

To: BLM_WO_100[blm_wo_100@blm.gov]
Cc: John Kalish[jkalish@blm.gov]; Timothy Spisak[tspisak@blm.gov]; Kristin Bail[kbail@blm.gov]; Christopher McAlear[cmcalear@blm.gov]; Adrienne Dicerbo[adicerbo@blm.gov]; Ralston, Jill[jralston@blm.gov]; Jamie Pool[jpool@blm.gov]; Jeff Krauss[jkrauss@blm.gov]; Beverly S Winston[BWinston@blm.gov]; Megan Crandall[mcrandal@blm.gov]
From: Wilkinson, Patrick
Sent: 2017-09-20T12:02:14-04:00
Importance: Normal
Subject: FYI - EE: SENR Oversight/Legislative Hearing - ROW Vegetation Management Requirements, H.R. 1873 & Sec. 2310 of S. 1460
Received: 2017-09-20T12:02:41-04:00

FYI - EE story and committee press release regarding the hearing follow:

FORESTS

House, Senate take differing approaches to vegetation legislation

Sam Mintz, E&E News reporter

Published: Wednesday, September 20, 2017

With legislation in the works to reform the permitting process for utilities to clear vegetation around their electricity infrastructure in federal forests, most stakeholders agree that adjusting the existing laws makes sense.

Now all that's left is to iron out the details.

At issue are a House bill, **H.R. 1873**, and a section in the Senate's comprehensive energy reform bill, both of which are aimed at reducing the risks of wildfires and enhancing electric reliability by speeding tree-trimming projects.

Andrew Rable, forestry manager at Arizona Public Service, the state's largest electric utility, laid out what he called a "bind" for utilities at a Senate Energy and Natural Resources Committee hearing this morning.

"Courts have found companies liable for wildfire damages involving power line contact with vegetation, despite their extensive, proactive vegetation management efforts, often in high hazard conditions," Rable said.

"At the same time, companies are subject to significant fines for violations of the mandatory reliability standards for vegetation management developed by the North American Electric Reliability Corp. and approved by the Federal Energy Regulatory Commission," he said.

When those companies try to expedite their vegetation management to avoid those problems, they often run into expensive and slow environmental studies and monitoring, he said.

The bills would work to fix that by allowing for expedited and more consistent government reviews of that vegetation management work, as well as creating "categorical exclusions" for existing

transmission lines under the National Environmental Policy Act.

That would mean projects could be exempt from detailed environmental reviews, a fact that caused some Democrats in the House to oppose that chamber's version of the legislation in June (*E&E Daily*, June 22). The bill passed 300-118. The Senate bill was fast-tracked for a floor vote but has been stuck in a queue behind other matters.

Officials from the Bureau of Land Management and Department of Agriculture, which oversees the National Forest System, both said yesterday morning that while they might tweak a few details, they support the goals of both bills.

"The legislation being considered at this hearing would expand the BLM's toolbox to help reduce the threat of catastrophic wildfires like those we are currently experiencing," said John Ruhs, BLM's acting deputy director of operations.

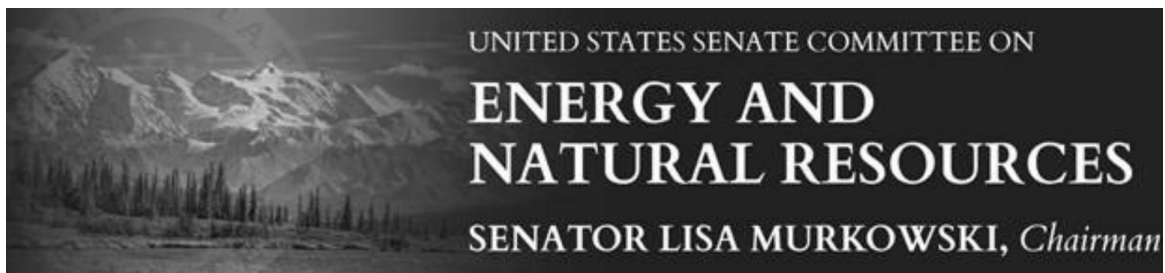
While the bills are generally similar, there are a few key differences. For one, the House bill has a 90-day approval timeline to the Senate's 180, and it generally provides more flexibility to companies.

The distinctions are significant enough that Scott Miller, Southwest senior regional director for the Wilderness Society, said that his organization supports the Senate bill but not the House version.

He said that H.R. 1783 could "frustrate rather than facilitate" vegetation management.

