

United States
Department of the Interior
Bureau of Land Management

Miles City Field Office

McCone Electric
Overhead Electric Line
ROW MTM-104715

Environmental Assessment (EA)
DOI-BLM-MT-C020-2013-0052-EA

For Further Information Please Contact:

Bureau of Land Management
Miles City Field Office
111 Garryowen Road
Miles City, Montana 59301
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BLM



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

ENVIRONMENTAL ASSESSMENT REVIEW

OFFICE/AREA: Miles City Field Office	DOI-BLM-MT-C020-2013-0052-EA
	DATE ENTERED: 12/4/2012
NAME: McCone Electric Overhead Electric Line Right-of-way MTM-104715	DATE DUE: 12/11/2012
	FUNDING: Applicant
LOCATION: See Legal Descriptions below in Prairie County, Montana, PMM	SERIAL #: MTM-104715

ORIGINATOR DATE/INITIALS	TITLE	ASSIGNMENT
Dalice Landers 12/4/12 <i>DDL</i>	Realty Specialist	Project Coordinator and Lands and Realty

REVIEWERS	TITLE	ASSIGNMENT	DATE/INITIALS
Dale Tribby	Wildlife Biologist	Wildlife/T&E	5/10/13 <i>dct</i>
Doug Melton	Archaeologist	Cultural/Paleo	05/19/13 DM Cultural Report MT-020-13-32
Dena Lang	Outdoor Rec. Planner	VRM/Rec/Wilderness	<i>DJL</i> 2/19/13
Brenda Witkowski	Natural Res. Spec.	Weeds	BSW 2/19/2012
Chris Robinson	Hydrologist	Water Resources	CWR 2/20/13



ENVIRONMENTAL COORDINATOR

5/21/2013
DATE



SUPERVISORY LAND USE SPECIALIST

5/22/2013
DATE

ENVIRONMENTAL ASSESSMENT

EA NUMBER: DOI-BLM-MT-C020-2013-0052-EA **Serial Number: MTM-104715**

PROPOSED ACTION/TITLE TYPE:

McCone Electric Overhead Line Right-of-way MTM-104715

LOCATION OF PROPOSED ACTION:

T. 14 N., R. 46 E., Section 4: Lots 1-2,
T. 15 N., R. 46 E., Section 27: S½SE¼,
Section 33: E½SE¼, and
Section 34: NW¼NE¼, N½NW¼, SW¼NW¼, NW¼SW¼,
Prairie County, Montana, P.M.M.

PREPARING OFFICE: Miles City Field Office

APPLICANT: McCone Electric Cooperative, Inc.
 P. O. Box 368
 Circle, Montana 59215

DATE OF PREPARATION: December 4, 2012

CONFORMANCE WITH APPLICABLE LAND USE PLAN: This proposed action is in conformance with the Big Dry RMP ROD approved in 1996. On page 10 of the Record of Decision, it states; "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.

PURPOSE AND NEED: McCone Electric Cooperative, Inc. would like to install an overhead 14.4 kV, single phase electric distribution line to provide electricity to two stockwater wells. One well is for Doug Cahill and the other well is for Eaton and Sons. They will be used to provide a reliable water source for their livestock and the wildlife in Prairie County, Montana.

PROPOSED ACTION: McCone Electric Cooperative, Inc. would like to construct, operate, and maintain an overhead 14.4 kV electric distribution line to two stockwater wells. One well is on the Doug Cahill Allotment and the other well is for Eaton and Sons Allotment. The new line would provide a reliable source of water for livestock in the area.

The proposed route was selected because it is the most direct route and the most feasible route. The proposed electric line would cross several parcels of Federal land (Public Domain and LU Lands). The right-of-way would be 40 feet wide, 11,670 feet long, and consist of 10.72 acres, more or less.

