

**MEMORANDUM OF UNDERSTANDING
ON VEGETATION MANAGEMENT FOR POWERLINE RIGHTS-OF-WAY**

Among the

**EDISON ELECTRIC INSTITUTE
UTILITY ARBORIST ASSOCIATION**

UNITED STATES DEPARTMENT OF THE INTERIOR
National Park Service
Fish and Wildlife Service
Bureau of Land Management

UNITED STATES DEPARTMENT OF AGRICULTURE
Forest Service

and the

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

This memorandum of understanding (MOU) is entered into by:

- The Edison Electric Institute (EEI) and Utility Arborist Association (UAA), “the non-governmental parties,” hereinafter referred to collectively as “the member companies,” and
- The United States Department of the Interior, National Park Service (NPS), Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM), the United States Department of Agriculture, Forest Service (FS), and the United States Environmental Protection Agency (EPA), hereinafter referred to collectively as “the Federal agencies.”

This MOU addresses vegetation management for electric transmission and distribution line rights-of-way (referred to throughout this MOU as powerline ROWs) on Federal lands.

I. Authorities

The non-governmental parties are authorized to enter into this MOU by consent of their member companies.

The NPS is directed to manage all national park lands to protect and preserve natural and cultural resources, pursuant to the National Park Service Organic Act, 54 U.S.C. § 100101.

The FWS is authorized to enter into this MOU under the National Wildlife Refuge System Administration Act of 1966, as amended, 16 U.S.C. § 668dd-ee, and 50 C.F.R. §§ 29.21-4 and 29.21-8.

The BLM is authorized to enter into this MOU under Section 302(a) of the Federal Land Policy and Management Act, as amended, 43 U.S.C. § 1737(b),

The FS is authorized to enter into this MOU under the Organic Administration Act of 1897, 16 U.S.C. § 551, and the Multiple Use–Sustained Yield Act, 16 U.S.C. § 528 *et seq.*

The EPA is authorized to enter into this MOU under Section 6604(b) of the Pollution Prevention Act, 42 U.S.C. § 13103(b).

II. The Parties

EEI. This association represents all U.S. investor-owned electric utility companies. The EEI member companies provide electricity for 220 million Americans, operate in all 50 states and the District of Columbia (DC), and directly employ more than 500,000 people. With more than \$90 billion in annual capital expenditures, the electric power industry is responsible for millions of additional jobs. Reliable, affordable, and sustainable electricity powers the U.S. economy and enhances the lives of all Americans. EEI has 70 international electric utility companies as affiliate members and 250 industry suppliers and related organizations as associate members. The mission of EEI is to ensure members' success by advocating public policy, expanding market opportunities, and providing strategic business information relating to the electric power industry.

UAA. The nearly 3,000 members of this organization have an interest in and a commitment to the maintenance of trees and other vegetation in connection with powerline ROWs. The primary goal of the UAA is to ensure the safe and reliable distribution of energy, including electricity, oil, and gas, to businesses and residences through quality utility arboriculture. The mission of the UAA is to be the leading North American organization for the enhancement of utility arboriculture and vegetation management for powerline ROWs.

NPS. The NPS is responsible for managing nearly 84 million acres with over 400 units in the National Park System. The mission of the NPS is to preserve unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of current and future generations. The NPS also has management responsibilities over other areas, including parts of the National Wild and Scenic Rivers System, National Trails System, National Heritage Areas, and NPS Affiliated Areas, which are closely linked in importance and purpose to those areas directly managed by the NPS. The NPS may issue ROW permits for lands it manages only if the use or activity is specifically authorized by Congress. One of these statutory authorities, The Act of March 4, 1911, gives the NPS the general authority to issue ROW permits for national park lands for electric poles and lines for the transmission and distribution of electrical power.