"As a result of its inconsistent, broad, and contradictory provisions regarding the application of state and local requirements, H.R. 1873 also could leave utilities and federal land managers in the untenable position of having to comply with conflicting, inapplicable, or inadequate State and local requirements for fire safety and electric system reliability," he said in written testimony.

The Senate bill, he said, takes a "much more thoughtful approach."



FOR IMMEDIATE RELEASE

CONTACT: Nicole Daigle 202.224.2576

September 20, 2017

[Permalink](#)

Murkowski: Proper Vegetation Management Reduces Wildfires, Protects Electric Grid Reliability on Federal Lands

Washington, D.C. – U.S. Sen. Lisa Murkowski, R-Alaska, yesterday chaired a [hearing](#) to discuss the importance of vegetation management and how the nation’s utilities and our federal land managers work together to protect electric grid reliability and prevent wildfires. The committee also received testimony on two legislative proposals, both of which received support for their goals to improve the processes for approving and conducting vegetation management activities within and outside of electricity transmission and distribution facility rights-of-way.

Murkowski [opened](#) the hearing by acknowledging how damaging hurricanes and other natural disasters can be on the electric grid and the real hardships people face without electricity. Most notably, one of the biggest dangers facing the nation in “keeping the lights on” is basic vegetation management around electricity transmission and distribution lines.

“Millions of acres are burning again in western states. Failing to keep power lines free of vegetation and so-called ‘hazard’ trees can be a cause of wildfires,” Murkowski said.

Murkowski pointed out the importance of allowing utilities to conduct proper vegetation management by highlighting as an example a blackout in 2003, caused by a single tree falling on a power line in Ohio that left 50 million people without power. That blackout led to the creation of mandatory reliability standards, which hold utilities strictly liable for damages that occur on federal lands. While utilities are subject to fines of up to \$1 million per day for standard violations, they still need permission to maintain their lines on federal lands, which is not always granted in a reasonable timeframe.

“With 90,000 miles of power lines located on federal lands, utilities must cooperate with federal resource agencies to conduct this important work in a time-sensitive manner,” Murkowski said. “Unfortunately, the federal government is not exactly known for its time-

sensitivity, and we often find inconsistent procedures among the various field offices. Still, under strict liability, a utility – and, really, its customers – may have to pay for damages that were preventable.”

Murkowski and Ranking Member Maria Cantwell, D-Wash., included a vegetation management provision in their broad, bipartisan Energy and Natural Resources Act of 2017 (ENRA), S. 1460, which was introduced in June. The vegetation provision in ENRA is section 2310. The House of Representatives’ passed, H.R. 1873, the Electricity Reliability and Forest Protection Act, earlier this year on a bipartisan vote of 300-118.

Both measures seek to bring greater certainty and timeliness to the federal process for vegetation management and provide expedited access during emergency situations. In addition, both improve the National Environmental Policy Act compliance requirements for routine vegetation management work and attempt to bring fairness to the issues of liability.

Murkowski is chairman of the Senate Committee on Energy and Natural Resources. An archived video and testimony from yesterday’s hearing are available on the committee’s website. Clickhere to view both rounds of Murkowski’s questions for witnesses.

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Energy.Senate.Gov

Tue, Sep 19, 2017 at 4:55 PM, Wilkinson, Patrick <p2wilkin@blm.gov> wrote:

FYI - On September 19, the Senate Energy and Natural Resources Committee held a combined oversight and legislative hearing on “*Vegetation Management Requirements for Electricity Assets Located on Federal Lands*”, and on H.R. 1873, the Electricity Reliability and Forest Protection Act, and Section 2310 of S. 1460, the Energy and Natural Resources Act. Members in attendance included Chairman Murkowski (R-AK), Ranking Member

Cantwell (D-WA), and Sens. Barrasso (R-WY), Daines (R-MT), Heinrich (D-NM), and Cortez-Masto (R-NV).

The hearing lasted about an hour, and had one witness panel, including John Ruhs, BLM Acting Deputy Director of Operations; Glen Casamassa, FS Associate Deputy Chief; Mark Hayden, General Manager, Missoula Electric Cooperative; Scott Miller, Senior Regional Director – Southwest Region, Wilderness Society; and Andrew Rable, Manager, Forestry and Special Programs, Arizona Public Service.

In their statements, members stressed the importance of appropriate vegetation management in transmission rights-of-way in order to prevent widespread power outages and wildfire, and took issue with agency processes that they referred to as time consuming and inconsistent. John responded to questions from members on strict liability for damage caused by wildfire, categorical exclusions for routine and emergency vegetation management activities, and the BLM's approach to forest management in light of the Secretary's recent directive on wildfire. All of the witnesses testified in favor of the legislation generally, with the exception of the Wilderness Society, which was opposed to H.R. 1873 but supported Section 2310 of S. 1460.