McCone Electric has a right-of-way MTM-91854 which ends in SW¹/₄NE¹/₄ of Section 4, T. 14 N., R. 46 E. This would be the beginning point for the new line. It would travel to the Cahill Well which is located on the south end of the division line between the NE¹/₄NW¹/₄ and NW¹/₄NW¹/₄ of Section 34, T. 15 N., R. 46 E. The line would then travel to the Eaton Well which is located in the SE¹/₄SE¹/₄ of Section 27, T. 15 N., R. 46 E. The entire line would be located on Federal land which is both Public Domain and LU Lands.

The proposed line would be constructed to specifications as required by the Rural Utilities Service (RUS), the National Electrical Code, the Office of Health and Safety Administration, and the Suggested Practices for Avian Protection on Power Lines. The design would be a single pole, single phase wood pole construction with all clearances and materials approved. They would use ten 40-foot poles, one 45-foot pole, twenty-eight 35-foot poles all Class 5, two 30-foot poles Class 6 secondary service poles. The line poles would range from 151 to 325 feet apart with 299 feet being the average distance. No site clearing or topsoil removal would be necessary. The construction would last approximately three weeks and would start in the spring of 2013. The equipment would consist of a digger truck to dig holes and set poles and anchors. A wire-stringing truck would be used to string the wire. There could possibly be two 1-ton pickups used. The number of employees needed would be two to four people. Construction would include framing poles with cross arms, setting poles, and stringing wire. Access would be from the county road and then ranch trails. No new roads would be needed. The line would be operated on a year-around basis. Construction activities will cease if precipitation occurs and will not resume until the ground is sufficiently dry to eliminate surface damage by construction equipment. No known hazardous materials will be used during construction or any time on the right-of-way. Once constructed the distribution line will require minimal expenditures for operation and maintenance. Periodic inspections will be conducted by McCone Electric to ensure the line's structural integrity. Right-of-way construction and use will be monitored by the BLM. There will be no blading so no seed mix will be needed; the small amount of disturbance will revegetate naturally. No temporary use work areas would be needed for construction of this project.

Termination activities for the Federal surface area would be conducted in much the same manner as construction activities. Access would be available along the same route. Their above-ground appurtenances such as all poles, conductors, anchors and other miscellaneous materials would be removed and disposed of in a licensed landfill. All drill holes will be backfilled, packed, scarified, and reseeded with an appropriate seed mix.

The right-of-way would be issued pursuant to 43 CFR 2800, Title V of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2776; 43 U.S.C. 1761), and in accordance with the April 1982 Memorandum of Understanding between the Bureau of Land Management and the Montana Associated Utilities for the construction, operation, maintenance, and termination of the proposed project. The right-of-way would be subject to the terms and conditions in 43 CFR 2800, the terms and conditions and stipulations specified below, and mitigations set forth in the

application. The right-of-way term would be for a period of 30 years and be renewable. McCone Electric would be subject to cost recovery, but would be exempt from rental because they are an affiliate of the Rural Electrification Act.

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 stipulation that all activities associated with the right-of-way would be conducted within the authorized limits of the grant. The applicant shall be responsible for weed control on disturbed areas within the limits of the right-of-way. There would be no construction or routine maintenance when the soils are too wet. 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. The right-of-way would be subject to mitigations set forth in the application and plan of development. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands.

ALTERNATIVE 1 - NO ACTION: The no action alternative would be not to allow McCone Electric a right-of-way across Federal land.

AFFECTED ENVIRONMENT:

The following critical resources have been evaluated and are not affected by the proposed action or the alternatives in this EA:

Mandatory Item	Potentially Impacted	No Impact	Not Present On Site
Threatened and Endangered Species			X
Floodplains			X
Wilderness Values			X
ACECs			X
Water Resources		X	
Air Quality		X	
Cultural or Historical Values			
Prime or Unique Farmlands			X
Wild & Scenic Rivers			X
Wetland/Riparian			X
Native American Religious Concerns			X
Wastes, Hazardous or Solids			X
Invasive, Nonnative Species			X
Environmental Justice		X	

The following non-critical resources will not be impacted by this proposed action; therefore they will not be analyzed in detail by this Environmental Assessment: forestry, riparian, hydrology, wilderness, wild horse/burro, fire, geology, minerals, noise, and weeds.

