees and eliminate dangerous leaning trees, but have been unsuccessful because of the rules and regulations concerning the Goshawk and the Mexican Spotted Owl Habitat. The Forest Service has admitted to us there are no Mexican Spotted Owls on the forest, and they don't know if there ever has been. Unfortunately, the majority of the line is located in Mexican Spotted Owl Habitat.

Not only does this situation provide problems in the winter, but it is extremely hazardous for potential forest fires in the summer, because, as this gentleman has mentioned, we have the same problem with beetle kill. And it is killing all the forests in the Southwest and throughout the West.

Concerning Garkane's and Utah Power's transmission lines through the Grand Staircase National Monument, both companies signed a non-impact plan for the two parallel lines in November of 2001. We were told at the time, in a letter by the monument manager, that the plan is not in full force until the surveys and the maps are completed. The surveys were to be completed by December of 2001 by the monument.

In July of 2003 we met with officials to discuss the status. They indicated portions had been completed, but we would have to hire an archaeologist to complete it if we wanted it done sooner. We have not heard from them since, which leaves both companies in a questionable position when it comes to maintenance on these lines.

The NEPA process, in my opinion, has become more of a political process than an environmental process. Land use plans are almost always challenged on procedural grounds, rather than on substance. When it takes these organizations eight years to develop a 10-year plan, there is a problem. There is "process paralysis" within these various agencies.

If I were king for a day, things would move along a little more expediently. There would be more reasonable procedures, and the personnel in the local agency offices would have an ongoing dialogue with us. We are not the enemy; we are just trying to operate a small utility and provide reliable service to our little part of the world in a prudent manner.

I have been hopeful and remained optimistic about securing these rights-of-way and solving these problems, but my retirement may come sooner than any decision on these issues.

Thank you for the opportunity to comment today, and I will be happy to answer questions when we are all completed.

[The prepared statement of Mr. Albrecht follows:]

Statement of Carl Albrecht, General Manager, Garkane Energy Cooperative, Inc., Loa, Utah

Thank you, Mr. Chairman, for your giving me this opportunity to testify on an issue of such importance to the member-owners of my rural electric cooperative. I am Carl Albrecht, the CEO of Garkane Energy Cooperative, Inc., a rural electric cooperative which serves electricity to the rural areas of South Central Utah and North Central Arizona.

Garkane serves approximately 11,000 customers over 2,000 miles of transmission and distribution line, or about 5 1/2 customers per mile of line. It is a unique electric utility in that we serve Zions, Bryce Canyon, Capitol Reef, and Grand Canyon National Parks

We also serve the Grand Staircase-Escalante National Monument, the Glen Canyon National Recreation Area and three different National Forests—Kaibab in Arizona and Dixie & Fishlake in Utah. We also serve considerable BLM administered lands and several state parks.

As you can imagine, we have many lines which traverse and serve these governmental entities and the rural communities surrounding them. Over the years, Garkane has experienced difficult and lengthy time periods in securing new rights-of-way for new and upgraded power line facilities.

For example, we are presently working on a new transmission line from our Tropic, Utah, Substation east of Bryce Canyon, to our Hatch Substation west of Bryce Canyon, which involves four federal agencies—Grand Staircase-Escalante National Monument, Dixie National Forest, Bryce Canyon National Park, and the BLM. We have been asked to study eight different routes for this line. From my perspective, under the Energy Policy Act, the agencies should decide themselves which route they prefer and let us know their preference. We realize we will have to pay for the Environmental Impact Statement (EIS) on the selected route, but we should not have to study eight different routes.

We filed a corridor designation for this line with the Department of Energy in November of 2005 after the Energy Policy Act of 2005 was signed into law by President Bush in August. (Copies of my comments to DOE are attached.) It was not recognized in the preliminary November 7, 2005 Report to Congress on corridors and right-of-way on federal lands. In fact, only one of Garkane's transmission lines was recognized.

We are also working with the Dixie National Forest on a new line to serve the rapidly growing area of Cedar Mountain, which is north of Zion National Park. We are told that a decision on this line will be made by this fall

During the winter of 2004 and 2005, the Northern Arizona Region of our service area received record heavy snowfall. The heavy wet snows took down over 100 trees over our power line which serves the North Rim of the Grand Canyon. We had to hire heavy equipment to clear access to 16 structures which were broken or taken down by falling trees, at a cost of over $100,000. We have asked the Grand Canyon Park Service and the Kaibab National Forest to provide us a wider right-of-way to clear more trees and eliminate dangerous leaning trees, but have been unsuccessful in obtaining that right-of-way because of the rules and regulations concerning the Goshawk and the Mexican Spotted Owl Habitat. The Forest Service admits there are no Mexican Spotted Owls on the forest and don't know if there ever has been. Apparently things have changed. Previously, the Forest Service dealt only with the owl and habitat related to the owl. Now, habitat has equal standing to a species with an endangered listing. Unfortunately the majority of the line is located in Mexican Spotted Owl habitat. To work on the right-of-way or line from March 1 through August 31 (the time most conducive to work) surveys would need to be completed for two consecutive years prior to any activity. Once the survey is completed, a consultation with the U.S. Fish & Wildlife as necessary. Garkane would have to pay the U.S. Fish & Wildlife Service for the survey and consultation.

We are authorized to complete maintenance from September 1 through February 28 (usually a very short window due to snow) in the Mexican Spotted Owl habitat without the survey and consultation. The Forest Service is very reluctant to let any bulldozer work be done or have any ground disturbance.

In Capitol Reef National Park, our right-of-way requires us to give them seven days written notice before entering for maintenance or repairs, with daily notification before initiating any work. During emergencies, we notify them as soon as possible.

Concerning Garkane's and Utah Power's transmission lines through the Grand Staircase-Escalante National Monument (GSENM), both companies signed a joint O&M Plan for the two parallel lines in November 2001. We were told in a cover letter signed by the Monument Manager, that the "plan is not in full force", until the surveys and maps have been completed. The maps and surveys were supposed to have been completed by December 31, 2001. In July of 2003, we met with Monument officials to discuss the status. They indicated portions had been completed, but we would have to hire an archeologist to complete it, if we wanted it done sooner. We have not heard from them since.

There is an old saying that the world is run by those who show up. Well, we have shown up to all the meetings, we have made comments to the agencies, but we do not get timely responses or action.

The NEPA Process, in my opinion, has become more of a "political process", than an "environmental process". Land Use Plans are almost always challenged on procedural grounds, rather than on substance. When it takes these agencies eight years

to develop a 10-Year Plan, there is a problem with the process. There is "process paralysis" within these organizations.

I have met with my Congressional Representatives, Representative Matheson and Representative Cannon, and have worked with Senator Hatch's Office, all of whom have been helpful; however, it seems the word never trickles from the top to the local office on the ground. Representative Matheson's staff member's e-mail to me dated April 5, 2006, is also attached, outlining their perspective on how Section 368, Energy Right-of-Way Corridors of the EPAct, will flow through the various agencies. It appears the agencies themselves are lost and vague at best on this issue.

I have been hopeful and have remained optimistic about securing those rights-of-way and solving these problems, but my retirement may come sooner than any decision on these issues.

Again, thank you for inviting me to testify on this important issue to the 11,000 member-owners of Garkane Energy Cooperative. I would be happy to take any questions you might have.

[NOTE: Attachments have been retained in the Committee's official files.]

Mr. RADANOVICH. Thank you, Mr. Albrecht. We appreciate your testimony.

Next is Mr. Michael Neal with the Arizona Public Service. Mr. Neal, welcome to the Subcommittee. You may begin.

STATEMENT OF MICHAEL NEAL, MANAGER OF FORESTRY AND SPECIAL PROGRAMS, ARIZONA PUBLIC SERVICE, GLENDALE, ARIZONA

Mr. NEAL. Good morning. My name is Michael Neal, and I am the Manager of Forestry and Special Programs for Arizona Public Service, where I manage over 18,000 miles of distribution and transmission lines in Arizona.

Thank you for inviting me to testify on behalf of APS and the Edison Electric Institute. A year ago APS and EEI met with Members of the House and Senate, as well as FERC commissioners, about right-of-way management problems on Federal lands. We were concerned that the inability to properly manage vegetation on rights-of-ways on Federal lands posed a risk to grid reliability and public safety, and could cause utilities to violate reliability standards which, under the then-pending energy legislation, would become mandatory.

You acted and included the right-of-way management provision in the Energy Policy Act (EPAct) of 2005. Thank you for that, and for your continuing oversight activities.

I would like to report that we are beginning to make some progress, particularly in Arizona's national forests. There is, however, a long way to go in other parts of the country.

Managing clean vegetation on or near rights-of-way has often been very difficult, regardless of whether the right-of-way is located on private or Federal lands. While integrated vegetation management and utility vegetation management requirements only impact less than a fraction of a percent of overall Federal lands, the consequences of not effectively managing the rights-of-way and powerline corridors can be monumentally damaging to the rest of the land; for example, forest fires, as you mentioned earlier. It can also jeopardize reliable electric service.

The three most recent major power outages in the United States were triggered by electric transmission lines interacting with trees, leaving as many as 60 million Americans in the dark. The intense public review that followed the last U.S. blackout yielded two

significant conclusions. First, existing laws and requirements governing vegetation management activities were not adequate to reduce the incidence of vegetation-related blackouts. Second, the decentralized process and variable procedures for approving utility vegetation management activities for rights-of-way across Federal lands are an obstacle to timely and scientifically based management.

In general, the problems of managing rights-of-way on Federal lands are several. It takes too long to approve vegetation management activities, even routine maintenance. Routine maintenance left undone can quickly create emergency dangerous situations that increase the risk of fire and the loss of power, as trees continue to grow toward the power lines without regard to manmade decision timelines.

Federal land managers frequently change their minds about accepted practices, even when pre-approved vegetation management plans are in place, and there is no common view among the different forests regarding accepted practices. Redundancy and repetition and reviews and work requirements add delay without corresponding benefits.

Utilities often cannot remove dead and dying trees located within or adjacent to a right-of-way that pose immediate threat to transmission facilities. Federal land managers are not adequately trained to understand and appreciate the technical requirements for power line reliability and safe operation.

Finally, while integrated vegetation management is widely accepted as scientifically sound, environmentally beneficial, and a cost effective approach to right-of-way management, the techniques are not well understood by land managers.

APS has experienced all these problems at one time or another in its efforts to carry out essential activities on its rights-of-way within the five national forests crossed by our power lines. The situation came to a head in one of our national forests last year, when no clearance of vegetation had been allowed for 18 months, even though we were able to clear to our standards on other national forests.

We had to take a 500-kV line out of service when the line tripped from interaction with five overgrown trees we had been unable to get permission to remove. This ignited a fire in overgrown brush under the wires. Had wind conditions been different, we would not have been able to extinguish the fire. Another 500-kV line parallel to this line would have been affected.

The line was out of service for over 18 hours until the problem was found. We had to compensate by bringing more expensive peaking units on line. There have been other incidents and also we have also lost distribution lines from fire where vegetation management activities were blocked, in one case leaving a community without power for 12 hours.

I tell you these stories to underscore the critical need for Federal land managers and utilities to work together to revamp the current approach to managing rights-of-way of the lands.

In 1997, I approached the forest officials about the developing a memorandum of understanding to provide a more effective and consistent process for managing their rights-of-way, including accepted

practices. When our efforts stalled, EEI began pursuing a national MOU in 2001, eventually aided by the new EPAct 2005 requirement that Federal land managers expedite approvals for UVM activities required to comply with mandatory reliability standards.

The MOU is now being 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 EEI on behalf of its member companies. EES is a first step toward implementation of section 1211[c] of the EPAct, and toward ensuring the management of rights-of-way on Federal lands is not an impediment to maintaining reliable electric service.

