

## DECISION MEMO

### MIDSTATE ELECTRIC COOPERATIVE, INC. FOREST LANE BURIED POWER LINE INSTALLATION

USDA Forest Service  
Bend/Fort Rock Ranger District, Deschutes National Forest  
Deschutes County, Oregon  
Township 20 South, Range 10 East, W ½ Section 26, Willamette Principle Meridian

#### I. DECISION TO BE MADE

##### A. Decision

I have decided to amend and reissue a Midstate Electric Cooperative, Inc (MEC) special use permit to authorize an additional 4300 feet of buried 14.4/24.9 kV electrical distribution line to the previously permitted facilities on National Forest System lands.

##### B. Location of the Project

The project area is located along the east side of FS road 210 (aka Forest Lane) south of highway 42 (aka S. Century Drive) just west of the Deschutes River. The legal description is Township 20 South, Range 10 East, W ½ Section 26, Willamette Principle Meridian. The power line will be buried adjacent to an existing Qwest phone line and will have a 10 foot right-of-way.

The project area includes the following Deschutes National Forest Land and Resource Management Plan (Forest Plan) management area (MA). The project site is within MA 11, Intensive Recreation and classified as Retention and Partial Retention in Visual Quality Objective (VQO). No activities will be within Old Growth Management Areas or West of the Owl Line. No permanent or temporary lakes or streams are located within the project area.

#### II. PURPOSE AND NEED FOR ACTIVITIES

##### A. Purpose and Need

This project is needed to supply back-up electrical service to residents of River Forest Acres. This is a subdivision on private land adjacent to National Forest system lands. The existing line which feeds Forest Acres is severely overloaded and MEC is having trouble maintaining the line in winter months due to cold load pick-up. The new source will provide a more stable and reliable feed.

##### B. Description of Project Activities

The project will consist of installing new buried 14.4/24.9 kV electrical distribution line in three-inch schedule 40 conduit. Spanning approximately 4300 feet, the construction

footprint will be approximately 2 acres in size averaging a twenty-foot width. Trenching dimensions are 16 inches wide by 48 inches deep. Trenching will occur outside of the road prism approximately seven feet from pavement's edge and follow the alignment of an existing Qwest phone line at a two foot offset. The termini of the power line are a power box proximal to the Reynold's property and a power box on the north side of the highway. One directional bore will occur perpendicular to highway 42 to connect with the existing power box on the north side of the highway, 150 foot east of the bore. No fill material will be imported. A green fiberglass powerline marker will be placed approximately every 800 feet and stand approximately four feet above grade. Three power boxes will be installed between Reynold's driveway and highway 42. Once in operation, the power line will be used year-round and may be accessed in the future for line maintenance.

Project implementation will span approximately 3 weeks in duration and commence on the south end of the alignment near the Reynold's property. Construction operations will incorporate service vehicles, trailers and a back hoe/excavator. All material and equipment will be removed from Forest Service property on a daily basis. If temporary staging areas necessary to complete construction of the power line will be identified by MEC as needed and approved by the Forest Service prior to the use of the staging areas.

**C. Measures to Reduce or Eliminate Unwanted Impacts Include, But Are Not Limited To:**

- Reducing the risk of noxious weed introduction and spread
- Protection of cultural sites
- Visual quality
- Wildlife habitat maintenance
- Maintaining and/or enhancing existing road conditions

**1. Botany-TES**

The proposed action will have no impact on Proposed, Endangered, Threatened, or Sensitive plant species.

a. There are no known Threatened, Endangered, or Sensitive plant sites within the project boundary, although there are known sites of the green-tinged paintbrush (*Castilleja chlorotica*) about two miles away. There is a low probability that this species may occur within the project, because no rocky lava domes that the species prefers have been found in the area during previous surveys.

b. No habitat for Threatened, Endangered, Proposed, or Candidate plant species exists within the project area, with the possible exception of *Botrychium lineare*, a Candidate species.

**2. Botany - Noxious Weeds**

This project poses a **HIGH** risk of noxious weed introductions or spread since there will be heavy equipment used, project operation is adjacent to weed populations, and known noxious weed sites adjacent to the project area. The weed present is spotted knapweed

(*Centaurea biebersteinii*). Results of surveys are on file at the Bend-Fort Rock District office.

a. The permit holder will be required to **clean all equipment involved with this project before entering National Forest System lands**. All mud, dirt, and plant parts will be removed from equipment before it is moved onto the project area.

b. No fill material will be imported from outside the project area. **If fill material from outside the project is later deemed necessary to complete the project, a Forest Service botanist will inspect it for weeds.**

c. MEC will be **responsible for conducting annual June weed monitoring visits** to ensure that weeds do not become established within any portion of the project. If weeds are found, MEC will hand-pull them and bag them if flowers or seeds are present. MEC will **provide the Forest Service a brief annual report** that shows compliance with this mitigation. The report need not be lengthy or elaborate. A simple e-mail sent to the Special Uses Coordinator and the district botanist will suffice.