Cultural: The proposed ROW was inventoried for cultural resources on 05/08/13. No cultural resources were observed in the proposed ROW (See BLM Cultural Resources Report MT-020-13-32). The proposed electric line would have no effect to historic properties listed on or eligible for listing on the National Register of Historic Places. The proposed project is located in areas of the Tongue River Member of the Paleocene Fort Union Formation and Quaternary Alluvium. Both formations have Potential Fossil Yield Classification (PFYC) ratings of 3a. This means that while vertebrate fossils have been found, they do not occur on a widespread predictable basis. No paleontological resources were observed in the proposed ROW.

Hydrology: The proposed project is located within the Timber Creek (HUC 1004010421) Watershed, and it will cross three ephemeral drainages and one intermittent stream channel. Peak flows generally occur March through May, resulting from melting snow and rainfall. Intense flows of short duration occur throughout the summer following thunderstorms. Timber Creek is ephemeral within the project area and is MT-DEQ listed under §303(d) of the Clean Water Act as impaired due to Total Nitrogen, Total Kjeldahl Nitrogen, and Total Phosphorus. The impairment has been attributed to agriculture, natural sources, and unknown sources.

Lands/Realty: There is one BLM-issued right-of-way in the area of the proposed project. It is MTM-91854 and is issued to McCone Electric for an overhead line. This is where the new line will start.

Vegetation: The principal forage species are blue grama, needle-and-thread, and threadleaf sedge. A needlegrass aspect dominates this type at the present time, but this may be only a temporary phase of recovery from the bad drought years of 1934 and 1936. Other than needlegrass, the type apparently has no distinctive species but rather is characterized by the lack of them. The sagebrush which surrounds this type, except on the northeast side, is absent here and the little bluestem of the neighboring Northeastern grassland has also disappeared. Other common grass species are Sandberg bluegrass, western bluegrass, prairie junegrass, plains reedgrass, green needlegrass, plains muhly, and bluebunch wheatgrass. Another common sedge is needleleaf sedge. Common shrubs are broom snakeweed and plains pricklypear. Common forbs are scarlet globemallow, goosefoot, and stickweed.

Visual Resource Management (VRM): The proposed project is within a VRM Class IV management objective. The objective of this class is to provide for management activities which require major modification of the existing character of the landscape. The level of change to the characteristic landscape can be high. These management activities may dominate the view and be the major focus of viewer attention. However, every attempt should be made to minimize the impact of these activities through careful location, minimal disturbance, and repeating the basic elements.

Wildlife: The project area provides habitat for a variety of game and non-game wildlife, including but not limited to: mule deer, pronghorns, occasional elk, sharp-tailed grouse, Hungarian partridge,

coyotes, raptors, small mammals and many neo-tropical birds. Most of the birds in the project area are protected via the Migratory Bird Treaty Act and some are designated BLM Special Status Species. Sage-grouse are not common in the area, but sitings do occur. One sage-grouse strutting ground is located approximately 1.5 miles north of the ending point of the powerline (Ban allotment). The strutting ground has had infrequent monitoring conducted in the past several years, but is believed to be inactive. Several sharp-tailed grouse dancing grounds are within the vicinity of the powerline, one located about .25 miles south and the other .4 miles north. Because of the distance and terrain, these dancing grounds should not be impacted by this project. There are no designated crucial winter ranges in the project area.

ENVIRONMENTAL IMPACTS:

DESCRIPTION OF IMPACTS FROM PROPOSED ACTION:

Cultural: The proposed action would have no effect to cultural resources. Unanticipated discoveries of cultural resources during construction would be handled through the cultural resource stipulation attached to the ROW grant.

