



February 2, 2024

Randy Moore, Chief  
United States Forest Service  
1400 Independence Ave., SW  
Washington, D.C. 20250

**RE: U.S. Forest Service Notice of Intent to Prepare an Environmental Impact Statement Regarding Its Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System.**

Dear Chief Moore,

On behalf of over 150 community-owned electric utilities in the Western United States, the undersigned western electric utility organizations respectfully submit comments on the United States Forest Service's (USFS) Notice of Intent to Prepare an Environmental Impact Statement regarding the Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System.

We are trade associations and a joint action agency comprised of over 152 community-owned electric utilities in the Western United States and two in British Columbia that collectively serve over 4.5 million electricity customers. Our members are rural electric cooperatives, municipalities, tribal utilities, and public/people's utility districts governed by the people we serve. Our members are in the states of Alaska, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

The threat of wildfires is greatly felt by our members. Destruction from wildfires represents one of the greatest threats to community-owned utilities and the people they serve. Communities across the Western United States and Canada have watched the risk and threat of fire grow with devastating results to life and property. Entire towns and their utility infrastructures have been wiped out. Rebuilding can take years and lives are forever changed.

There is also a significant financial burden that comes from the growing risk of wildfires. As an example, wildfire insurance premiums for utilities have skyrocketed in the last decade. Community-owned utilities do not have corporate shareholders, so all the costs must be passed through to customers. Many of our member utilities serve rural areas where a large share of customers qualifies as energy-burdened and require government assistance to try to make ends meet. This reality means that added cost increases can represent significant hardships.

Additionally, if utility equipment is found to be the cause of a wildfire, the utility may face hundreds of millions of dollars of liability, far exceeding the insurance caps. For our members, such financial outlays are impossible and could result in the loss of electric service to entire communities. Our members are taking a highly active role in reducing wildfire risks, including the timely management of vegetation growing along electric transmission and distribution lines on or near rights-of-way. Proper vegetation

management helps reduce power-line related wildfires, ensure reliable electric service, and safeguard electric infrastructure.

Performing effective vegetation management and forest health work on federal lands requires a partnership with federal agencies. The Bureau of Land Management and the USFS together manage 439.3 million acres throughout the United States containing almost 90,000 miles of electrical transmission and distribution rights-of-way. Utility companies, and ultimately their customers, bear the cost of maintaining and repairing these rights-of-way, and suffer the reliability and financial consequences if they are not allowed timely access to federal lands to manage vegetation while the managing agencies enjoy the use of these often-improved easements at no cost.

Ultimately, the liability for fire damage rests squarely with a utility when vegetation in or near rights-of-way causes fires when encountering electric lines. Utilities may be liable for fire suppression costs even when federal land managers have denied a utility's request to prune and remove vegetation that ultimately caused the fire. Utilities that are held liable for fire damage costs can be denied future liability insurance.

In 2018, Congress approved legislation as part of the Omnibus Appropriations Act of 2018 (P.L. 115-141, 132 Stat. 1068, Sec. 211) , which has been codified as Section 512 of the Federal Land Policy and Management Act (FLPMA), to allow for timely and consistent approvals of utility vegetation management requests, limits on strict liability for utilities that proactively plan for vegetation management in rights-of-way and for removal of hazard trees, and improved cooperation between rights-of-way operators and federal land managers. Our members highly anticipated implementation of this new law and believe the authorities in FLPMA strike the correct balance to preserve the nation's forests and protect those forests and our communities from wildfire.

As entities that hold special use permits across USFS systems in 10 Western states, our member utilities' concerns center around the continued ability to maintain vegetation on or near electricity rights of way across the National Forest System as provided for in the Act and in a manner that reduces risk of wildfire, supports reliability and ensures the safety of utility employees and the communities served.

With that in mind, we provide the following comments on the Notice of Intent.

**1. Electric utility vegetation management must be supported by the proposed policy.**

Electric utilities are charged with constructing and managing critical infrastructure to provide electricity reliably and safely to communities. In doing so, electric utilities perform routine maintenance of electricity rights-of-way. Our member utilities hold special use permits and Federal Energy Regulatory Commission (FERC) licenses with the USFS and FERC to conduct necessary maintenance of rights-of-way for reliability and safety.

In recent years, extreme weather events have made vegetation management on or near rights-of-way increasingly important. For instance, recent frigid temperatures, ice, and high winds in Oregon led to customers being without electricity for days as crews worked around the clock to restore power lost due to falling trees or tree limbs. Considering extreme weather events like this one, routine maintenance becomes necessary and imperative to protect the reliability of critical electric infrastructure and the health and safety of the communities served.

