

United States
Department of the Interior
Bureau of Land Management

Miles City Field Office

MDU Renewal ROW M052665

Categorical Exclusion (CX)
DOI-BLM-MT-C020-2013-0015-CX

For Further Information Please Contact:

Bureau of Land Management
Miles City Field Office
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BLM



UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
Miles City Field Office
111 Garryowen Road
Miles City, Montana 59301

CATEGORICAL EXCLUSION REVIEW AND APPROVAL

A. Background

BLM Office: Miles City Field Office

Serial No.: MTM-052665

NEPA Number (if applicable): DOI-BLM-MT-C020-2013-0015-CX

Proposed Action Title/Type:

Montana-Dakota Utilities Renewal of Right-of-way MTM-052665

Location of Proposed Action:

T. 7 N., R. 61 E., Section 27: SW $\frac{1}{4}$ SW $\frac{1}{4}$,
Section 34: N $\frac{1}{2}$, Fallon County, Montana, PMM

Description of Proposed Action: The proposed action is to renew a right-of-way which was issued to Montana-Dakota Utilities Company. This right-of-way is located on two parcels of Federal land and it was authorized for an overhead 60 kV electric transmission line. It was issued under the authority of the Act of March 4, 1911 (36 Stat. 1253; U.S.C. 961). The right-of-way was subject to all applicable provisions of the regulations at the time they were issued. MTM-052665 will expire on November 20, 2012. The holder has requested that the right-of-way be renewed for a 30-year term and be renewable. The holder has paid the required processing fee of \$403 for a Category 2 FLPMA right-of-way. Montana-Dakota Utilities Company would be subject to cost recovery fees and rental fees. The right-of-way is 50 feet wide, 5,500 feet long, and consists of 6.31 acres, more or less. This right-of-way has been inspected and is being used for the purpose for which it was authorized.

The standard stipulations for cultural and/or paleontological resource protection and toxic substances would be made a part of the right-of-way grant, as would the standard stipulations that all activities associated with the ROW and weed control would be conducted within the authorized limits of the right-of-way. There would be no construction or routine maintenance when the soils are too wet. The holder would be required to contact entities or persons who hold an authorized right on adjacent or affected lands. The electric line needs to be in conformance with the "Suggested Practices for Avian Protection on Power Lines," Raptor Research Foundation, Inc., 1981, as amended in 1996 and 2006. The right-of-way would be subject to mitigations set forth in the application and plan of development. The right-of-way would be renewed pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and be subject to the terms and conditions in 43 CFR 2800 and the

attached stipulations. The right-of-way would be monitored for use and before future renewal or termination.

B. Land Use Plan Conformance

Land Use Plan Name: Big Dry R. A. RMP/EIS Record of Decision (ROD)
 Date Approved/Amended: Approved on April of 1996

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): This proposed action is in conformance with the Big Dry Resource Area RMP/EIS ROD which was approved in April of 1996. On page 10 of the Record of Decision, it states that "In areas where rights-of-way are allowed, stipulations from the BLM Manual 2800 will be used to protect resource values." The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5

C. Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9E (9) for renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and, as documented below, none of the extraordinary circumstances described in 516 DM2 apply.

Extraordinary Circumstances		
The project would:		
1. Have significant impacts on public health or safety.		
Yes	No	Rationale: <i>The project would not have significant impacts on public health and safety as it is for the renewal of a right-of-way for an overhead electric line. DDL 10/12/2012</i>
	X	
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		
Yes	No	Rationale: <i>Impacts would not be significant as the proposed action is to renew the existing right-of-way. DDL 10/12/2012</i>
	X	
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		