Hydrology: The project would likely result in negligible impacts to water quality. Erosion potential would be minimized through the following: 1) Clearing activities and topsoil removal would be avoided, 2) Surface disturbing activities would not occur within ephemeral and intermittent drainages, and 3) Access would be of a limited frequency and duration, and would be limited to existing roads and trails. The project would not be a contributing source to Timber Creek's impairment.

Lands/Realty: Care should be used so as not to interfere with the existing authorizations.

Wildlife: By simply placing an overhead powerline across the landscape will result in some level of habitat fragmentation. Most wildlife adapt to powerlines and fragmentation concerns should be minimal. Of biggest concern are sage-grouse. However, since sage-grouse are rarely observed in the project area, this interaction will be rare. Collisions and electrocutions are possible. With application of the APLIC guidelines, the potential for electrocutions should be minimized.

Visual Resource Management (VRM): The proposed project would create contrast to the landscape character elements of form, line and texture. The 35 – 45 foot poles would create a vertical line in a relatively panoramic landscape. The poles, along with cross arms and wires, would create a visual disturbance in the characteristic landscape that would be very visible in the open country even at great distances. Even though the proposed project would cause contrast and impacts to the elements of the visual landscape, it still would conform to the management objective for visual resources in the area. However, every attempt should be made to minimize impact so several mitigation measures are identified such as: 1) Follow contours of landform 2) Co-locate rights-of-ways if there are others in the area 3) Minimize any cut and fill 4) Identify all possible alternative corridor

alignments 5) Use topography to hide any manmade changes 6) Evaluate risks of possible erosion 7) Select an alignment that follows landscape contours 8) Avoid fall-line cuts and bisection ridge tops and 9) Hug vegetation line and avoid any valley bottoms

DESCRIPTION OF IMPACTS FROM ALTERNATIVE 1 - NO ACTION:

McCone Electric would not be able to provide their customers in Prairie County with a reliable source of electricity to operate their stockwater wells and supply their livestock with good, adequate water.

CUMULATIVE IMPACTS:

There will be no other cumulative impacts from this project in addition to those identified in Big Dry Resource Management Plan completed in 1996. A detailed discussion of these cumulative impacts can be found on Pages 111 to 156 of the Big Dry EIS.

MITIGATION:

The right-of-way grant would be issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to the terms and conditions in 43 CFR 2800, the application, mitigations as mentioned in the plan of development, and subject to the following 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 and the temporary use permit. 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, maintenance, 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. Unless otherwise agreed to by the authorized officer in writing, powerlines shall be constructed in accordance to standards outlined in "Suggested Practices for Raptor Protection on Powerlines," 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.

7. Construction holes left open overnight shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.

8. 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.

9. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands.

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

11. 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.

CONSULTATION/COORDINATION:

Larry Schmidt, Manager, McCone Electric Cooperative, Inc.

LIST OF PREPARERS:

Doug Melton, Archaeologist
Dale Tribby, Wildlife Biologist
Dena Lang, Outdoor Recreation Planner
Brenda Witkowski, Natural Resource Specialist (Weeds)
Chris Robinson, Hydrologist
Dalice Landers, Realty Specialist

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MILES CITY FIELD OFFICE
FINDING OF NO SIGNIFICANT IMPACT
MCCONE ELECTRIC RIGHT-OF-WAY MTM-104715
DOI-BLM-MT-C020-2013-0052-EA**

BACKGROUND

The origin of the environmental assessment was due to a request from McCone Electric Cooperative, Inc. for a right-of-way (ROW) to supply a reliable electricity source to residents in Prairie County. McCone Electric Cooperative, Inc. would like to install an overhead 14.4 kV electric line to supply a reliable electricity source to their customers in Prairie County. The customers need a reliable water source for their livestock.