Finally, Sen. Heinrich turned the discussion to what he characterized as factual errors in the Secretary's report on national monuments, specifically in regard to Organ Mountains-Desert Peaks and Rio Grande del Norte. He asked whether the BLM had been contacted by the Department, and whether there were plans to correct the errors in the report. (See related EE story pasted below.)

NATIONAL MONUMENTS

Zinke review of N.M. sites contains errors — Sen. Heinrich

Kellie Lunney, E&E News reporter

Published: Tuesday, September 19, 2017

Sen. Martin Heinrich (D-N.M.) during a Senate hearing this morning. Energy and Natural Resources Committee

Interior Secretary Ryan Zinke's proposed recommendations to alter two of New Mexico's national monuments are based on factual errors, Sen. Martin Heinrich said today.

The New Mexico Democrat said the department's **draft monument review** contains inaccuracies about road closures, hunting and fishing access, and the U.S.-Mexico border as it pertains to the two monuments in his state.

"I certainly hope that before the president acts on any of these recommendations, that the secretary makes sure that he gets his facts straight," said Heinrich during an unrelated hearing.

The senator added that he was creating a fact sheet on the New Mexico monuments that more consistently reflect "conditions on the ground."

Specifically, Heinrich said the report incorrectly stated that the footprint of the Rio Grande del Norte National Monument in Taos County had led to road closures, adversely affecting ranching.

The report stated that "road closures due to monument restrictions have left many grazing

permittees choosing not to renew permits." Heinrich said, "I confirmed with BLM [Bureau of Land Management] staff that that is not accurate."

He also said Zinke mischaracterized the proximity of the Organ Mountain-Desert Peaks National Monument to the international border. The report stated that the OMDP monument "abuts" the border and that "border security is a concern resulting from the designation, as the proclamation restricts motorized transportation close to the border."

Heinrich said that, based on Department of Homeland Security advice, the monument boundary was set 5 miles north of the international border.

The New Mexico Wildlife Federation said ranching is still allowed in both places and monument designations haven't resulted in a loss of access.

"The Bureau of Land Management has confirmed to our organization that no roads have been closed in either monument since designation," said Todd Leahy, the organization's deputy director. "In response to the border, there's no evidence to suggest that since designation the security of our border has been impacted in any way."

Zinke's draft report, submitted to President Trump last month and leaked this past weekend, recommended reducing the boundaries of as many as six monuments.

They include the Grand Staircase-Escalante and Bears Ears monuments in Utah; Gold Butte National Monument in Nevada; and the Cascade-Siskiyou National Monument, which straddles Oregon and California; as well as both the Rose Atoll and the Pacific Remote Islands marine national monuments ([*Greenwire*](#), Sept. 18).

As for the two New Mexico sites, which together constitute more than 700,000 acres of BLM-managed land, the report recommended revising their management plans as well as amending their proclamations under the Antiquities Act "to continue to protect objects and also prioritize public access; infrastructure upgrades, repair and maintenance; traditional use; tribal cultural use; and hunting and fishing rights."

Heinrich disputed that the monuments' designations restricted hunting access on the lands, saying he hunts quail in the Organ Mountains and that Rio Grande del Norte "hosts a big horn sheep hunt that did not exist before the monument designation."

John Ruhs, BLM's acting deputy director of operations, told Heinrich that while he was not directly involved with writing or fact-checking the draft monument report, he "did answer questions and provide data as necessary."

Ruhs, a witness at the Energy and Natural Resources Committee hearing, said he would take Heinrich's questions and concerns back to Interior.

"Our secretary is pretty thorough on things, so if we've identified inconsistencies, and I take that information back, I am sure there would be an opportunity to fix those," said Ruhs.

BLM spokeswoman Megan Crandall referred questions on the monument review and Heinrich's comments to the main Interior press shop. Interior press secretary Heather Swift referred questions to the White House.

"The Trump administration does not comment on leaked documents, especially internal drafts, which are still under review by the president and relevant agencies," said spokeswoman Kelly Love.

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Patrick Wilkinson
U.S. Department of the Interior
Bureau of Land Management
Legislative Affairs Division (WO 620)
Phone: (202) 912-7429
Fax: (202) 245-0050

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Patrick Wilkinson
U.S. Department of the Interior
Bureau of Land Management
Legislative Affairs Division (WO 620)
Phone: (202) 912-7429
Fax: (202) 245-0050