FWS. The FWS manages nearly 155 million acres in more than 560 National Wildlife Refuges and Wetland Management Districts and manages National Fish Hatcheries on federally owned lands. The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and, where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans. The FWS issues ROW permits under its Rights-of-Way policy (340 FW 3), (e.g., vegetation management required for a powerline corridor). The Appropriate Refuge Uses (603 FW 1) and Compatible Uses (603 FW 2) policies further guide the issuance of ROW permits on National Wildlife Refuge System lands and waters. The FWS Biological Integrity, Diversity, and Environmental Health policy (601 FW 3) establishes a process for managers to follow for maintaining and/or restoring the biological integrity, diversity, and environmental health of our lands and waters when authorizing and considering uses and activities on the National Wildlife Refuge lands and waters.

BLM. The BLM manages public lands under the principles of multiple-use and sustained yield as described in the Federal Land Policy and Management Act of 1976 (FLPMA). The BLM administers more than 245 million surface acres of Federal lands, the most of any Federal agency. This land, known as the National System of Public Lands, is primarily located in the 12 western states and Alaska. The BLM also manages 700 million acres of subsurface mineral estate throughout the United States. The mission of the BLM is to manage public lands for the use and enjoyment of present and future generations. Title V of FLPMA authorizes the BLM to grant ROWs for systems for generation, transmission, and distribution of electric energy.

FS. The mission of the FS is to sustain the health, diversity, and productivity of the national forests and grasslands to meet the needs of present and future generations. The FS achieves its mission by applying the principles of sustainable, multiple-use management to meet the diverse needs of the American people. The FS manages over 192 million acres of Federal lands and waters within the National Forest System. The FS supports America's energy needs through effective oversight and management of thousands of miles of electric utility transmission and distribution corridors and related facilities on the National Forest System lands.

EPA: The mission of the EPA is to protect human health and the environment. In support of this mission, the Office of Pesticide Programs licenses pesticides for use in the United States under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In addition, Section 136r-1 of FIFRA provides direction to the EPA and USDA related to implementation of Integrated Pest Management, which is comparable to Integrated Vegetation Management (IVM). The Agency supports, through partnerships and regulatory processes, IVM as a means of reducing pesticide risk, protecting endangered species, and promoting pollinator protection along electric utility transmission and distribution ROW corridors. The June 20, 2014, Presidential Memorandum "Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators" established a Pollinator Health Task Force to be co-chaired by the USDA and EPA, that presents opportunities for all Federal agencies to include specific efforts to enhance pollinator habitat, including on Federal ROWs.

III. Purpose

The purpose of this MOU is to facilitate cooperation and coordination among the parties regarding vegetation management within and immediately adjacent to existing and future powerline ROWs and associated facilities. This MOU will facilitate implementation of cost-effective and environmentally sound vegetation management plans, procedures, and practices for powerline ROWs that will reduce adverse environmental and cultural impacts while enhancing the ability of utilities to provide uninterrupted electrical service to customers and address public safety. Federal agencies have established policies and procedures relating to vegetation, watershed, fire and fuels, wildlife habitat, enhancing pollinator habitat, and invasive species management that may help facilitate the MOU objectives. The Federal agencies' procedures may enhance the reliability and safety of electrical energy transmission while protecting the environment, and natural and cultural resources within and immediately adjacent to powerline ROWs on Federal lands. This MOU addresses the use of incorporating vegetation management practices into the existing and future ROW grants/authorizations across Federal lands.

IV. Mutual Interests and Benefits

Executive Order 13212, dated May 18, 2001, provides for expedited review of applications for energy-related projects on Federal lands; Section 216(h) of the Energy Policy Act of 2005, 16 U.S.C. § 824p, provides for coordinating, streamlining, and expediting Federal agency review of applications for powerline ROWs on Federal lands. Presidential Memorandum dated August 31, 2011, Speeding Infrastructure Development Through More Efficient and Effective Permitting and Environmental Review and Executive Order 13604, dated March 22, 2012, provide for Federal agencies to take all steps within their authority, consistent with available resources, to execute Federal permitting and review processes with maximum efficiency and effectiveness, ensuring the health, safety, and security of communities and the environment while supporting vital economic growth including infrastructure projects on Federal lands. Executive Order 13112, Section 2 (a)(3), dated February 8, 1999, requires each Federal agency whose actions may affect the status of invasive species, to the extent practicable and permitted by law, to not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species. These authorities provide an understanding of the roles and responsibilities of the parties to this MOU with regard to vegetation management within powerline ROWs on Federal lands and facilitate expediting Federal agency review of applications for those ROWs, which typically include a vegetation management component.