FINDING OF NO SIGNIFICANT IMPACT

On the basis of the information contained in the EA (DOI-BLM-MT-C020-2013-0052-EA), and all other information available to me, it is my determination that:

- (1) The implementation of the Proposed Action or alternatives will not have significant environmental impacts beyond those already addressed in the Big Dry Resource Management Plan.
- (2) The Proposed Action is in conformance with the Record of Decision for the Big Dry Resource Management Plan; and
- (3) The Proposed Action does not constitute a major federal action having a significant effect on the human environment.

Therefore, an environmental impact statement or a supplement to the existing environmental impact statement is not necessary and will not be prepared.

This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR '1508.27), both with regard to the context and to the intensity of the impacts described in the EA.

Context

The proposed action is a site-specific action which would occur in Prairie County, Montana which is designated as available for acceptance of ROW proposals in the Big Dry RMP. The RMP anticipated that ROW applications would continue to be approved in areas where rights-of-way are allowed and stipulations from the BLM Manual 2800 will be used to protect resource values. The proposed action is in accordance with the Big Dry RMP.

Under the Proposed Action, ROW Grant, MTM-104715, would be issued to McCone Electric Cooperative to install an overhead 14.4 kV electric line across the following Federal lands (LU Land and Public Domain) located on:

T. 14 N., R. 46 E., Section 4: Lots 1-2,
T. 15 N., R. 46 E., Section 27: S $\frac{1}{2}$ SE $\frac{1}{4}$,
Section 33: E $\frac{1}{2}$ SE $\frac{1}{4}$, and
Section 34: NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,
Prairie County, Montana, P.M.M.

This facility will be authorized with a ROW which will be issued under Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761). The ROW will be 40 feet wide and approximately 11,670 feet in length, and consist of 10.72 acres, more or less. The proposed project will be constructed, used, maintained, and terminated in conformance with the company's Plan of Development which was submitted with their application. McCone Electric will be subject to cost recovery, but will be exempt from rental in accordance with 43 CFR 2806.14(d) because they are financed under the Rural Electrification Act (REA). The ROW will be subject to the terms and conditions in 43 CFR 2800, the Plan of Development/application, and the stipulations listed below.

Intensity

I have considered the potential intensity/severity of the impacts anticipated from the proposed action and all alternatives relative to each of the ten areas suggested for consideration by the CEQ.

1. Impacts that may be both beneficial and adverse. The proposed project would impact resources as described in the EA. In addition to mitigation measures included in the project design, BLM developed additional mitigation measures to further minimize or eliminate adverse impacts to other resources and land uses. These additional mitigation measures are identified in the proposed action and are attached to this document as ROW Stipulations. The EA also disclosed beneficial impact from the proposed project that they would provide their customers with enhanced phone services. None of the environmental effects discussed in detail in the EA are considered significant, nor do the effects exceed those described in the Big Dry Resource Area Management Plan.

2. The degree to which the proposed action affects public health and safety. No aspect of the proposed action would have an effect on public health and safety.

3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. A cultural resource inventory of the proposed ROW did not result in the recording of any cultural or paleontological resources.. There would be no effect to historic properties (See report number listed in the EA). No paleontological localities have been recorded in the ROW corridor and impacts to paleontological resources are not expected. There are no park lands, prime farmland, wetlands, wild and scenic rivers, or ecologically critical areas that would be affected by the proposed action.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial. No unique or appreciable scientific controversy has been identified regarding the effects of the Proposed Action.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks. The analysis has not shown that there would be any unique or unknown risks to the human environment.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. This project neither establishes a precedent nor represents a decision in principle about future actions. The proposed action is consistent with actions appropriate for the area as designated by the Big Dry RMP.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. The environmental analysis did not reveal any cumulative effects beyond those already analyzed in the EISs which accompanied the Big Dry RMP.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources. The proposed action will not adversely affect any district, site, highway, structure, or object listed or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historic resources.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973. There are no threatened or endangered species or habitat in the area of the proposed action.