MEC will be **responsible for monitoring the area for two growing seasons** after the work is done. For example, if the work is completed in September 2008, the proponent will monitor in the summers of 2009 and 2010. Weed monitoring will begin the first June after the project has been completed; it is strongly encouraged that the monitoring occur then rather than later in the summer because the weeds will still be small and not flowering (for knapweed). MEC will be released from further responsibility for the weeds there after the second year of monitoring/treatment is concluded.

The annual weed monitoring **report will be due no later than August 30**, will include descriptions of when they monitored, what weed species, if any, were found, and that they were treated. Hand-pulling will most likely be the most prudent treatment, because the weed sites will be small. Herbicide application will not be an option for the proponent. The proponent is welcome to discuss with the district botanist what weed species to look for.

### **3. Archaeology**

There are no known cultural sites within the project area.

The permit holder will be required to **cease operations immediately if a previously unknown site is discovered or if significant features or concentrations are identified in the known sites.**

### **4. Visual Quality**

The proposed power line installation will be visible to travelers when under construction for approximately 3 weeks, dependent on weather. When buried and re-graded, it will meet the goals of MA-11 (Intensive Recreation).

- a. The project area is previously disturbed and marked with buried phone line markers for currently permitted Qwest facilities.
- b. **No trees will be removed.**
- c. Green, four-foot-high fiberglass power line markers will be visible within the span of the project and placed every 800 feet.
- d. If additional staging areas are requested and approved, all staging areas will be rehabilitated subject to the terms identified here in section C. and to the satisfaction of the Forest Service.

## 5. Wildlife

Mitigation measures to minimize effects to federally listed threatened and endangered plant, wildlife or aquatic species and Regional Forester's sensitive species are listed as follows:

- a. To prevent disturbance and possible nest abandonment by red-tailed hawks, **activities associated with replacing the existing conduit and powerline should not take place within ¼ mile of the active nest from March 1 – August 31.** This site could be monitored to determine nesting status. If nesting activities are not observed by May 15, project activities within this ¼ mile restriction could proceed (WL-12).
- b. To avoid potential nest abandonment, nest destruction, and loss of broods for bird species including the northern flicker, hairy woodpecker, chipping sparrow and olive-sided flycatcher adjacent to the project area, **do not conduct project activities during the period April 1-August 15.** Implement during late summer, fall, winter, and early spring (September through March). If the specified restriction period must be compromised, project activity at the beginning of the period (within the first month) would be considered.

## 6. Access Travel Management

Forest Lane is surfaced with new asphalt.

- a. Rehabilitation following the construction phase will incorporate ditch and grade specification necessary to **maintain existing conditions.**
- b. Permit Holder will **contact the Forest Service to jointly inspect the asphalt condition prior to and immediately after project implementation. Any damage incurred shall be repaired by the holder to the satisfaction of the Forest Service.**
- c. **Limit all roadside right-of-way impact** within the project area to the minimum necessary to accomplish the project and future maintenance needs.

### III. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are within one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 section 31.2, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

This project may be categorically excluded from documentation in an environmental impact statement or environmental assessment as it is a routine activity within a category of exclusion and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

#### A. Category Of Exclusion

The appropriate category of exclusion is found in the Forest Service Handbook 1909.15 Section 31.2 Category 2: Additional construction or reconstruction of existing telephone or utility lines in a designated corridor.

#### B. Relationship To Extraordinary Circumstances

In determining the appropriateness of using the categorical exclusion, a determination of the potential impact to the resource conditions identified in FSH 1909.15 Section 30.3(2) must be made. The following is the list of the potential effects to the resource conditions from the project activities.

##### 1. Federally listed Threatened or Endangered Species or designated habitat or species proposed for Federal listing or proposed critical habitat

This project would have “no effect” on any listed species or their habitat. A biological assessment (BA) and/or Level I review are not required.

##### 2. Flood plains, wetlands, or municipal watersheds

**Floodplains:** Executive Order 11988 provides direction to avoid adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as, “...the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent [100-year recurrence] or greater chance of flooding in any one year.”

There are no floodplains within the project area.