Yes	No X	Rationale: <i>No controversial environmental effects or unresolved conflicts. DDL 10/12/2012</i>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	No X	Rationale: <i>No highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. DDL 10/12/2012</i>
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	No X	Rationale: <i>This action is not connected to another action that would require further environmental analysis nor will it set a precedent for future actions that would normally require environmental analysis. DDL 10/12/2012</i>
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	No X	Rationale: <i>There would be no cumulative impacts from this project. See CFR 1508.7. DDL 10/12/2012</i>
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		
Yes	No X	Rationale: <i>Confirm that cultural surveys have been completed; the appropriate data bases have been reviewed; and appropriate concurrence from SHPO and tribes have been received indicating that significant impacts are not expected.</i> The area of the proposed action has been inventoried for cultural resources. One site, a historic debris scatter (24FA153) is in the area of the ROW. The site is recommended as not eligible for listing on the National Register of Historic Places (See BLM Cultural Resources Report MT-020-13-19). Renewing the ROW would have no effect to cultural properties listed on or eligible for listing on the National Register of Historic Places. DM 10/22/12
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		
Yes	No X	Rationale: <i>Threatened or endangered species do not exist within this area. KU 10/25/12</i>
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	No X	Rationale: <i>No laws are being violated by this action. DDL 10/12/2012</i>

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	No X	Rationale: <i>Does not have a disproportionately high and adverse effect on low income or minority populations. DDL 10/12/2012</i>
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes	No X	Rationale: <i>Consultation with tribes regarding Indian sacred sites must take place</i> The proposed action is to renew an existing ROW. Renewing the ROW would not impact access or other uses of public lands. No cultural resources of concern to Native American groups have been identified in the vicinity of the ROW. No areas of concern in the vicinity of ROW are identified in the Ethnographic Overview for Southeast Montana. DM 10/22/12.
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		
Yes	No X	Rationale: <i>The proposed action will not contribute to the introduction or spread of noxious weeds as an existing right-of-way is being renewed. BSW 10/12/2012</i>



10/26/2012

Signature of Environmental Coordinator

Date



10/30/2012

Signature of Supervisory Land Use Specialist

Date

Decision Record for Categorical Exclusion
Renewal of Right-of-way MTM-052665 Montana-Dakota Utilities
DOI-BLM-MT-020-2012-0015-CX

Decision: I have made the decision to renew the existing right-of-way to Montana-Dakota Utilities for an overhead 60 kV electric transmission line located on the following Federal lands (Public Domain):

T. 7 N., R. 61 E., Section 27: SW¼SW¼ and
Section 34: N½, Fallon County, Montana, PMM.

The standard stipulations for cultural and/or paleontological resource protection, toxic substances stipulation, weed control stipulation, no construction or maintenance when too wet, coordinate with other parties, timing stipulation, conformance with “Suggested Practices for Avian Protection on Power Lines,” as well as other stipulations will be made part of the right-of-way renewal grant. The right-of-way will be renewed for 30 years and be pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and be subject to all applicable provisions of the regulations at 43 CFR 2800 and the attached stipulations. The applicant will be subject to cost recovery fees and rental fees. The right-of-way will be monitored for use and before future renewal or termination.

Rationale for Decision: The proposed action meets the criteria for a categorical exclusion under 516 DM 11.9E (9) for renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations and none of the exceptions in 516 DM 2 apply. Further the actions are in conformance with the Big Dry RMP/EIS ROD, which was approved in April of 1996.

I considered the proposed action and associated stipulations which will be included in the right-of-way renewal grant and are attached below. There is no potential for significant impacts. Use of this CX is appropriate and I have decided to implement this action.

D: Signature



Signature of Authorizing Official

10/30/2012

Date

Name: Todd D. Yeager

Title: Field Manager

Contact Person

For additional information concerning this CX review and decision, contact:

Dalice Landers, Realty Specialist (406-233-2836)

BLM – Miles City Field Office

111 Garryowen Road

Miles City, Montana 59301

Stipulations

1. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

2. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).

3. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.

4. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.

5. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

6. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such

amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

7. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.

8. The holder shall coordinate with the existing right-of-way holders, grazing lessees/permittees, and other parties who hold an authorized right on adjacent and affected lands.

9. Unless otherwise agreed to by the authorized officer in writing, powerlines shall be constructed in accordance to standards outlined in "Suggested Practices for Avian Protection on Power Lines," Raptor Research Foundation, Inc., 1981, as amended in 1996 and 2006. The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe." Such proof shall be provided by a raptor expert approved by the authorized officer. The BLM reserves the right to require modifications or additions to all powerline structures placed on this right-of-way, should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States.

10. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.