In conclusion, I would like to briefly summarize a practical day-to-day effect of our progress in Arizona. We have a hazard tree process in place that uses email to transmit information on trees, GPS location and maps, approval response time has been reduced to a day or two. In the past there was no consistent process, and those tree removals took a couple of weeks to get processed, with little cooperation from the Forest Service.

We are now able to schedule and work based on biological assessments we prepare subject to U.S. Forest Service approval. The lead time required has been reduced to weeks in all but one national forest, instead of months and years previously required, when you had to wait for overburdened Forest Service personnel to prepare the assessment.

APS and the Forest Service put together a UVM working group to develop an MOU for IVM work practices. Included in the IVM plan to address is the bark beetle issue as well. The draft MOU was completed and presented to the forest supervisors on April 27, 2006 for their review.

If approved, this will provide a consistent approach to all vegetation management activities within all the national forests in Arizona. This process will make all utilities in forests accountable to a standard format process of doing business. No longer will individuals within a certain forest dictate their own personal agendas to the work we need to get accomplished. A forest supervisor will appoint a central point of contact for each forest to act as a liaison for Arizona utilities.

Despite these promising developments, we still have a long way to go in Arizona and certainly elsewhere in the country to assure the reliability of facilities on Federal land. The character of the electrical grid has changed considerably since the Energy Policy Act of 1992. The 2005 Act will accelerate these changes.

As a result, where power lines cross Federal lands, these lands should be considered, first and foremost, as a central part of the nation's critical infrastructure. I encourage you to be vigorous in your oversight, and to step in when it is productive to do so.

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

[The prepared statement of Mr. Neal follows:]

Statement of Mike Neal, on behalf of Arizona Public Service and The Edison Electric Institute

My name is Mike Neal, and I am the Manager of Forestry and Special Programs for Arizona Public Service (APS), where I administer 5,000 miles of transmission and 15,000 miles of distribution lines throughout Arizona. 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 one year since APS and EEI first spoke with members of the House and Senate about problems associated with managing rights-of-way on federal lands. At the time, the August 2003 blackout that left 50 million Americans without electricity was a recent memory, and Congress was close to enacting a comprehensive energy bill that would make reliability standards mandatory, including standards for vegetation management. We came to Congress out of concern—based on our own direct experience and those of other utilities—that the inability to manage vegetation related to rights-of-way on federal land poses a risk to grid reliability and public safety and could lead utilities to violate mandatory reliability standards. We also talked to former Chairman Wood and Commissioner Brownell at the Federal Energy Regulatory Commission (FERC) about the issue, that they both might understand and support effective and aggressive utility vegetation management (UVM) efforts to prevent future blackouts and ensure the integrity of the nation's electric grid.

I am here to thank you for including a provision in the Energy Policy Act of 2005 that begins to address this issue and for your continuing oversight interest. I am also here to report progress in Arizona towards resolving some of our concerns, while recognizing that similar progress needs to be made elsewhere in the country.

Managing and clearing vegetation on or near rights-of-way has often been very difficult, regardless of whether the right-of-way is located on private or federal land. While Integrated Vegetation Management (IVM) and UVM requirements only impact—less than a fraction of a percent—of overall federal lands, the consequences of not effectively managing the rights-of-way (ROW) and powerline corridors can be monumentally damaging to the rest of the land (massive forest fires, etc). It can also jeopardize reliable electric service. The three most recent major power outages in the United States were triggered by electric transmission line interaction with trees. The blackouts of July 2, 1996, August 10, 1996, and August 14, 2003, resulted in the loss of power to 2 million, 4 million, and 50 million customers respectively. In 2003, a tree-caused blackout in Italy left 55 million Europeans in the dark.

The last major U.S. blackout led to intense review by utilities, the FERC, the North American Reliability Council (NERC) and the National Association of State Regulatory Commissions (NARUC). Among the most significant conclusions reached during this review was that existing laws and requirements governing UVM activities were inadequate to assure a low probability of future vegetation related blackouts. Also, the decentralized process and variable procedures for approving utility vegetation management activities for rights-of-way across federal lands are an obstacle to timely and scientifically-based vegetation management.

The first conclusion has been and is being addressed by a revision of existing standards for utility vegetation management that will ultimately become a FERC-approved mandatory reliability standard. Violation of the new standard could result in penalties of up to $1 million a day. Addressing the second conclusion is still a work in progress.

In general, the problems of managing rights-of-way on federal land are several:

- Vegetation management decisions are not timely, even for required routine maintenance. The inability to carry out routine maintenance can quickly lead to an emergency danger situation, increasing the risk of fire and the loss of power. Trees continue to grow towards the powerlines regardless of a decision timeline.
- Decisions regarding acceptable practices are inconsistent across districts, and sometimes even from year to year within the same districts. The presence of pre-approved vegetation management plans has not always insulated utilities from inconsistent decisions.
- Redundancy and repetition in reviews and work requirements add delay without a corresponding benefit.
- The inability to remove dead and dying trees or other vegetation poses an immediate threat to transmission facilities, whether located within or adjacent to a right-of-way.

- Federal land managers often do not adequately appreciate or understand the technical requirements for managing rights-of-way to assure reliability and public safety, including reducing fire hazards.
- Finally, federal land managers often do not accept or recognize the environmentally beneficial, technically sound, and cost effective techniques of IVM, which is the utility standard. In fact, the American National Standards Institute (ANSI) has recently approved a new standard for IVM under the A-300 standard. This is a consensus standard developed and approved with representation from the arborcultural industry, the Department of Labor, the Forest Service and the National Park Service.

Arizona Public Service has experienced all of these problems at one time or another in our efforts to carry out essential activities on our rights-of-way within 5 of the 6 national forests crossed by our powerlines in Arizona. For almost a decade, we were stymied in our efforts to obtain a consistent approach to vegetation management, which came to a head in one forest when no clearance of vegetation was allowed for 18 months even thou we were able to clear to our standards on the 4 other national forests. Last June, we had to take a 500 kV line out of service when the line tripped from interaction with 5 overgrown trees we had been unable to get permission to remove. This ignited a fire in overgrown brush under the wires. Had wind conditions been different, we would not have been able to extinguish the fire and another 500 kV line parallel to this line would have been affected. Our line was out of service for over 18 hours until the problem was found. We had to bring online peaking units to compensate. These units are much more expensive to run.

Also in about the same time frame, in the same forest, a lightening strike started a fire in overly dense brush under a 500 kV transmission line. The heavy black smoke from the fire tripped the circuit five times. We've also lost distribution lines to fire where vegetation management activities were blocked, in one case leaving a community without power for 12 hours.

I tell you these stories to underscore the critical need for federal land managers and utilities to work together to revamp the current approach to managing rights-of-way on federal lands. In 1997, I approached our forest officials about developing a memorandum of understanding (MOU) to provide a more effective and consistent process for managing our rights-of-way, including accepted practices. When our effort stalled, EEI stepped in around 2001, with the support of APS and other member utilities, to seek such an MOU at the national level. Negotiations on this MOU intensified following the August 2003 blackout and during the oversight conducted by Congress in 2005. In the Energy Policy Act of 2005 (EPAct), Congress requires federal land managers to expedite approvals necessary to assure that companies can comply with mandatory reliability standards approved by FERC for vegetation management.

I am pleased to report that that Memorandum of Understanding is now in the process of being 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 EEI on behalf of its member companies. We view this as a first step towards implementation of Section 1211(c) of EPAct and towards assuring that management of rights-of-way on federal lands is not an impediment to maintaining reliable electric service. The MOU recognizes the technical standards and requirements for maintaining reliability and signals to all federal land managers that meeting them is a priority.

I am also pleased to report that we have made significant progress as well within our national forests in Arizona. We have agreed upon a clear and technically sound definition of a "hazard tree," which will facilitate the identification and removal of hazard trees. The Regional Forester has initiated a Section 7 Emergency Endangered Species Act Consultation for hazard tree removal that embodies a comprehensive programmatic approach to power line maintenance activities. Phase I requires the individual forests to initiate an emergency Section 7 consultation on hazard tree removal. Phase II will develop a biological opinion covering hazardous tree removal for a period of 18 months, and Phase III will be preparation of a comprehensive programmatic biological assessment and opinion covering hazardous tree removal and routine right-of-way maintenance.

In addition, we are again moving towards completion of an MOU with all 6 national forests in Arizona, which will recognize the technical requirements and accepted practices for managing a transmission and distribution right-of-way for reliability. Nevertheless, we have a long way to go in Arizona, and certainly elsewhere in the country, to assure the reliability of facilities on federal land. I encourage you to be vigorous in your oversight and to step in when it is productive to do so.

In conclusion, I would like to briefly summarize the practical day-to-day effect of the progress that we have made with the Forest Service in Arizona since APS and EEI initiated discussions with the Committee a year ago.

- Past history—Notifications of hazard tree removals were done by a phone call with no consistent process in place. In fact, most removals took at least a couple of weeks to get processed with little cooperation from the Forest Service. In some cases we had to go over the District Rangers authority to the Forest Supervisor to get approval.
- Present—We have a hazard tree process in place that sends information on trees, GPS locations, and maps attached to an email that is responded to within a day or two for removal.
- Past history—We used to wait for months to years for biological assessments to be completed by the Forest Service for our work in the forests. They said it wasn't a priority and they were overloaded with work.
- Present—We now do our own biological assessments and have them sent in for approval before we are scheduled to do the work. This is a much simpler process and lets us schedule our work instead of the Forest Service. It has reduced the time to weeks instead of months or years in all national forests except for one.
- Past history—There was not a programmatic approach to combining numerous projects together for the Forest Service or the U.S. Fish and Wildlife Service (USFS) and it would take over 120 days for work to be approved thru the USFWS.
- Present—We are in the process of developing a programmatic agreement with all Arizona Forests and USFWS that will eliminate the 120-day waiting period and streamline our work tremendously. Once this project is completed in 2008 the utilities will contact the Forest Service in the beginning of the year for its annual work plan and file a report at the end of the year on the accomplishments.
- Past history—Our integrated vegetation management program wasn't accepted by all the national forests for managing rights-of-way, even though this approach is based on over 50 years of university research. In one case we haven't been able to perform this function for over 4 years.
- Present—APS and the Forest Service have put together a UVM working group to develop an MOU for IVM work practices. This was completed and presented to the Forest Supervisors on April 27, 2006 and we are now waiting for their decision. If approved this will provide a consistent approach to all vegetation maintenance activities within all 6 National Forests in Arizona. This process will make all utilities and forests accountable to a standard format and process of doing business. No longer will individuals within a certain forest dictate their own personal agendas to the work we need to accomplish. Forest Supervisors will appoint a central point of contact for each forest to act as a liaison for Arizona utilities.
- Past history—Emergency consultations (EC) were used on trees infested by the bark beetle, but the trees did not fit the initial requirements of the existing hazard tree definition. This always led to a lot of discussion and disagreement between utilities, Forests, and USFWS which delayed our ability to remove the trees.
- Present—EC are now being built into the programmatic document and hazard trees will be addressed with a process for their identification and removal throughout the State. Once this process is approved the utility will identify the hazard trees and remove them without intervention from the Forest Service as long as the utility follows the programmatic agreement. At the end of the year the utilities will file a report on the hazard tree program which will include number, location and species.

Finally, the character of the electric grid has changed considerably since the Energy Policy Act of 1992. EPAct 2005 will accelerate those changes. As a result, where powerlines cross federal lands, these lands should be considered first and foremost as an essential part of the nation's critical infrastructure. Thank you for holding this hearing. APS and EEI look forward to working with you on these issues.

Mr. RADANOVICH. Thank you, Mr. Neal. I appreciate your testimony.

I would like to recognize the Chairman of the Forests and Forest Health Subcommittee for questions. Mr. Walden.

Mr. WALDEN. Thank you very much, Mr. Chairman, I appreciate that.

Mr. Eldrige, I am going to go to you first. This notion about a single tree that your folks have identified as a danger that could fall onto power lines, you reference that in your testimony. That was identified, and the Forest Service was notified in July of 2005?

