

**United States Department of the Interior  
Bureau of Land Management  
Billings Field Office  
5001 Southgate Drive  
Billings, Montana 59101**

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**Decision Record**

**Environmental Assessment DOI-BLM-MT-0010-2014-0025-EA**  
(Eplanning # DOI-BLM-MT-A010-2014-0002-EA)  
**MTM 107717**

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**DECISION:**

It is my decision to implement the Proposed Action as identified in the Billings Field Office Environmental Assessment (EA) DOI-BLM-MT-0010-2014-0025-EA in which NorthWestern Energy (NWE) proposes to construct, operate and maintain a new 100 kilovolt (kV) electric transmission line.

The powerline will be constructed on Public Lands within the following legal description:

Principal Meridian Montana

T. 4 S., R 16 E.,

Sec. 9, N1/2NE1/4, NW1/4NE1/4;

Sec. 10, NW1/4NW1/4;

The area described contains 6.4 acres more or less in Stillwater County.

**BACKGROUND**

NWE is proposing to construct a new 100 kV electric transmission line that would connect NWE's existing Columbus Rapelje Substation located approximately 15 miles north of Columbus, Montana to a new substation that would be located near Nye, Montana (see Figure 1-1). The proposed Project crosses 0.88 mile of land administered by the BLM in Stillwater County, Montana (see Figures 1-2 and 1-3). Within land administered by the BLM, the ROW dimensions would be 0.88 mile in length and 60 feet in width, totaling approximately 6.4 acres.

**The authority for this decision is contained in:**

**Title V of the Federal Land Policy and Management Act of October 21, 1976  
(90Stat.2776; 43 U.S.C. 1761)**



### **Land Use Plan Conformance:**

The proposed plan is in conformance with the **2015 Billings Resource Management Plan and Rocky Mountain Record of Decision; Chapter 2 Management Decisions** as follows:

MD R/RLP 1: Analyze requests for land use authorizations and apply mitigation measures as appropriate (Appendix H).

MD R/RLP 7: Terms and conditions for ROW's corridors and development areas will incorporate BMP's.

MD R/RLP 13: Overhead power lines, where authorized, will follow the recommendations in Avian Protection on Power lines, State of the Art in 2006. Power poles and other tall structures will be designed to prevent raptors from perching on the poles and reflectors attached.

**Date Approved: September 2015**

### **Compliance and Monitoring:**

Future compliance would be completed in accordance with BLM regulations. Periodic monitoring will occur during the construction phase and will follow the design features, mitigation measures and stipulations as stated below.

#### **WILDLIFE PROTECTION**

**WL-1** Avoid and minimize impacts to general wildlife species by minimizing ground disturbance to the greatest extent practicable. The Project would avoid/minimize damage to existing trees and minimize removal of existing trees within and adjacent to the Proposed Action ROW to maintain adequate desirable habitat for wildlife and particularly for avian species.

**WL-2** The Proposed Action will be designed to avoid impacts to existing raptor nests. Additionally, the Project will be developed consistent with all Avian Power Line Interaction Committee (APLIC) guidelines for avian safety to reduce risk of collision and electrocution. The Project would be operated under NWE's existing Corporate Avian Protection Plan which would further implement mitigation measures throughout the life of the Project. Seasonal timing restrictions during the nesting and breeding seasons for construction activities will be implemented with species-specific nest buffer distances (0.5 mile) recommended by MFWP and BLM to ensure impacts to nesting raptors are minimized or avoided where nests are determined to be active.

**WL-3** Measures to reduce potential impacts to neotropical birds will include spanning the Bad Canyon Creek riparian area; and avoiding the removal of riparian vegetation.

**WL-4** If a peregrine falcon (*Falco peregrinus*) eyrie is identified prior to or during construction within Bad Canyon, construction activity will be avoided during the breeding season or suspended until after the breeding season.

**RRW-1** A Noxious Weed Management Plan will be prepared in coordination with the Stillwater County Weed District and BLM to minimize the effects (spread and establishment) of noxious weeds due to Proposed Action activities.

**RRW-2** The Noxious Weed Management Plan will include documenting known occurrences of noxious and invasive weeds along the proposed ROW, current treatment of known noxious weed areas, if any, and measures to minimize the spread and establishment of noxious weeds and non-native invasive species.