Electric utilities provide a vital service that is integral to America's security, safety, economy, and welfare. Powerline ROWs are necessary components of America's energy infrastructure and include thousands of miles of electric utility powerlines and other electric utility facilities across Federal and private lands. These powerline ROWs span across millions of acres of forestlands, grasslands, wetlands, fish and wildlife habitats, rare plant communities, and other natural and constructed features across the landscape. Efficient and environmentally safe control of undesirable vegetation along the entire span of these powerline ROWs, including around utility poles and towers, is critical for providing reliable delivery of electricity, addressing utility worker and public safety, and meeting requirements in applicable law and policy. Proper vegetation management for those ROWs can protect environmental and cultural features of these

areas, (e.g., by decreasing fuel loads, minimizing the spread of invasive plants, preserving and creating wildlife habitat, creating fuel breaks, maintaining the condition of the watershed, protecting habitat for pollinators, and preserving ecosystem connectivity).

Utility companies must manage vegetation in powerline ROWs on Federal lands to prevent power outages, wildfires, and the spread of invasive species and to protect human health, property, and natural and cultural resources. Power outages can occur when overhead lines stretch or sag onto vegetation due to increased load or changes in ambient conditions, (e.g., high air temperature or wind speed). Outages may occur when undesirable vegetation grows, falls, or otherwise makes contact with overhead electric powerlines. Since 1996, the presence of undesirable vegetation within powerline ROWs on Federal and private lands has been implicated in the initiation of three large-scale electrical grid failures in the United States and Canada, including the massive August 14, 2003, blackout that affected 50,000,000 people.

Vegetation that encounters powerlines and other electric transmission facilities can also start fires. Arcing can occur when any part of a bare, high-voltage line gets too close to a tree, limb, or shrub. There have been catastrophic wildfires across multiple states caused by interaction of vegetation with powerlines and other facilities within powerline ROWs on Federal lands. The spread of invasive plants, as well as other flammable native vegetation, can increase fuel loads, creating dangerous fire conditions that can threaten powerlines and other facilities within powerline ROWs on Federal lands. Properly maintained vegetation in powerline ROWs can prevent the spread of invasive species, provide habitat for pollinators, and act as an effective firebreak for the control and suppression of wildfire.

V. Coordination and Cooperation

Coordination between Federal agencies and the utility companies before and during ROW establishment and maintenance activities along the entire corridor on Federal lands may help to avoid interruptions in electric service while maintaining the environmental and cultural integrity of the lands they occupy. This coordination is important for ROW vegetation management activities across all Federal lands. Implementing a coordinated and cooperative approach to ROW vegetation management programs for utility corridors across the landscape will increase maintenance efficiencies, and decrease management costs at all levels while considering potential environmental and cultural impacts.

Coordination and cooperation among the relevant Federal agencies and member companies, before and during establishment and maintenance of powerline ROWs on Federal lands, is important to enhance electric transmission reliability, increase maintenance efficiencies, reduce management costs, prevent the spread of invasive plants, reduce fuel loads, and minimize other potential environmental and cultural resource impacts and human safety risks. This coordination and cooperation may entail development of annual vegetation management plans that identify vegetation control prescriptions within a given year for each powerline ROW on Federal lands. Such vegetation management plans must comply with applicable Federal laws and policies, be consistent with operations and maintenance plans for each powerline, and consider requirements for member company compliance with Federal reliability standards.