Mr. ELDRIGE. Correct.

Mr. WALDEN. And that tree is still standing?

Mr. ELDRIGE. It was before I left town, yes.

[Laughter.]

Mr. WALDEN. Nine months ago you sought approval to remove one tree that you folks, in their professional opinion, thought could pose a jeopardy to the power lines, and perhaps fall and start a fire for which you would be liable, correct?

Mr. ELDRIGE. That is correct.

Mr. WALDEN. What does the Forest Service say? Why does it take nine months to get an answer on removing one tree?

Mr. ELDRIGE. He was very apologetic, and said "I just forgot it."

Mr. WALDEN. You know, it strikes me that maybe we need to change the law so that if you make that request, in 30 to 60 days, some such figure, if you haven't gotten an answer, then the liability shifts.

Mr. ELDRIGE. Well, you know, I think that we should only be liable for things that we are shown to be negligent for. That is the way the rest of the world works, and that is what you can get insurance coverage for, easily.

I also think, as you are alluding to, there ought to be a timeframe. I think, also, that we are allowed a 30-foot right-of-way distribution line.

Mr. WALDEN. Right.

Mr. ELDRIGE. That is really inadequate.

Mr. WALDEN. Why shouldn't you be allowed to manage within that right-of-way, though?

Mr. ELDRIGE. Well, this tree was just outside the right-of-way.

Mr. WALDEN. But it is taller than 30 feet, right?

Mr. ELDRIGE. Yes, exactly.

Mr. WALDEN. So, I mean, OK, you have a 30-foot right-of-way. But if something taller than that can fall in and still hit the line, shouldn't you have the ability, in some expedited process?

Mr. ELDRIGE. That is exactly the answer, but we have been unable to get to that point.

Mr. WALDEN. You know, I referenced in my comments the problems in Cascade Locks. If you look up at this painting on the right here on the wall, Cascade Locks is about 20 miles on up the gorge. I live another 17 miles from that.

It is like a blowtorch condition in the summer, if you get a fire, and it almost burned up the City of Cascade Locks when that fire started.

Mr. ELDRIGE. Closed the freeway, too.

Mr. WALDEN. They actually dropped borate on the freeway to try and stop the fire. And it is a wonder, it is a miracle, frankly, it didn't burn up the whole town. And in the discussions I have had with the city, because it is a municipal power system there, they are very frustrated with their limitations to be able to do what

their professionals thought should be done to protect the safety of the lines and prevent this sort of fire from breaking out in the first place.

And now we are in this dispute with the Forest Service about who is really liable. And frankly, the odd thing is the line supplies power down to Multnomah Falls Lodge, not to the City of Cascade Locks. And so they have actually said they will just cut the power off to Multnomah Falls Lodge, and then we won't have to worry about it, which makes no sense, but I understand their frustration.

This issue you raised about moving one pole?

Mr. ELDRIGE. Yes?

Mr. WALDEN. How long did that take you to get approval?

Mr. ELDRIGE. Over a year.

Mr. WALDEN. And it is how far from the nearest stream?

Mr. ELDRIGE. It is a mile from the nearest creek, and 12 miles from the nearest stream that has a listed species in it.

Mr. WALDEN. Twelve miles from the nearest stream with a listed species.

Mr. ELDRIGE. Correct.

Mr. WALDEN. How much do you think it cost the Forest Service and your utility to go through this process for moving one pole or cutting one tree?

Mr. ELDRIGE. Well, fortunately they didn't require us to have a bunch of public hearings, and go through the kind of assessment, written assessment and study that I think they could have.

I think what happened is the member up there on the ski lodge was so upset that he was on their doorstep every day, and just wore them down, or it still wouldn't be done today.

Mr. WALDEN. So the Forest Service, they incurred costs to process this? Or what took so long?

Mr. ELDRIGE. I don't think anything was done. I think it just sat there. And it was unclear to us how to move forward.

Mr. WALDEN. Let us go to this issue in Central Oregon then, and the moving of the line that you referenced, a quarter-mile move into a right-of-way that was approved. How many years was involved in that?

Mr. ELDRIGE. They are two years into it, and it is still not done.

Mr. WALDEN. And they had to give how many years' notice in advance?

Mr. ELDRIGE. The planning now for BLM and U.S. Forest Service is three to five years' notice, written notice, before you can do anything.

Mr. WALDEN. And then they have to go through the process you described.

Mr. ELDRIGE. Well, that is possibly true. I mean, you would hope if you were given five years' notice, at the end of that five years you would have approval or rejection.

Mr. WALDEN. And I guess I understand, if we are going to put a new right-of-way in, why you would do perhaps a full NEPA, so you recognize all the process.

Mr. ELDRIGE. Sure.

Mr. WALDEN. But once that right-of-way is there, it seems to me there ought to be an expedited and simplified system to maintain the safety of the forest and your lines, so we don't have interrup-

tions in power distribution, and we don't create forest fires that do far more damage than cutting one tree or moving one pole.

And my time has expired. But before I give up the mic, I want to thank especially Mr. Hutt, all of you for your testimony, but Mr. Hutt, it is good to see you again. I certainly enjoyed being in South Dakota, and appreciated your testimony then and here.

Thank you very much.

Mr. RADANOVICH. Thank you, Mr. Walden. Mrs. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chairman. I have a couple questions that were raised in video testimony listening to you. And I would like to have any one of you respond to this question.

What would be a reasonable timeframe for the approval of vegetative management plan, understanding that Forest Service obligation to comply with the NEPA, and the NEPA to adequately ensure analysis and public participation?

Mr. NEAL. My understanding is, from the Forest Service and Fish and Wildlife Service, is if you are doing routine maintenance, you don't have to go through the NEPA process again. They already, in some cases, have been through that process.

The things that you need to do is biological assessments to make sure you work around timing issues for the Goshawk or Eagle, whatever the case may be, that you can't do any clearing activities during the breeding season. So those things need to be identified.

As far as building new lines, as mentioned, we have to go through the whole NEPA process. But some particular districts will tend to throw the NEPA process in place where they don't have to. And again, it is analysis paralysis for some of the Federal agencies that we work for. In my mind, I think they just try to cover their bases from losses in a lot of cases.

Ms. NAPOLITANO. Anybody else?

Mr. ALBRECHT. We understand that there is another group that is putting pressure on the Forest Service and other government agencies, as well, and that only takes a postage stamp to do that. Frivolous lawsuits against the government agencies. And I feel for them in that regard.

But somehow, somewhere reasonableness and sanity and common sense has to enter into this when you have areas that are growing, and new developments, and so forth, and lines that are under capacity. You know, it seems to me that if good planning takes forth, and we hire the consultant to do the study for them, they ought to could make a decision in two years, to me.

Mr. BLAIR. Many times we are forced to go back and do additional studies. If you have a right-of-way and you are replacing an older line that was approved in the past, you start back at step one to simply replace it, to upgrade that power line.

There are other issues between just the planning stages of acquiring a right-of-way and maintaining that right-of-way. It doesn't require necessarily the NEPA process or anything like that to maintain it; you just have to have their blessing, and they have to identify what you can and can't trim. And it is very narrow in the scope.

They want you to take as little as possible, which is understandable. But we are spending hundreds of thousands of dollars and making multiple trips because we are not able to take an adequate

right-of-way in the beginning, or maintain an adequate right-of-way throughout the process.

We also have situations in my territory where you go to make minor changes, and you do start the process all over again because they have introduced something differently since the power line was built. We have the Gunnison Sage Grouse Habitat. They introduced, for some reason, the Lynx into the Gunnison Sage Grouse Habitat, and now we have to study both of those before we can make changes to our power line that has been there for 50 years.

Mr. NEAL. I would like to follow up with one comment that we are working on with the Arizona national forests and the utilities, is the MOU.

With this MOU we are working with the U.S. Fish and Wildlife Service and the Forest Service. And they are going to do the biological assessments and a programmatic approach to all the national forests. And so once this is approved, it is going to have what our clear standards are, what we are going to clear, all those timing restrictions we have to work around.

And then at the beginning of the year, all we have to do is submit a plan of what we are planning to do that coming year. And at the end of the year, following and explaining to them what we have done and accomplished along those lines that we scheduled to work.

Once that is put in place, and this will basically take two years for them to do a review of all the power lines in Arizona, we don't have to worry about timing restrictions any more, them slowing up the process. Once it is in place, we can just go ahead and do the work. And I think that is really a process that the rest of the country needs to look at. I think it is a win-win for everyone.

Ms. NAPOLITANO. But it is a plan that you are working on just specific to Arizona.

Mr. NEAL. That is correct.

Ms. NAPOLITANO. I will yield to the next round, Mr. Chair, because I have several other questions of the panel.

Mr. RADANOVICH. Thank you, Mrs. Napolitano. Mr. Duncan, did you have any questions?

Mr. DUNCAN. Thank you, Mr. Chairman, I don't have any questions. But you know, when I hear things like Chairman Walden's example of $312,000 being charged to the small City of Cascade Locks, and I hear these examples of hundreds of thousands of dollars in expenditures to do things, and take many months or years to do things that could be done in a day or two, the arrogance of the leaders and people in some of these extreme environmental groups never ceases to amaze me.

And when they put these hundreds of thousands of dollars of extra charges on small utilities, like Mr. Albrecht's and others, who it ends up hurting are the poor and the lower-income and the working people, because those costs have to be passed on to people who have difficulty paying them.

And I have noticed that most of these environmental extremists always come from very wealthy and very upper-income families, and they are not hurt by it. But there is a lot of people that I represent, and that most of us represent, who are hurt by things like that.

And we have to get this NEPA process and some of these other things under control. They are out of control now. There are also some people, it is not just environmental groups, there are some people in the Federal bureaucracy who aid and abet these groups, and I suppose think they are doing good things. But they are hurting a lot of people in this country in the process, and that is all I would say.

And I hear example and example and example of this, day after day after day, and read about it. And it is just really a shame. Thank you very much.

Mr. RADANOVICH. Thank you, Mr. Duncan. Ms. Herseth.

Ms. HERSETH. Thank you, Mr. Chairman. Before posing a few questions for Mr. Hutt, as Mr. Walden and the others have done to get at some specific examples of what is happening as it relates to access to rights-of-way, I would like to just point out for Members of the committee, because we have a few other folks from South Dakota in the audience today, over the past five months in South Dakota our rural electric cooperatives have suffered tremendous damage because of winter storms.

A winter ice storm that hit the central and eastern part of South Dakota, but after Thanksgiving, and just a couple of weeks ago, which you may have heard about, Chairman, Radanovich, we had six feet of snow in certain areas in the Black Hills of South Dakota just a couple of weeks ago, where Mr. Hutt's cooperative as well as other power agencies suffered significant damage in the western part of the state.

And that leads me to a question of looking at emergency situations like post-winter storms, where we have downed lines, areas that are particularly affected by a severe drought that we have had, that we hope some of this moisture will help us out with, serious bug infestations in certain areas and other circumstances that are more emergent, versus your routine access.

So could you talk a little bit with the committee about accessing your rights-of-way during emergency situations versus routine access? Have your dealings with the Forest Service been different in light of certain circumstances? And perhaps share with us some of the delays that I know you have had as it relates to routine access and maintenance and brush-clearing to deal with the threats that are posed, including a threat to the City of Deadwood. Whether it is Cascade Locks or the subject of an HBO series, all of the threats to any of our communities is a very serious matter of public safety.

And you have heard already the frustration about being able to get in to maintain rights-of-way that, when you have a forest like the Black Hills National Forest with the Ponderosa Pine reproducing itself at such a dramatic rate, it might be helpful to the committee to understand what delays you faced, if you have seen any improvement, and how that might change in an emergency situation.

Mr. HUTT. Thank you. Thanks to your committee meeting that Chairman Walden held and your interaction on our behalf with the Black Hills National Forest, we have had some meaningful dialogue with them, and they have been responsive.