10. Whether the action threatens a violation of Federal, State, Tribal or Local law or requirements imposed for the protection of the environment. The proposed action does not threaten to violate any Federal, State, Tribal, or local law. Furthermore, the project is consistent with applicable land management plans, policies, and programs.



Todd D. Yeager
Field Manager

5/22/2013
Date

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MILES CITY FIELD OFFICE
RECORD OF DECISION**

**MCCONE ELECTRIC RIGHT-OF-WAY MTM-104714
DOI-BLM-MT-C020-2013-0052-EA**

DECISION

It is my decision to select the Proposed Action Alternative as described in the McCone Electric Cooperative's EA for an overhead 14.4 kV electric distribution line. The EA and the FONSI analyzed the selected alternative and found no significant impacts. Implementation of this decision will result in the issuance of a Federal Land Policy and Management Act (FLPMA) ROW to McCone Electric Cooperative for an overhead 14.4 kV electric distribution line. The selected alternative is in conformance with the Big Dry Resource Management Plan.

ALTERNATIVES

In addition to the selected alternative, the EA considered the "No Action" alternative, which would carry out no management activities at this time.

RATIONALE FOR SELECTION

The purpose of the action is to allow McCone Electric Cooperative to construct an single phase, overhead 14.4 kV electric distribution line across the following Federal lands (LU Land):

T. 14 N., R. 46 E., Section 4: Lots 1-2,
T. 15 N., R. 46 E., Section 27: S $\frac{1}{2}$ SE $\frac{1}{4}$,
Section 33: E $\frac{1}{2}$ SE $\frac{1}{4}$, and
Section 34: NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,
Prairie County, Montana, P.M.M.

This action would be authorized by the issuance of an FLPMA ROW grant to McCone Electric Cooperative, Inc. The proposed action is in conformance with the Big Dry RMP/EIS. This proposed action will provide McCone Electric's customers in Prairie County, Montana with reliable electricity to supply livestock and wildlife with adequate water from two stockwater wells.

CONSULTATION AND COORDINATION

The following BLM specialists were consulted: Doug Melton, Archaeologist; Dale Tribby, Wildlife Biologist; Dena Lang, Outdoor Recreation Planner; Brenda Witkowski, Natural Resource Specialist (Weeds); Chris Robinson, Hydrologist; and Dalice Landers, Realty Specialist. The following

McCone Electric specialist was consulted: Larry Schmidt, Manager. The McCone Electric Cooperative, Inc. ROW EA (DOI-BLM-MT-C020-2013-0052-EA) was made available online via the Miles City Field Office NEPA log.

IMPLEMENTATION

Once the Mid-Rivers Telephone Cooperative, Inc. EA FONSI and Decision Record are approved, a FLPMA ROW grant will be issued to Mid-Rivers Telephone Cooperative, Inc. as described in the subject EA with the identified stipulations included as part of the grant. This decision will be effective immediately. Actions may begin immediately in accordance with any restrictions or constraints imposed by the grant and stipulations. The grant will be monitored for construction, use, maintenance, and termination.

ADMINISTRATIVE REVIEW OPPORTUNITIES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, the notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error. If the appellant wishes to file a petition (request) pursuant to regulations 43 CFR 2801.10 for a stay (suspension) of the effectiveness of this decision during the time the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If the appellant requests a stay, they have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.



5/22/2013

Todd D. Yeager
Field Manager

MITIGATION MEASURES/REMARKS:

The right-of-way grant would be issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to the terms and conditions in 43 CFR 2800, the application, mitigations as mentioned in the plan of development, and subject to the following 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 and the temporary use permit. 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, maintenance, 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. Unless otherwise agreed to by the authorized officer in writing, powerlines shall be constructed in accordance to standards outlined in "Suggested Practices for Raptor Protection on

Powerlines,” 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.

7. Construction holes left open overnight shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.

8. 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.

9. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands.

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

11. 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.