

**United States House of Representatives Committee on Natural Resources
Subcommittee on Water, Power and Oceans**

**Testimony of Mark C. Hayden
General Manager, Missoula Electric Cooperative**
“Electricity Reliability and Forest Protection Act”

May 20, 2015

Good Afternoon Chairman Fleming and members of the subcommittee, my name is Mark Hayden, and I am the General Manager of Missoula Electric Cooperative (MEC) in Missoula, Montana.

Thank you for the opportunity to testify in support of H.R. 2358, the Electricity Reliability and Forest Protection Act of 2015. Missoula Electric Cooperative is a member of the Montana Electric Cooperatives’ Association, and the Northwest Public Power Association and my comments are representative of their positions as well.

By way of background, MEC serves the electric distribution needs to approximately 15,000 meters in Western Montana and Eastern Idaho. The nearly 2,000 miles of distribution line that we maintain deliver energy to some of the most wild and scenic locations in the country- 286 miles of which cross federal land.

At MEC we are constantly working to improve system reliability, and vegetation management is a critical component of our program, both on and off federal land. We strive constantly to keep our rights-of-way clear and the adjacent property free from danger trees. The cornerstone of this effort is our System Maintenance and Reliability Taskforce or SMART. The SMART program is an integrated maintenance program focused on proactive vegetation management, system-wide installation of wildlife protection wherever possible, and routine equipment inspection and maintenance.

We also work diligently to maintain good relations and open communications with the various Forest Service Offices and Ranger Districts with which we interact. In many cases, those district offices and the people that staff them live locally and have a vested interest in the health and welfare of the forest, and it shows.

A great example of this level of cooperation occurs regularly during the clearing of danger trees outside of our rights-of-way during routine Operations and Maintenance activities. Representatives from MEC and local Forest Service Officials communicate periodically and expectations are understood. As a result, managers and crews can adequately plan for the time and financial resources necessary to complete a project. Another positive example occurred during the summer of 2014 when a power line river crossing was toppled during spring runoff. Once emergency power restoration was complete, we requested burial of the line and approval

was granted within hours, as it should be in the case of Emergency Operations and Maintenance activities.

But this positive situation is not found on all our rights-of-way managed by the Forest Service.

In some cases, it can take months or a year or more to obtain approval on Major Operation and Maintenance activities. Such approvals are necessary to assuring electricity service is not jeopardized as a result of work needed on rights-of-way. It is this inconsistency and the unnecessary financial risk placed on my cooperative and other cooperatives that causes me and other co-op managers in the State of Montana significant concern.

In fact, the risk of fires as a result of hazardous trees is all too real across the West. For example, I know of one member-owned electric cooperative in New Mexico that today faces the very real prospect of bankruptcy as a result of a massive 152,000-acre fire. This fire was caused by just one aspen tree that fell onto the power line in the co-op's Forest Service right of way. The Forest Service held this co-op responsible for the costs of fighting this fire, sending the co-op a bill totaling more than \$38.2 million. The co-op has \$20 million in liability insurance coverage.

Mr. Chairman, I would like to ask permission to have two government documents related to this fire entered into the hearing record.

For my co-op in Montana, our service area, like so many parts of the West, has been adversely affected by the Mountain Pine Beetle infestation and the dead and dying trees left in its wake. One of the areas hardest hit is in the Swan Valley north of Seeley Lake, Montana. In fact, during 2012 the substation serving this remote country recorded the worst performance of all our delivery points and, according to our records, 94 percent of our outage minutes were caused by tree failure from outside of our rights-of-way and contact with overhead lines. In 2013, that total was 86 percent when excluding severe storms.

One complicating factor for our lines on federal land in this area is that the Forest Service has required that many of them be constructed out of view using vegetative screening, and thus far off the road when originally installed. This means lack of visibility, inaccessibility, and heavily forested rights-of-way are the norm.

Obviously, one of the most effective ways to improve service reliability and mitigate fire risk is to bury the power line. As you can imagine, each instance of tree/power line contact can pose significant risk of wildfire ignition under the right environmental conditions. However, converting overhead distribution lines to underground is an expensive proposition, especially for a small cooperative like MEC, so this cannot be standard practice. But after considerable internal discussions regarding our situation in the Swan Valley, the decision was made to be proactive by requesting permission to bury approximately 6.1 miles of overhead line on Forest Service land.

In addition to reliability, a major contributing factor in our decision to bury this line was a 2011 Montana Supreme Court decision relating to fire damages. In that ruling the court indicated that a utility could be held liable for restoring unimproved property to its pre-fire condition, including

the replacement of mature trees. This ruling had the potential to bankrupt any utility and solidified our decision to move forward.

On December 2, 2013, an application was submitted to the Forest Service district office having jurisdiction over the proposed project, and, just one month after submittal, we were notified that approval of our request was expected by June of 2014.

However, as the months progressed our hopes dimmed. Eventually, we made an appeal for help from then Congressman Steve Daines, who brought our situation to the attention of this subcommittee last year. In preparation for my testimony here today, I spoke with the local Forest Service office regarding my frustration. These local officials indicated that the hold-up in processing our request was getting us a bill for cost recovery, and if I wanted to see things change I should take up my issue with Congress! This comment was made even though they were unaware of my pending testimony on this very issue.

Two days later, on Saturday, May 16th at 4:06 p.m. we received unofficial notice via email that all associated field work has been completed on our project, that our co-op has paid the Forest Service for all associated costs, and that we were authorized to begin construction.

The system is broken, and H.R. 2358 as introduced by Congressman Zinke and Congressman Schrader is a meaningful step toward fixing the problem. The legislation addresses some of my concerns and the concerns of others in Montana about inconsistent federal agency actions, lengthy delays in response to applications by electric utilities, and accountability for delays related to eliminating problems with hazardous trees and other vegetation on utility rights-of-way.

I hope that one day the same level of consistency, flexibility, and accountability can be incorporated into our process to amend existing Special Use Permits on existing Rights-of-Way, especially when system reliability and fire prevention are driving factors.

Thank you again for the honor of testifying before this subcommittee and I will be pleased to answer any questions.