On routine maintenance, we have made arrangements so that we can go in. And if there are just a few trees to cut, we can cut them, and we can notify the Forest Service afterwards.

If we have substantial cutting to do, then we have to go through the NEPA process. And one of the problems in the Black Hills is that for many decades, we weren't allowed to do routine tree-trimming, and so we got a substantial undergrowth, which you can see in some of these pictures. In fact, at one point about 20 years ago, a previous CEO of my company was cited because our crews cut Christmas trees without a permit. That is what they classified the clearing of the trees in the right-of-way. They had violated that law.

Things are better, thanks again to your input. It still takes a long time to do anything. In our work with the Forest Service, they agreed that we should change one provision, one sentence in our special use permit. We both agreed that we needed that change. And we were informed that it could take as much as a year and a half to get that one sentence changed in our special use permit, through the review process.

Ms. HERSETH. Could you visit a little bit about some of what we discussed as the Black Hills National Forest has suffered under drought conditions for a number of years? At one point you were denied access—well, you were granted access, but only on horseback, I believe, because of the threat that the Forest Service felt to give you access in other manners, because of the drought conditions. And yet it was precisely the drought conditions that you were trying to address in the right-of-way because of some of the lines that had trees close, impinging in the right-of-way.

Mr. HUTT. We aren't routinely denied access. But during drought conditions, why, the use of motorized vehicles or chainsaws is not allowed, either. So when there are drought conditions, why, we are forced to live with these restrictions—travel curtailment and use of equipment.

Ms. HERSETH. May I ask one follow-up question?

Mr. RADANOVICH. Sure.

Ms. HERSETH. Thank you, Mr. Chairman. How have the delays in some instances that you have experienced, understanding that the situation has improved with the new supervisor and some of the dialogue that you have initiated, what impact does that have on your rate-payers as it relates to the liability that you face, as well as the increased costs once you do get in after certain delays, and the substantial undergrowth that you mentioned?

Mr. HUTT. There are a number of issues there. Of course, paying for the trees that we can't market is one of them.

The other is the liability that we face. And these gentlemen have talked about strict liability, where we are forced to pay for fire suppression charges if a tree falling across our lines should ignite a fire. We have had to increase our liability coverage 30fold just for the potential of a fire from a tree.

We are limited to 10 feet on either side of the line, except endangered trees which we can identify. So in a dry situation, where you have a forest in the condition of the Black Hills, the liability out there is extreme because we have thousands of trees—millions, actually—we estimated 4 million trees within falling distance of

our lines. And any one of them in a storm could fall across a line, and it could be 100 feet from our right-of-way.

Ms. HERSETH. Thank you much. Thank you.

Mr. RADANOVICH. Before I recognize Mr. Cannon, I do have a question. Because during the Black Hills fires a number of years ago, didn't Senator Daschle put a provision in that allowed agencies to go in proactively and cut sooner in the threat of fire danger? And did that have any impact on what you do, then, in South Dakota?

Mr. HUTT. It was a narrowly focused right for a specific area of the Hills, and it did not apply in general.

Mr. RADANOVICH. OK. Thank you.

Ms. HERSETH. Just to reiterate the point, it was very narrowly defined, and it was right on the wildland/urban interface. That has been cited at different times for some of the discussion of the full committee, but it was very narrow, and it didn't specifically address right-of-way issues.

Mr. RADANOVICH. We need to widen that narrow exception, I think. Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman. That exception was a limitation on the jurisdiction of Federal Courts to review decisions by Forest Service folks. In the need to incorporate some of those in the healthy forest world, Chairman Walden ushered through, with great effort over a long period of time, that these limitation jurisdictions are, you build this monster, and then we have to restrain it. There is something wrong with that.

In fact, frankly I just wanted to, first of all, associate myself with Congressman Duncan, who pointed out who bears the cost of these huge bureaucracies that interfere with what we are doing.

And second, I would like to express to all of our panel, thank you for being here, and congratulate you for your very restrained presentations. I know it has to drive you absolutely nuts.

[Laughter.]

Mr. CANNON. Particularly my friend, Carl Albrecht, for whom this is, I know, not a great passion. And in fact, Mr. Albrecht, you do a pretty significant thing. You service, you provide the electricity for all of the northern end of the Grand Canyon, which services millions of people every year, isn't that right?

Mr. ALBRECHT. That is correct.

Mr. CANNON. Can I just ask in that context, how much it costs for you to do an EIS on eight different power line routes that various groups have suggested, as opposed to an EA on a single route?

Mr. ALBRECHT. Well, your question on the north rim, let me just make a comment there. And I think all these gentlemen will agree, it depends on which forest you are dealing with, and which district ranger office within that forest of how the rules are interpreted, and what you are allowed to do. And it varies greatly, let me tell you.

Somehow, somewhere, sometime that needs to be consistent across the board with the Forest Service, and they all need to get the same message.

Now, concerning the eight rights-of-way through Bryce Canyon National Park, we went out and got estimates, because we thought we would have to study, do an EIS and study two routes. They

ranged from $150,000 to $550,000. Now, if we are to study eight routes, you can probably do the math.

My feeling is that section 368 of the Energy Policy Act, those agencies need to declare which agency is going to be the lead agency. They need to get their working routes together. They need to decide, tell us which right-of-way they want us to do. We will go hire the consultant to do the EA or the EIS, and we will pay for it, and we will get the line built.

But these agencies, it is incumbent upon them, under section 368, to get the ball rolling.

Mr. CANNON. Thank you. You talked about process paralysis, and Mr. Hutt talked about a year to get bureaucratic approval of the one Senate change. I am going to suggest a problem. I would love to tell you, Mr. Albrecht, and the rest of the panel respond to that, it seems to me that what we have done here is we have a whole bunch of relatively young people. The Forest Service, in fact, has a huge number of people that will retire over the next five years or so and who may have hung up their hats already, frankly.

It is not like when I was young and working in the Agriculture Department when we had so many great bureaucrats who knew how to do things, and it was a culture. Now we have seen a shift in that culture, and partly because we have young, and now there are many people and many levels of review, and there is no decision responsibility that is clear. And these people operate under the fear of litigation.

Is that a fair analysis of what has happened here? Is that a fair analysis, Mr. Albrecht?

Mr. ALBRECHT. Well, the Forest Service, you know, they are going to be sued by some environmental group no matter what they do. Could we just send a retired Forest Service supervisor to the Black Hills? He was a good man. Mr. Hugh Thompson from the Dixie National Forest in Cedar City. He believed in the multiple-use concept.

A lot of these people who have joined these agencies and coming up through the ranks and making the decisions now, do not.

Mr. CANNON. Let me just interrupt you now. I would like to hear, the fact is multiple use is embedded with absolute clarity in law.

Mr. ALBRECHT. It is.

Mr. CANNON. And the problem is that you have people who know it. And you have this fellow who is a supporter of the idea. But is it essentially the problem that law doesn't matter when you get a bureaucracy that amends the law with culture, with bad culture?

Mr. ALBRECHT. The law is interpreted differently from one forest or one agency to another, and within district offices within that agency. And it all needs to be the same. It is all the Federal government, it is all the Forest Service, it is all the Park Service. One office needs to interpret that the same as the other.

Mr. HUTT. I would just like to address a couple things. The turnover in the Forest Service is substantial. When you talk to one person, you maybe go through a whole process, and then you have to go through the whole thing again in six months because somebody else has taken the place.

The other thing you mentioned is the levels of review. To make a simple change in a special use permit requires multiple levels of review.

And the third thing is the appeals. In the Black Hills National Forest, every appealable decision made by the Forest Service has been appealed. Every single one. And some of them more than once. Thank you.

Mr. CANNON. Thank you, Mr. Chairman. I see my time has expired. I yield back.

Mr. RADANOVICH. Thank you, Mr. Cannon. We are pleased to have Mr. Bishop from Utah join us in the Subcommittee. I would ask unanimous consent that the gentleman from Utah may join us on the dais and participate in today's hearing. Hearing no objection, I welcome our colleague from Utah. So ordered.

Mr. BISHOP. I was about to object, Mr. Chairman.

[Laughter.]

Mr. BISHOP. I appreciate the opportunity of being able to come back here.

Mr. Albrecht, let me just pick on you for just a second. Going back to the historical purpose of the reason for having rural co-ops in the first place, why were you all established?

Mr. ALBRECHT. Why were the electrical co-ops established? To serve the rural areas, because the investor-owned utilities could see no profitability there. And so, in 1935, FDR established the Rural Electrification Act. And no money was made available to co-oppers at that time, 1935 to 1940. A lot of co-ops were created at that time. That money has risen in cost, as you well know, and most of the cooperatives have bought out from RUS, and now have their own private bankers.

But that is the reason. The investor-owned utilities saw no profitability there.

Mr. BISHOP. We are dealing with these groups and a group that does not have, by definition, equal opportunity or equal protection or equal access. We are dealing with a group of people who, by definition, will always be put at some kind of disadvantage.

And I think as we are coming up with policies, we need to make sure we remember why these organizations were established in the first place, and that there is a specific need that is distinct and different. Rural people, those living in rural areas, have a distinct disadvantage to those living in urban areas, and the types of getting this kind of basic needs. Especially in electrical areas.

In fact, you have answered all these questions as time has gone on here. Mr. Albrecht, you have lines that go through forest and BLM lands. Is there a different administration, different set of rules between the two?

Mr. ALBRECHT. There is, and there is a difference between the various district forest ranger districts and the BLM districts.

Mr. BISHOP. Is there anyone on the dais that has given a presentation so far, that does not think that because of the different interpretations which are given in each office, and especially through different types of regulatory bodies, that there is a need for Congress to step in and come up with some kind of uniform way in which these decisions could be administered? Is there anyone who disagrees with that?

Mr. NEAL. No, I don't disagree. Just so you know, EI submitted legislation recommendation to the Resource Center, accompanied by legislation language addressing vegetation management issues on a Federal level.

Mr. BISHOP. Mr. Chairman, I think you have done a marvelous job in bringing testimony in here, expert testimony, that simply recognizes there is a compelling need to deal with a group of people who are being serviced at a disadvantage in the first place, to come up with some kind of way of bringing some uniformity so people can actually do their jobs and provide for the betterment of people in rural areas. It is a crying need.

If I could just pontificate for one minute, and I will hopefully end up before the light turns yellow. You do a lot of suspension bills in this committee. Last time you had one that came to the Rules Committee. You had a representative who was not a member of this committee claim the process and the product of not this subcommittee, but the Resource Committee, is not representative of the Nation as a whole. Basically, he was saying there are too many Westerners who serve on this committee, and they don't get the full picture. And their amendment at that particular time of this gentleman was totally gutting the process and the work of this committee.

I think he has a point. Because as I look around at the name tags of all these people here, with the exception of my good friend from the South, we don't really have any Easterners on this panel. You are all Westerners. You see things in a different way. And listening to the testimony here, it makes your blood boil to see what is happening out in the western part of this country.

And I think one of the things that we really need to do desperately in this Congress is make sure that all of our friends who don't have representation on this committee hear this kind of testimony. I think when it comes second-hand, it is not nearly as forceful, it is not nearly as dramatic or impactful as when you hear what these people have to deal with on a daily basis. And some of our good friends who are not in the western part of the United States need desperately to understand this is what is happening to the West. It is happening on a daily basis, and there is a desperate need for a lot of the reforms that are coming out of the Resource Committee.

I think you have done a great job, Mr. Chairman, of bringing people here that will identify something that has to be done. And we can't keep piddling around with it, and we can't keep waiting on it.

And I will yield back, because it just went yellow.

Mr. RADANOVICH. Thank you, Mr. Bishop. Words well said. Mrs. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chair. And I agree with your comments. But I would hate to state that we are not helpful to the rest of the nation, because that is our job.