VI. Roles and Responsibilities

A. The parties to this MOU will:

1. Comply with all applicable Federal, tribal, state, and local laws, regulations, policies, executive orders, and presidential memoranda regarding electric transmission safety and reliability and environmental and cultural resource protection.
2. Consistent with their respective missions, roles and responsibilities, coordinate and cooperate to promote cost-efficient, proactive, environmentally appropriate, and safe management of undesirable vegetation in and adjacent to powerline ROWs on Federal lands to minimize the risk of vegetation-caused outages and adverse impacts on powerline facilities, human health and safety, and to minimize harm to native plants and animals in particular pollinators, soil, water, and other natural and cultural resources on Federal lands. Specifically, the parties to this MOU acknowledge that:
 - a. To the extent practicable, management and maintenance of powerline, ROWs on Federal lands should be coordinated with all affected landowners to enhance operational efficiency, public safety, environmental protection, and cost-effectiveness.
 - b. The spread of invasive species along powerline ROWs on Federal lands is widespread but can be prevented or controlled through a proactive and integrated management approach. Where consistent with the Federal agencies' other obligations, appropriate prevention, mitigation, and control measures related to the non-governmental parties' activities that may cause invasive plant species to increase will be incorporated into vegetation management plans, land use authorizations, and maintenance agreements for powerline ROWs on Federal lands.
 - c. Integrated vegetation management, incorporating established principles of "integrated pest management," is widely accepted in the public and private sectors. The proactive pest management approach includes a broad spectrum of integrated techniques for managing undesirable plant species. Standards for IVM plans outlined in the American National Standards Institute A300 Part 7 and best management practices for IVM compiled by the International Society of Arboriculture provide reliable, widely accepted guidance for protection and conservation of natural resources that balance benefits of control, cost, public health, environmental quality, and regulatory compliance.
 - d. Programmatic environmental analysis for vegetation management for powerline ROWs on Federal lands where appropriate, will be conducted in accordance with the National Environmental Policy Act (NEPA). The NEPA decision document will provide a foundation for site-specific environmental analysis for vegetation management for powerline ROWs on Federal lands.
 - e. Consistent with applicable law and agency responsibilities, each Federal agency will evaluate land use authorizations and vegetation management practices for powerline

ROWs on Federal lands. The Federal agencies will propose appropriate changes to those authorizations and vegetation management practices that would enhance pollinator habitat on Federal lands using pollinator-friendly best management practices. When related to vegetation management activities, provide supplemental existing vegetation management plans, agreements, and MOUs with holders of powerline ROWs on Federal lands to establish or enhance pollinator habitat.

3. Facilitate coordination and cooperation with each other at the local level to accelerate development of vegetation management plans and land use authorizations for powerline ROWs on Federal lands. To the extent possible, promote joint preparation of NEPA documents among the Federal agencies for vegetation management activities to maximize efficiency and coordination and to ensure consistency with applicable land management plans and policies and applicable law.
4. Promote safety during vegetation management activities associated with powerline ROWs on Federal lands. The parties to this MOU acknowledge that:
 - a. In general, the safety of electric utility workers and the public at transmission and distribution facilities is the responsibility of the electric utility identified in the Federal land use authorization or permit. Electric utility companies and their affiliates will conduct their operations in accordance with the National Electrical Safety Code and Occupational Safety and Health Administration standards, and the terms and conditions in the ROWs/authorizations, and other worker protection standards where applicable.
 - b. The Federal agencies will coordinate with the member companies to develop appropriate measures to ensure personal and public safety and protection of the public lands and resources during vegetation management activities on Federal lands.
5. Facilitate prompt identification of potential risks, unforeseen impacts, and deviations in implementing vegetation management plans within and immediately adjacent to land use authorizations associated with powerline ROWs on Federal lands and, to the extent appropriate and practicable, mitigate those risks, impacts, and deviations.
6. Encourage opportunities, where appropriate, to provide training and technical assistance to government agency staff, powerline ROW maintenance personnel, electric utility companies, and private landowners seeking to improve vegetation management and overall maintenance of powerline ROWs across public and private lands.
7. Work with the Association of Fish and Wildlife Agencies on separate MOUs to facilitate cooperation and coordination among the parties regarding vegetation management within and immediately adjacent to existing and future powerline ROWs and associated facilities on Federal, state and private properties.