**Wetlands:** Executive Order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, “. . . areas inundated by surface or ground water with a frequency sufficient to support and under

normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.”

There are no wetlands within the project area.

***Municipal Watersheds:*** There are no municipal watersheds within the project area.

### **3. Congressionally designated areas such as wilderness, wild and scenic rivers, and national recreation areas**

At its closest point, the planning area is located approximately 80 feet west of the Upper Deschutes Wild & Scenic River corridor with Scenic Designation status. No activities would take place within the river corridor or on its stream banks.

The planning area is not located within a wilderness or a national recreation area.

### **4. Inventoried Roadless Areas**

There are no inventoried roadless areas in the planning area. The project would not construct any permanent or temporary roads.

### **5. Research Natural Areas**

There are no existing or proposed Research Natural Areas in the planning area.

### **6. American Indian and Alaska Native religious or cultural sites, archaeological sites or historic properties of areas**

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. Section 106 of the National Historic Preservation Act also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered in federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and objects that are excavated or discovered in federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through “in situ” preservation, but may encompass other actions to preserve these remains and items.

This decision complies with the cited Acts. Surveys were conducted for Native American religious or cultural sites, archaeological sites, and historic properties or areas

that may be affected by this decision. There are no known sites eligible for the National Register.

## Conclusion

Based on the conclusions regarding the effect to the resource conditions listed above, no extraordinary circumstances exist with the proposed project activities that may result in a significant direct, indirect, or cumulative effect on the quality of the human environment.

## IV. PUBLIC INVOLVEMENT

A scoping letter was mailed to 108 individuals, organizations, and agencies on February 14, 2008. The scoping period was closed on March 12, 2008. The project was also included in the winter 2008 edition of the Deschutes National Forest's 'Schedule of Proposed Actions'. The following tribal governments were contacted with letters: Confederated Tribes of the Warm Springs Reservation, Burns Paiute Tribe, and the Klamath Tribes. This categorically excluded activity is not subject to notice, comment, or appeal under the 36 CFR 215 rules.

Two individuals responded to scoping. Both respondents expressed concerns regarding land use rental fees and one was in general favor of the project:

**Comment:** A concerned citizen: "How much are these companies paying the forest service to place these structures on the National Forest lands? It seems these for profit companies should pay for the use of the land." and "...seem(s) acceptable..."

**Response:** *MEC has paid cost recovery fees to fund the Forest Service for the analysis of the project's application and monitoring of the subsequent authorization. As a corporation with permitted use on public lands, an annual land use rental fee would normally be charged according to the scope and type of use. However, as a Rural Electrification Administration Facility, public law 98-300 amends section 504 (g) of the Federal Land Policy and Management Act, 43 U.S.C. 1764, to provide that no rental fees shall be charged for rights-of-way for electric facilities financed pursuant to the Rural Electrification Act of 1936.*

**Comment:** Wanderlust Tours owner: "...demand very stringent guidelines if allowed to proceed....mitigation of the land they use....should be in perpetuity. The lease money they pay for the land needs to go back into the Deschutes Forest, not the US Treasury."

**Response:** *Mitigation measures are outlined in section C. of this document and are applied consistently to all proposals of this nature commensurate with site specific environmental concerns.*

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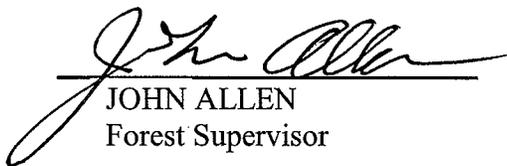
**V. FINDINGS REQUIRED BY OTHER LAWS**

This project is consistent with the Deschutes National Forest Land and Resource Management Plan (Forest Plan) as required by the National Forest Management Act. A wildlife report has been prepared and documents MIS species and effects. Project mitigations described in this decision memo (II.C.4) will eliminate or reduce those effects. The Forest Plan is amended by Inland Native Fish Strategy, which provides standards and guidelines for protection of watersheds and riparian habitat conservation areas. There are no riparian habitat conservation areas within the planning area. The project is designed in conformance with Forest Plan standards and incorporates appropriate guidelines for Intensive Recreation management allocations and for preventing the introduction and spread of invasive plants.

**VI. APPEAL RIGHTS**

This decision is not subject to appeal. Implementation may begin immediately.

For additional information concerning this decision, contact Scotty McBride, Special Uses Administrator at the Bend-Fort Rock Ranger District, 1230 NE Third Street, A-262, Bend, OR 97701 or via telephone at 541-383-4000.

  
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JOHN ALLEN  
Forest Supervisor

9-19-2008  
Date