I would like to inquire one more avenue, and that is, given the Forest Service's ability to do their job in different areas, could they better improve communications with the rural electric utilities given that the amount of money requested for hazardous fuels

reduction in that 2007 budget is woefully short? Like about $299 million?

It is a dramatic cut in programs intended to ensure the cooperation with state and private lands. What effect do you think this will have on maintaining the work order of these lands and rights-of-way?

And while you might mull that over in your mind, I am listening to the presentations and the questions from my colleagues about standardization and the ability to be able to do that, I am sure that can save money for everybody.

However, is that something that you see, given the current situation of reducing of funds to be able to carry out some of those new programs, or the ability to work together, like in Arizona?

Mr. BLAIR. I would like to respond to that. A properly maintained right-of-way is maintained on our nickel. If they will allow us to maintain those rights-of-way through their property, it goes a long way to create a natural fire break. And so part of what they are wanting to achieve, we are trying to achieve for them. Just let us do it.

And so the impact financially would simply be people allowing us, you know, giving us the blessing to clear our right-of-way.

Ms. NAPOLITANO. But is it the fact that they don't have enough personnel to deal with giving you that ability to do your job?

Mr. BLAIR. I can only speak for my system. Working within my system, I have both. I have districts who, we never get what we want, but who do not have the personnel to get out and do it. And we have districts who simply do not want it done.

Ms. NAPOLITANO. OK.

Mr. ELDRIGE. I really don't personally think it is a personnel issue. In fact, this is how you would manage a shrinking budget, is that you would put broad policy and then implementation rules underneath, where there are standards that you abide by.

I mean, we have construction standards, we have numerous standards that we have to abide by, or we lose our financing. And so we just abide by them, besides it being a good thing to do.

And so I really think the answer is less process, be clear about what is to be achieved, and then set up the rules and the guidelines to achieve them.

The other thing is, I really believe in this concept of policy of place. And that is, you have broad policy, but every place is a little bit different. I don't have some of the problems that South Dakota has. So it needs to be mitigated for the actual set of circumstances. But then the rules can be written once, and we will abide by them.

Ms. NAPOLITANO. But is it interpretation that is causing different districts to interpret them differently?

Mr. ELDRIGE. Yes, I think it is. But that is why clear interpretation needs to be written by the people that wrote the policy. Legislative intent, if nothing else.

Ms. NAPOLITANO. Well, yes. But if they interpret the current rules differently, what is to prevent them from interpreting new rules to their own——

Mr. ELDRIGE. Fire them, and get somebody in there who will follow the rules we set up. I mean really, somebody—this is a

problem. There is not true management. If I had this kind of activity, there would be new people in there.

Ms. NAPOLITANO. Well, but you train your people. Do you bring them together? Is it something we should be doing, is bringing all those different folks who are in decisionmaking authority together, issuing the same information to them, holding them all accountable to the same requirement?

Mr. ELDRIGE. Sure. That is a great idea.

Mr. NEAL. I would also encourage these committees, there is two things that I see are important, is the training issue, as I mentioned in the testimony. Federal land managers really don't understand the electric grid and the need for vegetation management. The MOU that we are working at the national level does have that training.

Then I think you need to have, instead of the local district, have control of utility corridors, because they cross multi-districts or different national forests. And what one district stops you from doing can affect the reliability of the grid.

So it needs to be headquartered at the regional office, where the regional forester takes responsibility for the distribution and transmission lines in the national forest. That way, there is some direct oversight, and the decisionmaker is making that final decision. And there is a peer process for the utilities that they can't get what they want, as far as following sound environmental standards in their clearing activities.

Ms. NAPOLITANO. Anybody else?

Mr. ALBRECHT. Well, I was just going to say if I was facing a budget cut, in your example, the Forest Service facing a budget cut, my resource is the trees, the forest. I would want to protect those. So anything I could do to protect the forest, I would do it. If I had to get rid of a bug and bunny counter, fine. I would protect the forest. That is what they are all about.

Ms. NAPOLITANO. Thank you. One last question, Mr. Chairman, and I will be done.

To Mr. Neal. In the proposal that you have worked on in Arizona, rural environmentalists at the table, would you work with the environmental community?

Mr. NEAL. As far as putting the MOU together within the national forests, it is basically the utility working group includes a utility representative, and then U.S. Fish and Wildlife representative and Forest Service representative from each national forest we serve. There is nobody from the environmental community as far as that working process.

Ms. NAPOLITANO. Are they aware of what you are putting forth? Is there any comment?

Mr. ALBRECHT. Well, I am also on Governor Napolitano's Forest Health Council. And I have talked about the process with them, and there are environmental groups, Sierra Club and the Center for Biodiversity, that are a part of that. And they have heard, you know, me talking about those subjects with them.

You know, quite frankly, I think they understand the need, especially with the fires and the outages and things that are associated with that. And like I say, just like it is up in these areas, the forest health is deplorable. We need to do something. We need to manage

our forests, as you all know. And I think they understand there is a need.

Ms. NAPOLITANO. Thank you, Mr. Chair.

Mr. RADANOVICH. Mr. Walden.

Mr. WALDEN. Thank you, Mr. Chairman. I just have to follow up because some of us on the committee actually helped write, and pass, and vote for the Healthy Forest Restoration Act which deals with forest study, which set up the authorization that my friend and colleague from California is referencing.

And I know the Administration has fully funded this effort within that authorization, although they have moved some money around. And certainly more money could always do more work out in the forests. They are moving at a record pace, I would say, having cleared, I think it is 4 million acres last year in thinning projects. And I know there are Members of this committee who opposed that bill, probably would oppose those thinning projects today.

My colleague from South Dakota, Ms. Herseth, and I have crafted the Forest Emergency Recovery and Research Act to get at precisely the issues you have identified here in terms of the costs to the Agency and the delay to the Agency to come to a decision after a catastrophic event. And if the Agency follows all environmental laws and decides it should remove timber, then do it in a timely way, so that the timber still has value. And the Forest Service and the Congressional Budget Office have come back to this committee and said if you do that, not only will you save money, you will make money for the Forest Service, and the Chief has testified to that case.

So if your concern is there is a lack of funds to the Forest Service, if your concern is about restoring the forest to a healthy status quicker, then we have the product for you to vote for. But unfortunately, we don't get those votes sometimes, and that is disconcerting.

In your case, though, this isn't about money to actually go in and cut the brush and the trees, because you and your ratepayers are paying for that, correct?

Mr. ALBRECHT. Correct.

Mr. WALDEN. So I was a journalism major, not a math major, but I have a trusty calculator. And I just figured out, for the 1,140 residents in Cascade Locks, if the Forest Service bills them, that is the equivalent of $273.68 for every man, woman, and child in that community. Because they contend they weren't able to do the kind of work you are saying you are not always able to do in a timely manner, and so a fire broke out.

It just strikes me that common sense is lost in this discussion all too often when dealing with Federal agencies. And it isn't that there aren't good people in the Federal agencies. It is they are conflicted in how to interpret the law, how to interpret their own rules, and then how to interpret some judge's decision who weighs in forest by forest, frankly, and makes decisions on what should be done.

It is our responsibility to fix that mess. It is our responsibility for the health of the forest, for the safety of the residents near your power lines, to those who receive your power and pay the bill. And

I don't know, it just escapes me because it seems so obvious, that somehow we ought to craft a system that if you have a right-of-way and a power line through that right-of-way, and you have done your initial NEPA to get that right-of-way, we ought to have a standardized set of principles, like Mr. Eldrige has testified to, and you all I think would agree to, that says here is how you manage that right-of-way. If you have trees you think are going to fall onto your lines, maybe tell us, but we will give you a quick OK to go take them out.

I am told the Forest Service has to be the one that goes out and marks each tree. Is that correct?

Mr. ELDRIGE. Yes.

Mr. WALDEN. So if you identified that tree back in July, Mr. Eldrige, you are waiting until now and still haven't gotten the OK to cut it down. And when you get the OK, somebody from a Forest Service office will have to come out and paint a stripe around that tree, right?

Mr. ELDRIGE. That is correct.

Mr. WALDEN. And so you have already identified—do we have to number these trees now? Is this what we do? This is nonsense, and it is costly. We can throw rocks at administration or this or that, but at the end of the day it is our ratepayers, our forests; it is your customers that are paying a bill they don't need to pay. Yes, sir.

Mr. NEAL. Just based on what you said. We had a bark beetle infestation in Arizona, as well. And we have approximately 2,100 miles of Ponderosa Pine forest type. These trees were outside of the permitted right-of-way, and the permit states that we are responsible for maintaining that utility corridor, under the direction of the forest supervisor in charge. So even though we have recognized standards, they don't necessarily agree with them.

Also, we will be held accountable if a tree falls and starts a fire, then, as people mentioned, we are held accountable to those.

We had a bark beetle infestation. We tried to get that support in removing those dead trees outside of permitted right-of-way, and they said it is your responsibility. Well, since 2003 your company has spent over $14 million removing dead trees adjacent to utility corridors to keep the lights on. So, I mean, that is an impact our customers are seeing because there isn't any cooperation. It is on the utility, and that is unfortunate, I think.

Mr. ALBRECHT. I would just like to add to that, you know, there is livelihoods that depend on those forests, too. A lot of those dead beetle-killed trees could be sawed into lumber and marketed, and we wouldn't be paying what we are paying at the hardware store. We have a couple small sawmills in our area that are struggling, and we have forests that are just dying. They are terrible.

Mr. WALDEN. We see them all over the country, sir.

Mr. ALBRECHT. With recreational eastern homeowners that had built nice cabins in those forests. And I am telling you, it is not if, it is when it will all go up.

Mr. WALDEN. Well, thank you. My time has expired. I appreciate the comments that you have shared with this committee, and hopefully we can take that and put it into action. I know we have arranged for a meeting with some of your folks and the Forest Service following this meeting in this room to see if at the top end

of the Forest Service we can get the kind of agreements that would make a real difference for this country of ours, and straighten out this mess.

Mr. RADANOVICH. Thank you, Mr. Walden. Mrs. Napolitano, any more?

Ms. NAPOLITANO. A very quick question, and it was brought out by the talk on the removal of underbrush and the trees, and the statement that you can sell some of them if you were able to.

First of all, what do you do with that underbrush and those deceased trees that you cannot sell, that are unsalable? What happens to them?

Mr. BLAIR. In our area, it is ground up and mulched. You either use it for groundcover for the project that you are working on, or you give it away. You get it out of there any way you can. There are always people willing to take that. Usually the Forest Service or the BLM would like to have it somewhere, and so we grind it up into mulch.

Mr. HUTT. In our area it is either cut and left to lie, or it is piled in brush piles for subsequent burning, or in some cases it is chipped and scattered.

Mr. ALBRECHT. It varies from district to district. Some of our districts want it cut and just scattered along the right-of-way so it looks natural; others want it cleaned up so they can burn it later. It varies.

Mr. NEAL. In our area it is a visual, along the right-of-way, it is required to be chipped and brought back along the right-of-way. If it gets beyond the visual, it gets scattered across the right-of-way.

Ms. NAPOLITANO. That brings up two questions. Once, if they are infested with that pine beetle, aren't you just spreading it to create another way of getting those beetles to go back at the trees? That is one.

Second, if you have a large amount, and I am assuming that you do, has there ever been any consideration of utilizing the chips to burn for fuel to create energy?

Mr. NEAL. We have looked at burning for energy. Well, quite frankly, there isn't any market in Arizona for utilizing timber. It is pretty much everything has been run out of business. There is probably one or two mills located in Arizona, and they are overrun with wood product today because of the Rodeo-Chediski fires and bark beetle infestation. They can't handle any more.

As far as utilizing wood chips for burning, it used to be a byproduct of another industry. For example, a laminated wood company, a byproduct that comes off of that can go to energy. But to set a mill up, there is no return.

And then the other part is, what we produce is not going to run a mill, a biomass plant, all year around. So it has to be supplemented from other resources.