### **RECLAMATION, RE-VEGETATION AND NOXIOUS WEED PROTECTION**

**RRW-3** Pre-construction surveys and pre-construction weed control (e.g., spraying) will be conducted on the lands managed by the BLM to document and control the presence of noxious weed species as identified by the state of Montana and Stillwater County.

**RRW-4** Prior to the beginning of construction, maintenance activities, or exiting and entering the ROW on BLM managed public land, all contractor vehicles and equipment will be cleaned of soil and debris capable of transporting weed seeds.

**RRW-5** Minimal, if any, reseeded will be necessary on lands managed by the BLM as the only ground disturbance would include where the transmission structures would be located. If reseeded is determined to be necessary, it will be conducted at the first appropriate growing season after completion of construction. Seed mixes used for re-vegetation would be certified weed free and approved by BLM. Topsoil will be separated from the excavated material and re-applied on top of backfill in the disturbed area.

**RRW-6** Noxious weeds due to construction, operation, or maintenance activities will be controlled to preconstruction levels.

### **STORMWATER POLLUTION PREVENTION**

**SW-1** The appropriate NPDES permit for construction activities that disturb one acre or more of land will be obtained from the MDEQ.

**SW-2** NPDES permit requirements will be met. This includes implementing and maintaining appropriate BMPs for minimizing impacts to surface water within Bad Canyon (Bad Canyon Creek).

**SW-3** One or more responsible persons (SWPPP Administrators) will be designated to manage storm water issues, conduct the required storm water inspections, and

maintain the appropriate records to document compliance with the terms of the NPDES permit.

**SW-4** The SWPPP will be modified as necessary to account for changing construction conditions.

**SW-5** The SWPPP will identify areas with critical erosion conditions that may require special construction activities or additional BMPs to minimize soil erosion.

**SW-6** Migration of construction-related sediment to all adjacent surface water bodies (Bad Canyon Creek) will be prevented.

**SW-7** The construction schedule will be modified to minimize construction activities in rain-soaked or muddy conditions following storm events.

### **LAND USE MITIGATION MEASURES**

**LU-1** Helicopter construction will be implemented, as needed. This would eliminate the need for new access roads to structure locations and would therefore minimize land disturbance associated with crane pads, structure laydown areas, and the trucks and tractors used for delivery of structures to sites.

**LU-2** To minimize ground disturbance, operational conflicts and/or visual contrast, the structure design will be modified or an alternative structure type will be used.

**LU-3** To minimize sensitive feature disturbance and/or reduce visual contrast in designated areas, structures will be placed so as to avoid sensitive features such as, but not limited to, riparian areas, water courses and cultural sites and/or to allow conductors to clearly span the features, within limits of standard structure design.

### **The following stipulations will apply during and after construction:**

- a. The holder shall fully indemnify or hold harmless the United States for any liability, for damage, or claims arising in connection with the holder's use and occupancy of the right-of-way.
- b. The holder shall comply with all State and Federal laws applicable to the authorized use and such additional State and Federal laws, along with the implementing regulations, that may be enacted and issued during the term of the grant.
- c. The right-of-way reserves to the Secretary of the Interior, or lawful delegates, the right to grant additional rights-of-way, leases, or easements for compatible uses over, under, within or adjacent to the lands involved in this grant.

- d. The holder shall contact the Billings Field Office at least two (2) working days prior to any surface disturbing activities.
- e. 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.
- f. Any cultural (prehistoric or historic site or object) and/or paleontological resource (fossils) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the Bureau of Land Management Authorized Officer. The 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 shall be responsible for the cost of evaluation and any decision as to the proper mitigation measures that will be made by the Authorized Officer after consulting with the holder.
- g. The holder shall be responsible for preventative and corrective maintenance of noxious weeds on disturbed areas within the limits of the right-of-way grant throughout the duration of the project. Such preventative measures include power washing equipment before entering the project area, minimizing soil disturbance within the right-of-way project area, and detecting and eradicating any new noxious weed establishments. The holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods (within the limits imposed in the grant stipulations).
- h. The holder shall minimize vegetative disruption within the right-of-way, particularly sage brush. All disturbed areas outside of the road running surface shall be fully re-vegetated to the satisfaction of the Authorized Officer. Certify that all interim and final seed mixes, hay, straw, are free of plant species listed on the Montana noxious weed list.
- i. At least 60 days prior to termination of the right-of-way, the holder shall contact the Authorized Officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination and rehabilitation plan, which will consider the option of assigning the remaining term of the right-of-way grant to the adjoining private land owner. The Authorized Officer must approve the plan in writing prior to the holder's commencement of any termination activities.
- j. The holder shall be responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).