B. The member companies will:

1. Promote coordination and cooperation between the Federal agencies and the private utilities that own, operate, or maintain powerline ROW on Federal lands.
2. Ensure that their members and affiliates that are proposing or that have a powerline ROW on Federal lands provide the necessary information for vegetation management activities; including treatment procedures, pesticide use, maps, and mitigation measures, to the administering Federal agency for review and approval of the proposed or revised vegetation management plan for ROWs/permit.
3. Ensure that their members and affiliates that have an powerline ROW on Federal lands comply with the terms and conditions of the applicable ROW/permit, including the approved vegetation management plan, and closely coordinate vegetation management activities associated with the powerline ROW with the authorizing Federal land management agency. In particular, ensure that:
 - a. Vegetation management plans for powerline ROWs on Federal lands provide for the holder to give prior notice to the administering Federal agency of all proposed vegetation management activities.
 - b. Vegetation management plans for powerline ROWs on Federal lands should include procedures for conducting emergency vegetation management activities to ensure the safe and reliable operation of the powerlines. Emergency vegetation management involves vegetation trimming or removal actions near powerlines that if not taken immediately would result in damage to powerline structures that interrupts service to customers. Federal agency approval is not required prior to emergency vegetation control actions; however, actions will be reported on or before the next business day or as soon as possible to the administering Federal agency.
4. Within 18 months of the effective date of this MOU:
 - a. Disseminate this MOU to their members, affiliates, and other interested parties and emphasize laws, regulations, and policies associated with vegetation management for powerline ROWs on Federal lands.
 - b. Work with the Federal agencies to develop a process for coordinating vegetation management for all ROWs on Federal lands; assess the effectiveness of this MOU; and document any challenges, concerns, or opportunities for improvements in connection with implementation of this MOU.
 - c. Provide the Federal agencies updates on the progress of a formal agreement with Association of Fish and Wildlife Agencies that specifically addresses coordinating vegetation management of powerline ROWs on Federal land, where such operations could potentially affect state land.

C. The Federal agencies shall:

1. Promote coordination and cooperation between the Federal agencies and the private utilities that own, operate, or maintain electrical transmission line ROWs on Federal lands.
2. If necessary, take steps to modify policies and procedures to facilitate electric utility compliance with the North American Electric Reliability Corporation (NERC) standards and other regulatory and legal vegetation management requirements for those areas that require prior review.
3. Ensure that vegetation management plans for powerline ROWs on Federal lands are consistent with Federal laws, regulations, and policies.
4. Prior to issuance of powerline ROW authorizations on Federal lands and to the extent practicable and consistent with other Federal agency obligations and priorities, analyze, review, and approve the proposed annual vegetation management plan, treatment procedures, pesticide use, maps, and mitigation measures.
5. To the extent practicable and consistent with other Federal agency obligations and priorities, review requests for any required, non-emergency vegetation management for powerline ROWs on Federal lands within member companies' desired timeframes.
6. Provide to the ROW grant/permit holders a list of suitable, native ecoregion specific plants that attract pollinators for ROW areas that may require re-vegetation to mitigate vegetation management's adverse impacts.
7. When deemed appropriate, develop separate MOUs to facilitate cooperation and coordination regarding vegetation management within and immediately adjacent to existing and future powerline ROWs on Federal lands.
8. Within 18 months of the effective date of this MOU:
 - a. Disseminate this MOU to Federal agency field offices, emphasize laws, regulations, and policies associated with vegetation management for powerline ROWs on Federal lands.
 - b. Work with the non-governmental parties to develop a process for coordinating vegetation management of powerline ROWs on Federal lands; assess the effectiveness of this MOU; and document challenges, concerns, or opportunities for improvement in connection with implementation of this MOU.