Mr. HUTT. On your question on the beetle-infested trees, typically when the tree becomes a danger to a power line is after it has died. It has red needles, and lost its needles. By then, in the spring of the year the beetles have left that tree and gone to other trees.

In regards to using it as fuel, the Black Hills National Forest Advisory Board has a subcommittee that is looking at that, but there is nothing available right now to do that.

Ms. NAPOLITANO. Thank you, gentlemen. And the reason I asked is because I had spoken to somebody in sanitation who say they can also use it for spreading onto a landfill, because the heat that generates out of a landfill is over 140 degrees. So that would kill any kind of infestation that would be present. Because I was interested in whether or not there would be eggs or any other kind of potential threat.

But the reference to energy, burning trash in one of my facilities in my area creates energy that is sold to the electric company. That is why I was bringing that up and trying to figure out, because you have tons of the material that you either chip or use, and can conceivably become an industry that might help some of your communities be able to sustain or lower the cost of their own electricity needs.

Mr. ELDRIGE. The volume is too low and the supply is too uncertain for it to work.

Ms. NAPOLITANO. I see. Thank you.

Mr. RADANOVICH. Thank you, Mrs. Napolitano. Before we dismiss the panel, I have one further question.

Mr. Neal, you encouraged Congress to continue oversight efforts, and to step in where it is productive to do so on these issues. Can you suggest to us or any of the other witnesses what steps Congress ought to take in order to resolve this issue?

Mr. NEAL. I think some of the things that you have all mentioned is streamlining the administration process on getting the approval to do the work that we need to do, incorporate UVM and best management practice into total maintenance, and training. I think it is very important that our fellow partners understand how electricity and how trees can interact with power lines and cause power outages.

And again I also, as you mentioned, there is a financial liability to utilities, because all the burden is put on us if something happens. And there has to be some sort of joint responsibility if you refuse to allow us to get in and do the work once we identify a hazard and it is not timely. Because every day that tree sits there, and the gentleman has been sitting there for nine months, that is unacceptable. Because it can fall any day.

Mr. RADANOVICH. Thank you. I would start with Mr. Eldrige.

Mr. ELDRIGE. The thing I would add to what was just said is accountability; that we are very clear on what the expected outcome is. And if it is not brought about, we do something about it.

Mr. RADANOVICH. Thank you.

Mr. ALBRECHT. I would just say continue to dialogue with the cooperatives and the utilities, because if we are not talking, we are not going to accomplish anything. And those folks need to sit down and talk with us, listen to our concerns. We need to listen to theirs.

I have always found that if two people are equally informed, they seldom disagree. And we are not to that point with them.

Mr. BLAIR. I think one of the things that needs to happen is take many of the unnecessary steps out of the processes. If we have a defined right-of-way and we are able to maintain that right-of-way, and there are trees that are obviously within that right-of-way, we should not have to wait for somebody to come identify a tree and

say this is in your right-of-way. We should be able to go and maintain that right-of-way and remove the tree.

You know, it is akin to if you get a building permit to build your house, and you build your house; now do you have to go back and get permission to do maintenance on it? It is to the point of ridiculous. And especially at a point in time where the budget money is not there. These people could actually be out doing real work and progressing on other avenues where they are also behind.

If you have a defined right-of-way, now if we violate that right-of-way, there ought to be a penalty. But if we stay within our right-of-way and within our agreed maintenance procedures, we should not have to have somebody come out and paint a tree for us to tell us that yes, it can be removed now.

Mr. HUTT. In talking with Forest Service people in our area, they share our concerns and our frustration. And I think some of the things that they would like to see changed are limits, put some limits on which of their decisions are appealable.

Also to streamline the process so that there is less process and more action, so that their field people could actually do work in the field, instead of all the planning and the paperwork.

And also, I think the uniform requirements would be a good solution, too.

Mr. RADANOVICH. Thank you. And thank you, Mr. Hutt, thank you, gentlemen.

Any other questions of the panel? I want to thank all of you for being here. Mr. Hutt, would you please say hi to the King family and Pizza Works there in Custer?

Mr. HUTT. I sure will.

Mr. RADANOVICH. And again, thank you for all your testimony. It is pretty valuable. And with that, you are dismissed, and we will introduce the next panel.

Next is Mr. Joel Holtrop, Deputy Chief for the National Forest System here in Washington, D.C. Mr. Holtrop, welcome to the Subcommittee. Lots to talk about. But we will give you five minutes to testify for this issue, and then we will open up the dais for questions.

Again, if we can have order in the room, and keep the noise down. Mr. Holtrop, if you would like to begin, that would be wonderful.

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. DEPARTMENT OF AGRICULTURE

Mr. HOLTROP. Thank you very much, Mr. Chairman and Members of the Subcommittees. And thank you for the opportunity to appear before you today to provide the Department's views on the need for proper forest management on Federal rights-of-way to ensure reliable electricity services.

The Department recognizes that electric utilities provide an essential service that is closely tied to our nation's economy and welfare. To meet both ecological and reliability standards, it is essential that the Forest Service and utilities work cooperatively to streamline and expedite the management of vegetation near utility lines and facilities.

The Forest Service manages approximately 193 million acres of national forest and grasslands in 42 states, as well as the Commonwealth of Puerto Rico, managed under multiple-use and sustained-yield principles. The Forest Service oversees a vast, complex array of natural resources and opportunities.

Rights-of-way for electric transmission lines are one of the many uses of national forest system lands. Presently there are approximately 3,000 authorized electric transmission and distribution facilities on the national forest and grasslands, including about 1,300 rural electric facilities.

Rights-of-way for electric transmission lines are a legitimate use of national forest system land. We have a tremendous obligation and a great opportunity to work with the utility companies, and through them, serve our rural and urban communities. We see it as an important part of our mission.

One of the most significant challenges in the management of electric transmission rights-of-way is the interference of undesirable vegetation. In order to provide a dependable supply of electricity, utilities must be able to manage vegetation near their transmission and distribution lines and other facilities to prevent blackouts and wildfires.

Proper and coordinated planning for right-of-way management is critical for the Forest Service to expedite any approvals necessary to allow permit holders to comply with standards for vegetation management. Right-of-way operating plans developed and agreed to by both the permit holders and the Forest Service are key to streamlined approvals for effective actions for rights-of-way management.

With an approved operating plan in place, permit holders can take actions to manage undesirable vegetation and ensure a dependable supply of electricity to the communities they serve.

Nationally, the Department of Agriculture, along with the Department of Interior, Environmental Protection Agency, and the Edison Electric Institute, and Association of Shareholder-Owned Electric Companies, will soon finalize a memorandum of understanding that establishes a framework for a cooperative-integrated vegetation management set of practices for electric transmission rights-of-way. These same procedures could apply to other utility companies operating on national forest system lands.

We expect to make further progress in managing undesirable vegetation in and adjacent to rights-of-way. As was mentioned earlier, proper and coordinated planning for right-of-way management is critical for the Forest Service to expedite any approvals necessary to allow permit holders to comply with standards for vegetation management.

Mr. Chairman, with the new authorities that we have been given and the dedication and talent of the Federal Land Management Agencies and our partners, we are confident that we will make significant improvements in the management of electric transmission rights-of-way. We will continue to work with our utility partners to accomplish this. We appreciate your support.

Now, as I have been listening, I decided I wanted to kind of write down a few thoughts to respond to, and let you know very explicitly what are some of the things that I am committed to do today, and

into the future, to ensure that rights-of-way are managed properly and reliably for electric service.

First of all, I am committed to finalizing the MOU that I referred to, and that was referred to in the earlier panel, as well, to provide a consistent approach to vegetation management across the national forests and grasslands.

I am also committed to working with the Subcommittees to review the limited liability laws, regulations, and policies that we have. And I think that there have been enough questions raised on that that it would be useful for us to get together and talk about some of the establishment of that limited liability in law, and the regulations, and look for perhaps some ways that we can improve the situation for all our sakes.

Third, I am committed to continuing to make changes in order to be more effective and efficient, such as what we heard is happening in Arizona, the work in Arizona. And as my full written testimony talked about, what we are doing on the Plumas National Forest in California, and some of the successes that we are finding there, and some of the streamlined consultation processes and other things that we can do. I am committed to continue to work on those and find ways to be more effective across the country.

I am also committed to providing the committee with a more detailed assessment of some of the individual concerns that have been raised in the testimony that we just heard, and to provide actions to mitigate those concerns where appropriate.

And finally, I would like to say that I am committed to continuing to dialog, to build relationships with, and to obtain the preplanning that is necessary for us to accomplish the work that we are working together with the utilities, to do that together, and to continue that dialogue effectively.

So thank you, and I look forward to any questions that you might have.

[The prepared statement of Mr. Holtrop follows:]

Statement of Joel Holtrop, Deputy Chief,
National Forest System, U.S. Department of Agriculture

Mr. Chairman and members of the Subcommittees, thank you for the opportunity to appear before you today to provide the Departments views on the need for proper forest management on federal rights-of-way to ensure reliable electricity services.

The Department recognizes that electric utilities provide an essential service that is closely tied to our Nation's economy and welfare. To meet both ecological and reliability standards, it is essential that the Forest Service and utilities work cooperatively to streamline and expedite the management of vegetation near utility lines and facilities, including facilities on federal lands, in a timely and efficient manner.

Overview

The USDA Forest Service manages approximately 193 million acres of National Forests and Grasslands in 42 states, as well as the Commonwealth of Puerto Rico, managed under multiple use and sustained yield principles. In this context, the Forest Service oversees a vast, complex array of natural resources and opportunities. Rights-of-way for electric transmission lines are one of the many uses of National Forest System lands. Presently, there are approximately 3,000 authorized electric transmission and distribution facilities on the National Forests and Grasslands, including about 1300 rural electric facilities.

Rights-of-way for electric transmission lines are a legitimate use of National Forest System land. We have a tremendous obligation and a great opportunity to work with the utility companies, and through them, serve our rural and urban communities. We see it as an important part of our mission as well as assisting in achieving one of our strategic plan goals of helping meet energy resource needs.

Rights-Of-Way Management

One of the most significant challenges in the management of electric transmission rights-of-way is the interference of undesirable vegetation. In order to provide a dependable supply of electricity, utilities must manage vegetation near their transmission and distribution lines and other facilities to prevent blackouts and wildfires, which can harm people, wildlife, habitat, and property.

Recognizing the importance of reliable electric service, Congress made provisions in the Energy Policy Act of 2005 to improve electric system reliability standards, including establishing vegetation management standards. Moreover, Congress specified that federal land management agencies responsible for approving rights-of-way for electric transmission or distribution facilities located on federal lands must expedite any approvals necessary to allow the owners or operators of these facilities to comply with standards for vegetation management, electric service restoration, and to resolve situations that imminently endanger the reliability or safety of the facilities.

Actions can be taken to reduce the impacts of undesirable vegetation on electric transmission rights-of-way. Utility companies who hold a special use permit on National Forest System lands have the authority to clear branches or tress on or adjacent to the right-of-way that generally threatens safe transmission. In emergency situations (i.e. after a wind, or ice storm or other extreme weather event) permit holders may be allowed to take additional actions without prior approval, provided notice is given to the Forest Service within 48 hours after the fact.

Proper and coordinated planning for right-of way management is critical for the Forest Service to expedite any approvals necessary to allow permit holders to comply with standards for vegetation management. Right-of-way operating plans developed and agreed to by both the permit holders and the Forest Service are key to streamlined approvals for effective actions for rights-of-way management.

Operating plans outlining communication contact information, health and safety standards and comprehensive maintenance operations for the rights-of-way management assure both the permit holder and Forest Service know what to expect when maintenance of rights-of-way are needed. With an approved operating plan in place, permit holders can take actions to manage undesirable vegetation and ensure a dependable supply of electricity to the communities they serve. Typically, notification from the permit holder for repair and maintenance activities could then operate as follows: Routine maintenance would require advanced notice for ground disturbance and tree removal, emergency repairs would require notice as soon as possible, and major actions would require substantial advance notice in order for the Forest Service to comply with applicable environmental law.