- k. Construction equipment being transported from an offsite location to the project area shall be cleaned prior to arrival using water, steam, or air pressurized cleaning methods to remove any invasive or noxious weed seed and plant parts or materials that could contain seeds or plant parts.

### **Alternatives Considered:**

#### **Alternative A – No Action**

The No Action Alternative represents the status quo, the BLM would not grant NWE a ROW across 0.88 acres of BLM managed public lands in Stillwater County. If NWE chose to not pursue an alternate route, low voltage and voltage collapse issues would continue in the Columbus, Red Lodge, and Stillwater Mine areas of NWE's electric transmission system. Both of these voltage issues are violations of the NERC and WECC reliability standards under which NWE, as a regulated utility, is governed. This alternative was not selected because it would not respond to the applicant's needs to serve the underlying communities with reliable electrical power.

#### **Alternative B – Proposed Action**

A new 100 kV electric transmission line that would connect NWE's existing Columbus Rapelje Substation located approximately 15 miles north of Columbus, Montana to a new substation would be located near Nye, Montana. The proposed Project crosses 0.88 mile of land administered by the BLM in Stillwater County. Within land administered by the BLM, the ROW dimensions would be 0.88 mile in length and 60 feet in width, totaling approximately 6.4 acres.

The new transmission line would provide superior electrical and engineering solutions for the highest priority project in NWE's CS-ETIP. NWE worked with private landowners and identified: conservation easement restrictions; private land owner issues related to land use compatibility; and terrain constraints for ROW access and construction. The Proposed Action is the preferred alternative for several reasons: 1) it solves the voltage problems in the area; 2) it supports anticipated growth in electric capacity demand; 3) it maximizes use of existing access roads; and 4) environmental effects are anticipated to be manageable.

### **Rationale for Decision:**

The decision to authorize the 100kV overhead power line has been made in consideration of the environmental impacts of the proposed action after applying the design features, mitigation measures, and stipulations. This decision has been made after considering impacts to resources within the Billings Field Office while accommodating NWE need to construct the power line.

Identification of issues for this assessment was accomplished by considering any resources that could be affected by implementation of one of the alternatives. Issues identified by BLM Specialists and non-BLM preparers are documented in Table 4.3.

NWE completed an initial siting study in 2010 to determine reasonable and feasible route alternatives for the Project. NWE then began a stakeholder outreach process to gain input from key stakeholders and landowners regarding the Project. NWE updated its initial siting study in 2012 with additional and refined route alternatives based on the results of this outreach process. NWE continues to maintain an active stakeholder outreach process that includes area landowners, federal, state, local government officials, and non-governmental organizations (NGOs).

NWE provided public notice on January 31, 2013 and a second public notice on July 17, 2013 in local and regional newspapers (pursuant to Montana Code Annotated [MCA], MFSA requirements) that described the Proposed Action and announced NWE's intent to pursue the 75/75 exemption under MFSA. The notices also allowed the public and interested parties to send comments and concerns to NWE and MDEQ related to MFSA. No comments or concerns were submitted.

On August 4, 2015 the Preliminary EA and an unsigned FONSI statement were mailed with a cover letter to the parties shown in Table 4-1 above. The cover letter specified that the BLM was requesting comments on the Preliminary EA. One comment from Stillwater Mine was returned to the BLM was positive towards the proposed Alternative.

**Appeals Language:**

This decision shall take effect immediately upon the date it is signed by the authorized officer and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay. Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the authorized officer at 5001 Southgate Drive, Billings, Montana 59101. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and 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 irreparable harm to the appellant or resources if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, P.O. Box 31394, Billings, Montana 59107-1394, not later than 15 days after filing the document with the authorized officer and/or IBLA.

  
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Authorized Officer

  
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Date

Craig R. Drake  
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