VII. Principal Contacts

Amendments must be in writing, signed, and dated by all Parties prior to being in effect. The principal contacts for this MOU are:

Director, Environmental Activities
Edison Electric Institute
701 Pennsylvania Avenue, NW
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Vegetation Management Supervisor
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Chief, National Wildlife Refuge System
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Assistant Director, Energy, Minerals, and Realty Management
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Director of Lands and Realty Management
United States Forest Service
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Director Biopesticides and Pollution Prevention Division,
Office of Pesticide Programs
United States Environmental Protection Agency
1200 Pennsylvania Ave, NW (7511P)
Washington, DC 20460
703-308-8712, mcnally.robert@epa.gov

VIII. Implementation, Amendments, and Termination

This MOU will become effective on the date it is fully executed and will remain in effect for 5 years, unless it is terminated in writing by all parties prior to its expiration. This MOU may be amended with the written consent of all parties. Other public or private organizations may become a party to this MOU if mutually agreed to in writing by all parties. Any party may terminate its participation in this MOU in whole or in part after 30 days written notice to the other parties. Termination of one party's participation in this MOU does not void this MOU among the remaining parties.

IX. Non-Fund-Obligating Document

Each party will fund its own participation under this MOU and will carry out its separate activities in a coordinated and mutually beneficial manner. In implementing this MOU, the Federal agencies will be operating under their own laws, regulations, and policies, subject to the availability of appropriated funds. The non-governmental parties' actions in implementing this MOU will be subject to available funds. This MOU does not obligate any party to any current or future expenditure of resources. This MOU does not authorize the parties to spend funds or enter into any contract, assistance agreement, interagency agreement, or other financial obligation, regardless of whether funds are available for that purpose. Specific projects or activities that involve the transfer of funds, services, or property among the parties require execution of separate agreements and are contingent upon the availability of appropriated funds. These activities must be independently authorized by statute. This MOU does not provide that authority. Negotiation, execution, and administration of these agreements must comply with all applicable law.

X. Endorsement

Federal agencies do not endorse the purchase or sale of any products or services provided by private organizations or their affiliates. The MOU signatories should not make any statements, based on this MOU that implies that a Federal agency endorses the purchase or use of their products or services.

XI. Limitations

This MOU is intended to improve the working relationship between the private and public sectors in connection with vegetation management for powerline ROWs on Federal lands. This MOU is not intended to and does not create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

This MOU is not intended to alter, limit, or expand the Federal agencies' statutory and regulatory authority, including the Federal agencies' cost recovery authority for powerline ROWs on Federal lands. Cost recovery for powerline ROWs on Federal lands will be conducted, as appropriate, under applicable laws, regulations, and policies.

This MOU has no legal effect on existing or future land use authorizations for powerline ROWs on Federal lands.

This MOU does not impose any binding obligations on any party. Nothing in this MOU obligates any of the parties to engage in any activities inconsistent with their respective missions, roles, and responsibilities.

The parties will implement this MOU consistent with all applicable Federal laws and regulations, including the Federal Advisory Committee Act. Any information furnished to the Federal agencies under this MOU is subject to the Freedom of Information Act, 5 U.S.C. § 552.

This MOU in no way restricts the Federal agencies from participating in similar activities with other public or private agencies, organizations, and individuals.

No member of or delegate to Congress may benefit from this MOU either directly or indirectly.

XII. Authorized Representatives

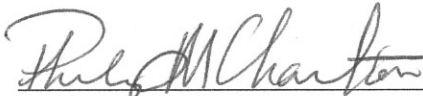
The parties to this MOU acknowledge that each of the signatories and the principal contacts listed in Section VII is authorized to act on behalf of their respective organization regarding matters related to this MOU.



Thomas R. Kuhn
President
Edison Electric Institute

9/29/16

Date



Philip Charlton
Executive Director
Utility Arborists Association

9/21/2016

Date



Jonathan B. Jarvis
Director
National Park Service

7/13/2016

Date



Daniel Ashe
Director
United States Fish and Wildlife Service

7.11.2016

Date



Steven A. Ellis
Deputy Director
Bureau of Land Management

6/29/2016

Date

Thomas L. Tidwell

Thomas L. Tidwell
Chief
United States Forest Service

7/29/16
Date

Jim Jones

Jim Jones
Assistant Administrator for the Office of Chemical Safety and Pollution Prevention
United States Environmental Protection Agency

8/29/16
Date