Cooperative Approach to Rights-Of-Way Management

Nationally, the U.S. Department Agriculture along with the U.S. Department of the Interior, U.S. Environmental Protection Agency and the Edison Electric Institute—an association of shareholder-owned electric companies—will soon finalize a memorandum of understanding (MOU) that establishes a programmatic framework for developing a cooperative integrated vegetation management (IVM) set of practices for electric transmission rights-of-way. We anticipate these same procedures could apply to all utility companies operating on National Forest System lands.

The objective of this MOU is to manage vegetation and the environment to balance benefits of control, costs, worker and public health and safety, environmental quality, and regulatory compliance.

The MOU is intended to facilitate the following goals:

- Maintain reliable electric service;
- Maintain power line safety;
- Reduce the likelihood of wildfires;
- Protect the soil and water resources;
- Reduce the risk to human health;
- Streamline administrative processes for approving right-of-way maintenance practices;
- Promote the use of local species in re-vegetation projects;
- Encourage outreach to educate the public in general about the use and acceptance of integrated vegetation management on electric transmission rights-of-way;
- Facilitate prompt evaluation and mitigation or eradication of dangerous right-of-way conditions; and
- Incorporate best management practices, where appropriate, into the terms and conditions of authorizations for electric transmission line rights-of-way.

In addition to the development of the National MOU, the Forest Service and electric utilities are working cooperatively to promote sound management within rights-of-way for electric transmission. Some examples are as follows:

- In October 2005, the Forest Service and the Bureau of Land Management in cooperation with the Western Electricity Coordinating Council, Western Governor's Association, and the Council of Western State Foresters, sponsored the "Promoting Effective Collaborations Between Electric Utilities and Land Management Agencies" workshop. The workshop objective was to explore responsibilities, expectations and issues in order to benefit public lands while maintaining the reliability of the electric transmission system. This workshop has helped build relationships between electric utilities and the federal land managers as well as establish a mutually agreed upon framework for operations.
- The National Forests Supervisor's Council of Arizona, the Arizona Public Service Commission (APS), the Western Area Power Administration (WAPA) and the Salt River Project (SRP) have formed a Utility Vegetation Management (UVM) working group to establish guidelines for utility corridor maintenance. The guidelines address such issues as the development of clearing standards for the separation needed between power lines and vegetation to prevent outages and fires. The UVM working group has almost completed these guidelines for the preparation of individual operating plans. Once clearing standards are finalized in an operating plan, the utility company will be able to use those same standards to meet their reliability requirements.
- Working collaboratively in California, the Forest Service and the Pacific Gas and Electric Company (PG&E) outlined a course of action that reduces the number of authorizations by combining individual permits into master authorizations for each Forest, standardized permit terms, conditions and operating plans between Forests. The process was piloted in the spring of 2005 on the Plumas National Forest. Based on the successful results of the pilot run, the program was implemented on four more Forests. The results are promising due in large part to PG&E's strong commitment to sound land stewardship practices and an extensive knowledge of resource issues and challenges related to utility management.

Energy Policy Act of 2005 (P.L. 109-58)

We along with other federal land managers continue to assess the existing designation of electric transmission facilities and corridors and plan for future developments. After enactment of the Energy Policy Act of 2005, Congress requested the Secretaries of Agriculture, Energy, and the Interior and the Chairman of the Council on Environmental Quality to prepare a report assessing the status of electric transmission and distribution corridors and transmission facilities on federal land.

The Forest Service contributed the following specific information to the November 2005 Report to Congress:

- The Forest Service has designated 317 electric transmission and distribution corridors through National Forest land management plans (Forest Plans).
- The Forest Service is proposing to designate an additional 44 electric transmission and distribution corridors through Forest Plan revisions or amendments.
- The Forest Service is assessing 13 applications for electric transmission facilities.
- A total of 1,803 electric transmission and distribution rights-of-way are expected to be reauthorized over the next 15 years.
- The delays in processing both reauthorization of electric transmission rights-of-way and designation of proposed electric transmission corridors under FLPMA result from legal challenges, delays in other federal agency approvals, request for extended public comment periods, the complexity of some requests, and competing priorities affecting staff resources and workloads.

In March 2006, the Forest Service promulgated regulations to recover the costs of processing special use applications and monitoring compliance with special use authorizations in part to provide additional resources to respond effectively to the increase in rights-of-way applications and renewals. Taking this action should provide more effective management of rights-of-way.

Additional efficiencies are expected through the development and completion of the West-Wide Energy Corridor Programmatic Environmental Impact Statement that is being conducted pursuant to Section 368 of the Energy Policy Act of 2005. This study will gather and interpret information on all energy corridors—oil, gas, hydrogen pipelines, and electric transmission and distribution facilities—in Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and

Wyoming. A similar study will be conducted for the remaining contiguous United States by August 2009.

Conclusion

The Forest Service working with holders of authorizations of electric transmission rights-of-way expects to make further progress in managing undesirable vegetation in and adjacent to federally managed rights-of-way. As was mentioned earlier, proper and coordinated planning for right-of way management is critical for the Forest Service to expedite any approvals necessary to allow permit holders to comply with standards for vegetation management.

Mr. Chairman, with the new authorities that we have been given and the dedication and talent of the Federal land management agencies and our partners, we are confident that we will make significant improvements in the management of electric transmission rights-of-way. We will continue to work with our utility partners, other federal, state, and local partners to accomplish this. We appreciate your support. I would be happy to answer any questions the committee may have.

Mr. RADANOVICH. Thank you, Mr. Holtrop. I appreciate your testimony.

You know, everything is just kind of shortened to the point the testimony that we heard from the previous panel, it makes us look stupid, it makes your agency look foolish. It just makes the Federal Government look like idiots.

How do you suggest changing this thing so that we don't have to listen to this kind of testimony or get these kinds of complaints any more? Is it going to be an MOU? Is it going to take legislative change, as well, do you think?

Mr. HOLTROP. I think there is a multitude of approaches that we could take, and we ought to take every one of them that is going to be effective for us.

I do believe that the MOU that we are talking about has a great deal of potential to be very effective for us, the one that we are working on with Edison Electric. I also believe that some of the other work that is already being done in pilot approaches, such as what is being done on the Plumas National Forest in California with PG&E, has potential to be utilized in other places.

So I think there are things that we can be doing and should be doing administratively. There may be some things, as we talk about, for instance, the limited liability, and we have the opportunity to express what some of the basis in law is for the limited liability policies that we have in place. Maybe there are some legislative solutions that we may need to take a look at.

Mr. RADANOVICH. How about firing people that postpone and push off things for five years, that should be done immediately?

Mr. HOLTROP. If there is a performance problem, we need to take care of the performance problems, there is no question about that. With some of the issues that we are talking about, if there is a very small activity, such as the, I believe it was on the Umatilla with the removal of a single tree, that it took nine months. I would like to think that that is an extraordinary circumstance, it doesn't happen all the time. But if it does, I agree that is not acceptable, it is not appropriate.

If there is some reason that the tree should not be removed for some other purpose, at the very least there ought to be an answer far sooner than that. But at the same time, I think there are larger issues and larger projects that are being proposed that are going to take time from time to time.

And when you are talking about sometimes needing a three- to five-year lead time for getting something completed, that three to five years should include the recognition that once a utility recognizes that is a project that they want to have completed, and they let us know that, that three to five years gives us time to plan for when we are going to begin the NEPA process, to do the NEPA process, and then get the project completed. And that all ought to be included in that.

And if it is like a relocation of a right-of-way or a new right-of-way, a new transmission line corridor or something like that, those type of timeframes are probably going to occur. But if it is regular treatment of vegetation for the management of an existing right-of-way, again, I believe a great deal of the solution is in preparing jointly prepared management plans for those rights-of-way that establish what are the standards, and what do we need to do to be able to move forward.

Mr. RADANOVICH. Maybe you can answer on the pole hole heard around the country, as we heard earlier today. What kind of culture could possibly be in the Forest Service that would allow a staffperson make somebody wait that long to dig a posthole a mile and a half from the creek and 12 miles from the river, thinking that that posthole might have an environmental impact on an endangered species? Is there a culture in the Forest Service that promotes this kind of stuff?

Mr. HOLTROP. I don't believe there is a culture in the Forest Service that promotes that kind of stuff. I believe we do have an agency of about 35,000 employees, and of course there are some people who have some pretty strong opinions across the spectrum. And we need to find ways to make sure we are valuing those opinions. But we also have to have an opportunity to have processes that avoid those types of circumstances.

One of the things that I committed to, and I will commit to again, is that some of those individual specific instances, such as that one, I am not prepared to answer what happened in that particular case. I will look into it, and I will be happy to share with you what I find out, and what we will have to do about it.

Mr. RADANOVICH. I certainly would appreciate it. How do I do this?

Mr. WALDEN. You are the Chairman.

[Laughter.]

Mr. RADANOVICH. Mrs. Napolitano.

Ms. NAPOLITANO. Either one of us are going to add time, so it doesn't make any difference who goes first.

What is the Forest Service Agency's wide guidance for vegetative management? Is there something in writing that specifies, that directs, that communicates to all the different Forest Service Agencies how to deal with them? Is there a standardization? Is there a guideline, a manual, anything? What do you have?

Mr. HOLTROP. We do have a manual, and we have handbooks. And there is a wide array of vegetation management treatments.

If the question is particularly focused on is there guidance, national policy for the management of vegetation in and around power line corridors——

Ms. NAPOLITANO. That is the question.

Mr. HOLTROP.—and power lines, yes, there is national guidance. But at the same time, we are recognizing that when we provide national guidance for 193 million acres in 42 states, that a power line corridor on the Ocala National Forest in Florida is very different than a power line corridor in the Hela National Forest. And we need to take that into account.

But at the same time, as the previous panel talked about, and I agree, that there ought to be some things that are consistent from place to place. But I also believe that there are some things that make sense for us to allow local land managers to make decisions that have enough flexibility to make decisions that make sense in a local location, as well.

Resources vary from place to place. Endangered species vary from place to place. And so I don't think a standard practice that works across the whole nation is necessarily the only solution that we can have.

I do believe that we can provide some national guidance that takes care of many of the types of concerns that we heard about.

Ms. NAPOLITANO. So the one-size-fits-all standardization might not be an answer; it might be a worsening of the problem.

Mr. HOLTROP. If we take it to an extreme, it could possibly become more of a problem. If we don't allow local utilities and land managers to make decisions that make sense locally by having been too restrictive on one size fits all on a national level.

At the same time, I do believe there are some, and there are existing national standards that should apply to the management of rights-of-way on the national forests.

Ms. NAPOLITANO. In listening to the testimony in the prior panel, it seems that major complaints are that regulations are vague and inconsistent, and that the agencies are slow to respond to the permits. And again I pose the question to you, is funding an issue? Or is it that the Forest Service has no comprehensive guidance for this vegetation management?

Mr. HOLTROP. Well, as in everything, if there were more money, we could do more things. But at the same time, one of the steps that we have taken earlier this year is to do a regulation for cost recovery, in which we will be able to recover the cost of permit administration and permit monitoring for special use permits across the board. And that should free up some additional resources available to us, as well.

But I think it is imperative upon us as an agency, in an era of fiscal restraint, for us to find ways to be efficient and cost-effective in the way that we expend scarce Federal dollars. And I believe the previous panel had several suggestions that make sense for us to work more closely with the utilities to accomplish some of those types of things.

Again, I believe we can accomplish a great deal by pre-planning together what the right-of-way management strategies ought to be for a corridor. By doing that, we develop relationships, we develop communication strategies. And I think that can go a long way toward resolving many of these conflicts. And I am committed to continuing to work to make sure that we are moving in that direction.