We are concerned that the proposed policy to protect and foster old growth forests lacks clear language regarding the need for routine maintenance of vegetation to prevent power outages during extreme weather events and reduce wildfire risks. ***We urge the U.S. Forest Service to support electric utility vegetation management on or near rights-of-way by making an exception to the proposed rule for routine utility vegetation management.***

**2. An exception must be made for electric utility management of hazard and danger trees near or on electric rights-of-way consistent with Section 512 of FLPMA.**

As provided by Section 512 of FLPMA, electric utilities have the authority to identify and remove hazard trees that are on or near electricity rights-of-way to prevent accidental fires. Once a hazard tree, as defined in FLPMA, has been identified and removed, utilities must inform the federal land management agency of its action. This ability to quickly remove a hazard tree that poses a threat of falling into a power line helps protect the health of the forest landscape and also increases the value of utility vegetation management efforts in rights-of-way on federal lands for wildfire prevention. It also promotes the safety of electrical equipment, electric utility employees, and the communities they serve.

The proposed Standards for Management Actions in Old-Growth Forest Conditions would prevent management of vegetation included in old-growth, and potentially “mature” forests. An exception to this standard is suggested “to reduce fuel hazards on National Forest System land within the wildland-urban interface to protect a community or infrastructure from wildfire.” While this exception appears to imply that electric utilities could remove hazard trees or perform routine vegetation management in old growth or mature forests to prevent wildfire, it is not clear if this will be allowed in all cases. In addition, it is not clear in this language who makes the decision that vegetation must be removed and mitigated to protect a community or infrastructure from wildfire. Finally, the phrase “within the wildland-urban interface” is undefined and could be interpreted to further reduce the scope of the exception, impeding an electric utility’s ability to remove hazard trees under Section 512 of FLPMA and to perform maintenance on vegetation on or near rights-of-way. ***It is imperative that any new policy to protect and foster old growth forests include an exception for the authority of utilities to remove hazard trees and to act consistent with management plans and agreements filed and approved under Section 512 of FLPMA.***

The phrase “within the wildland-urban interface” appears to unnecessarily narrow the application of the fuel hazard reduction exception to a limited geographic area. Wildfire originating in areas that may not be defined as wildland-urban interface can spread everywhere, threatening urban areas. It does not seem wise to limit the application of an exception for removing fuel hazards to prevent wildfires to only those areas of national forests near urban areas. ***This limiting phrase should be removed to ensure action can be taken to prevent wildfires in all areas not just in the wildland-urban interface.***

**3. New policy must not impede progress on development and approval of vegetation management plans and agreements with the U.S. Forest Service under Section 512 of FLPMA.**

Our member utilities with electricity rights-of-way on U.S. Forest Service lands are in the process of revising vegetation management plans or agreements as required under Section 512 of FLPMA. Some member utilities are close to final approval after long hours of work revising and updating these plans. The proposed policy to protect and foster old growth forests could halt or delay approval of these plans.

These plans are critical for enabling electric utilities to maintain vegetation near rights-of-way and thus maintain reliability and safety. ***We urge the U.S. Forest Service to ensure this new proposal does not delay or impede the approval of vegetation management plans and agreements.***

**4. Electric utility wildfire mitigation, post-fire recovery, and grid hardening actions in rights-of-way must be categorically excluded from NEPA and other environmental reviews.**

The Report of the Wildland Fire Mitigation and Management Commission was recently submitted to Congress. That report addressed rights-of-way approvals and permitting process improvements. The Commission recommends that Congress direct agencies to implement a consistent set of rules and operational practices to address permitting approval and timelines for both regular and emergency work in electric transmission rights-of-way on federal lands. The proposed policy on old growth forests must not reverse progress and should make clear that these efforts will be enhanced.

***We recommend categorically excluding wildfire mitigation, post-fire recovery, and grid hardening activities in existing rights-of-way, or those activities which have de minimus impacts, from National Environmental Policy Act (NEPA) and other environmental reviews. Existing authorities would allow federal agencies to propose and finalize such categorical exclusions.***

Specifically, activities that should be categorically excluded include, but are not limited to:

- Operation, maintenance, or repair of equipment and structures within existing substations, switching stations, transmission, and distribution lines;
- Routine and emergency vegetation management, including the removal of hazard trees and other hazard vegetation within or adjacent to an existing right-of-way;
- Wildfire mitigation activities that are enumerated in an approved operations and maintenance (O&M) plan; and
- Any repair, maintenance, upgrade, optimization, or minor addition to existing transmission and distribution infrastructure, within an existing right-of-way.

We thank you for the opportunity to comment on the proposed policy to protect and foster old growth forests in the national forest system. Addressing the impact of the proposed policy on electric utilities' ability to maintain vegetation on or near rights-of-way in National Forests is critical to fighting the growing danger of wildfire risk and extreme weather events to communities across the Western U.S. It is also important to the health of the forests we are all seeking to protect. We thank you for your consideration and urge you to incorporate our recommendations in your new policy.

Sincerely,



Kurt W. Miller, Executive Director  
Northwest Public Power Association

On behalf of [NWPPA](#), and [Idaho Consumer Owned Utilities Association](#), [Northern California Power Agency](#), [Oregon Rural Electric Cooperative Association](#), [Oregon Municipal Electric Utilities Association](#), [Flathead Electric Cooperative Association](#), [Nevada Rural Electric Association](#), [Sacramento Municipal Utility District](#), [Wyoming Rural Electric Association](#)