Ms. NAPOLITANO. Now, some of these permits, they cost the utilities money, right? To go after some of the permits? Or is it a free service?

Mr. HOLTROP. The permits for the transmission lines and the corridors?

Ms. NAPOLITANO. To go in and clean up, to do any kind of permitting along the rights-of-way.

Mr. HOLTROP. The maintenance costs, the development of the environmental documents, et cetera, are borne by the utility. Am I answering your question?

Ms. NAPOLITANO. Yes, to a certain degree, because you kind of hit a nerve about looking at fee-based services, is what I am listening. And what are those going to be, and where are they going to be? And are you going to regain some of the cost doing fee-basing of permitting? What areas are you looking at?

Mr. HOLTROP. Well, the policy is going to allow us to collect that for special use permits across the board. Again, I am not sure I am answering the question that you are asking. But what it would allow us to do is to recover the cost, the government's cost of preparing the permit, and of monitoring the permit. And by doing so, that will help supplement some of the existing resources that we have available to work in those places. Again, as the earlier panel indicated, there are some places where there just are not the people necessary to accomplish the work that they feel is necessary.

So I think it is incumbent upon us to find ways to get that funding. It is incumbent upon us to work more closely with our partners, the utilities, to accomplish the work that needs to be done.

Ms. NAPOLITANO. How badly or how heavily are you going to be impacted by the reduction of, what is it, $481 million? Let us see, what am I looking at here? By fuel reduction of $491 million for hazardous fuels reduction.

Mr. HOLTROP. We continue to make progress in the number of acres of vegetation that we are treating in each year. Again, in an era of fiscal restraint, we put together a budget that we feel reflects the full array of resources needs, and most accurately reflects what we should be doing, given the resources that are available to us.

As I have mentioned, in any resource program, more funding would certainly allow us to do more work. But at the same time, I think we have a responsibility to find ways to accomplish as much work as we are able to accomplish with the funds that are available to us.

Ms. NAPOLITANO. I am still harping on the same question. If you are going to reduce services, to be able to cut down, are you going to recoup those services by increasing the fees for permitting or whatever else, it does not quite make sense. If we have been doing this for eons, for decades, would providing the service along with the utilities' assistance, et cetera, for the protection of a nation's power delivery, what is going on, sir?

Mr. HOLTROP. I think there are maybe a couple of circumstances that I am thinking about, that I hope are responsive to your question.

One is we need to recognize there are differences in terms of the payment for the right to have a permit on the national forest

system lands. In some cases, some utilities pay a fee for the permit; other utilities, such as rural electric cooperatives, don't pay a fee for the actual special use permit. The cost that they have is for the maintenance and the provision, and it goes all the way back, again as the earlier panel talked about, the historical reason for the rural electric facilities. So the purpose for the payment of the fees, there is different circumstances there.

What the Forest Service is doing is modifying the fee structure for processing our special use permits, and that is based on Congressional direction to develop a program to improve the administration of our agency's special use program.

And so under this new rule, the Forest Service will collect fees from some permit applicants to recover the costs of processing and administering special use authorizations, consistent with the recommendations made by the General Accounting Office. So we are responding to Congressional direction to have a more improved administration of our special use program, and we are modifying that fee structure to allow us to process those permits and collect the cost to the government in order to both process those permits and monitor them.

Ms. NAPOLITANO. Are you, in essence, saying that the reduction of those $760 million authorized by Congress under the Healthy Forest Act is the authorities given to you to be able to do that? Is that correct? Is that what you are alluding to?

Mr. HOLTROP. I am sorry, I am not sure what the $760 million——

Ms. NAPOLITANO. Well, are the Forest Service and the funding for hazardous fuels reduction at the $760 million level authorized by Congress under the Healthy Forest Restoration Act of 2003?

Mr. HOLTROP. They are different. There is not a relationship between the hazardous fuels funding and this approach to try to better fund our special use administration program. Hazardous fuels funding, the request for hazardous fuels funding is a request that we made based on a recognition of what land management needs are across the spectrum of the national forest system for treating the vegetations that are hazardous, and this other approach is just to improve the management of our special use program.

Ms. NAPOLITANO. Thank you. I thought there was a nexus there, and apparently is, maybe in my mind. But then again, that is another question.

When you were talking about getting information disseminated to different agencies by email to expedite the process, whereas the utilities would be able to move along on their removal of whatever brush or dead trees there are, what capability, or do you have adequate infrastructure for computers at all these different areas to be able to receive the information to carry out those orders?

Mr. HOLTROP. Yes, we do have an email system where all employees have email capabilities at each of their desks. So yes, we have the infrastructure to send an email to all employees. We can do that.

Ms. NAPOLITANO. And the last bit of that is, what would you think of standardizing training for all your agency heads to understand at the same time, the same message?

Mr. HOLTROP. I think that that is a good idea. We have that included in the MOU we are working on with Edison Electric. That is a part of that. I think there is never a situation in which, as circumstances change, as the world changes, all of our leaders throughout the Forest Service can always benefit from continued training. That is something that we are committing to doing, and will need to continue to do.

Ms. NAPOLITANO. Thank you, Mr. Chair, for your indulgence.

Mr. RADANOVICH. Thank you. Mr. Walden.

Mr. WALDEN. Thank you, Mr. Chairman. Joel, I want to go through this, because there is sort of, as I hear it, apples and oranges.

The $760 million that my colleague from California references in authorization was in the Healthy Forest Restoration Act for thinning projects and hazardous fuels removal, correct?

Mr. HOLTROP. Yes.

Mr. WALDEN. OK. I am assuming, and I know you didn't support that legislation when it came through the committee or the House, but I think that is the 760 you are talking about that is the concern you have, that maybe the Administration hasn't fully funded the authorization that you opposed. But that is another issue.

But my understanding is since 2000, your agency has had a quadrupling of funding in this area.

Mr. HOLTROP. That is correct.

Mr. WALDEN. A fourfold increase, a fourfold increase in the funding for this area since 2000. So there has been a quadrupling. And currently the funding request for hazardous fuels reduction work fully funds at $760 million, correct? But it is not all new money.

Mr. HOLTROP. Yes. I am not prepared to answer that.

Mr. WALDEN. That since 2000, you have quadrupled the amount of acreage as well, haven't you?

Mr. HOLTROP. Yes, both through the use of hazardous fuels funds, plus we have prioritized other vegetation management programs to be focused in areas that most need treatment.

Mr. WALDEN. And that is where you have brought other money in within the budget. I mean, there is a bit of an argument here about whether you have shifted the existing funds over to help meet that full $760 million authorization. And I probably concur with my friend from California that more money could be spent under that authorization, and back to other programs. But indeed, I think you are at the full $760 million the way you account for it.

But in any case, it is four times what was being done prior to 2000.

Mr. HOLTROP. That is correct.

Mr. WALDEN. And quadrupled in terms of acreage treated. None of that, however, has to do with the rights-of-way issue for power lines, because they pay for that treatment, correct?

Mr. HOLTROP. That is correct. The only nexus between those would be, as the previous panel was talking about, there are circumstances where we have large areas of bug-killed timber, in which there is a concern that the forest health condition might create a——

Mr. WALDEN. In those areas that are adjacent to the power lines, are you failing to treat those because of the lack of funds?

Mr. HOLTROP. As again the previous panel mentioned, there are areas in Arizona, there are areas in Montana, there are areas in Oregon and throughout the country—Colorado and California—in which we have large acreages of bug-killed timber.

Mr. WALDEN. I understand that. But are those adjacent to the rights-of-way?

Mr. HOLTROP. Some of them are adjacent to rights-of-way, and some of them——

Mr. WALDEN. OK, here is what I would like to get, is a list of those that are adjacent to rights-of-way where you lack the money to do treatment that your agency believes those areas need to be treated.

Mr. HOLTROP. We will work on getting you that answer, yes.

Mr. WALDEN. I mean, because if that is an issue, we need to know about it. I am assuming you have the funding, the ability to set priorities. And if that is the priority area to treat, the budget you have requested should give you the funds to treat those areas.

Mr. HOLTROP. We certainly have the ability to prioritize where we do the work, within the budget that we have requested.

Mr. WALDEN. And then I guess I want to go to this issue of strict liability. And you and I have discussed this specific issue before in Cascade Locks and elsewhere. But I think it is a legitimate one, where a power company co-op or other says we need to go do this. In our best judgment, there is an issue here with a tree that is technically outside of our right-of-way, but taller than 30 feet, that could fall into the lines. And in this one case, and I know it may be an isolated case, but nine months later the tree is still there, and the decision hasn't come yet.

Is it really fair, if it has sort of been before your agency for nine months, that a strict liability provision would be applied to the power company if that tree falls and ignites a fire this summer?

Mr. HOLTROP. The circumstances at Cascade Locks and the many circumstances that we talked about in the previous panel, that we heard about in the previous panel, do indeed cause me to say I think the next step on this is for us to work closely with the Subcommittees to understand the FLPMA, which requires us to have the liability for high risk, especially if this is on public lands. And the relationship between that legal requirement that we have and the regulations that are in place, it is that 1976 law, so for the past 30 years. And perhaps there are some areas for improvement.

Mr. WALDEN. I know your agency has been, you know, of late very progressive in looking at, for example, ISO standards, ISO 9000 standards. Isn't this an area where that would make sense?

It just seems to me, Joel, that you all have the brain power and the ability to sit down and say when it comes to a right-of-way, here is what we want to the power company, here is your authority to meet this standard. And then you audit it once in a while to make sure they are not out, you know, cutting trees 200 yards back and selling them to somebody, and I don't think they are going to do that.

My point is it seems to me that a lot of money and effort is spent, and a lot of delay occurs, that could be catastrophic in nature over

these single-tree issues or things like that, that I would think that once you have done the NEPA for a new right-of-way, then there ought to be a plan in place that allows them to maintain that right-of-way to a common-sense standard, and allow them to be certified to do that or something.

That frees up your people then to do more meaningful work. I mean, arguing over a post hole 12 miles from a stream with endangered fish, a mile from the nearest creek, doesn't seem to be a very productive use of taxpayer resources. Or, for that matter, the ratepayer cost, because that is the other side of this equation. If we can hold cost of power rates down, and we can get your folks involved in the work that is so needed elsewhere that will have more dramatic effect. Is that something you think you can move toward?

Mr. HOLTROP. I think what you are saying makes a great deal of sense. And I think it is very consistent with the theme in my testimony, as well, in which I believe pre-planning—there are aspects of land management that we in the Forest Service have some expertise in, and are able to make some reasoned input into what is the right way to treat a piece of land.

By the same token, we are not the experts in electricity transmission. And so it is truly a partnership that needs to be formed between us and the utilities. And I really believe that if we do the type of pre-planning for these corridors, we can resolve many of these issues very expeditiously.

Mr. WALDEN. This Subcommittee has enjoyed working with you and your agency folks to solve a lot of problems over the last few years, and I have every confidence that, given your leadership and that of the agency, this one can be addressed in a thoughtful, meaningful, and effective way, too. So I appreciate your willingness to stay and meet with these folks, and see if we can't get something going.

I hope you will get back to us and let us know how that process unfolds, and what is possible. And if you need legislative changes somehow to give you additional authorities or whatever to bring some common sense to our land management laws, do let us know. We are happy to take a look at that as a subcommittee. Because I think we can find a balanced and better way than we are operating today, and I am sure you concur on that notion.

Mr. HOLTROP. I do. And I appreciate your support, and look forward to working with the committee and working with the members of the previous panel, and our partners in utilities across the country, to accomplish those things.

Mr. WALDEN. As always, we appreciate your testimony and help. Thank you.

Mr. HOLTROP. Thank you.

Mr. RADANOVICH. Thank you, Mr. Walden. And thank you, Mr. Holtrop, for your testimony. Now let us work together and solve this problem.

With that, again, thank you. And this hearing is closed.

[Whereupon, at 12:20 p.m., the Subcommittee was adjourned.]

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