

Decision Notice & Finding of No Significant Impact

Pennsylvania Hill Underground Powerline Project and Communications Site Designation

**USDA Forest Service
Mountain City Ranger District,
Humboldt-Toiyabe National Forests
Elko County, Nevada**

T44N, R53E, Sections 5, 6, 8, 9, 16

Background

Introduction

Although not formally designated in the Humboldt Forest Plan, Pennsylvania Hill has been developed and used as a communications site since the 1970s. The site is used by the State of Nevada, Elko County, and other tenants to provide radio communications in northeast Nevada, primarily for emergency and law enforcement communications. Occupancy and operations on the site are currently authorized by the Mountain City Ranger District under a 2 year special use permit to the Nevada Department of Information Technology (NDOIT).

Currently, power to the Penn Hill Communications Site is supplied by solar panels, one wind turbine and propane powered generators. Maintaining constant power to the radio is difficult due to weather and access conditions, especially in winter months. In addition, new communications equipment being installed and allowances for additional users made the installation of a powerline to the site a reasonable proposal to consider.

Raft River Rural Electric (RRRE), on behalf of NDOIT, has submitted an application for the construction and operation of an underground distribution powerline branching from the RRRE overhead powerline located in Trail Creek Road (County Road 729) and proceeding to the Pennsylvania Hill Communications Site along Forest System Road (FSR) 170.

Purpose and Need

The Penn Hill Communications Site is a critical communications component to the State and County's emergency services network. The purpose of this proposed action is to provide a consistent and reliable power source, and facilitate long-term occupancy and operation of the site. Action is needed because the existing power source is marginal, and the existing State authorization is temporary.

Decision and Reasons for the Decision

Based on the analysis conducted in the EA for this project, it is my decision to approve the Proposed Action (Alternative 3), as described in the EA.

The selected alternative consists of three elements: 1) underground powerline construction; 2) Forest Plan Communication Site designation; and 3) long-term site occupancy and operation authorization. A complete description of the proposed action is contained in the Environmental Assessment prepared for this project.

Powerline Construction

A Term Special Use Permit will be issued to authorize the construction and maintenance of approximately 3.5 miles of underground powerline from the intersection of the Trail Creek Road (County Road 729) and the existing Pennsylvania Hill Road (FDR 170) to the Pennsylvania Hill Communications Site. The construction phase will allow for a 25 foot width disturbance for construction from the centerline of the road. Once completed, the permit width for maintenance and operations along the powerline route will revert to a 10 foot width from centerline. Construction is planned for fall of 2006 and is expected to last approximately 3-4 weeks.

The Pennsylvania Hill distribution line will tie to the existing RRRE powerline on County Road 729, approximately 7 miles southwest of State Hwy 225. The distribution line will generally be set within the existing Penn Hill Road, with a construction/disturbance allowance of 50 feet total width (25 feet from road centerline). Deviations from this alignment are described below as Mitigation Measures for rare plants.

Equipment involved will include pick-ups, utility trucks, and a dozer with ripper, line laying machine and backhoe. Several staging areas for equipment parking and material storage will be necessary.

Reclamation of the power line corridor will occur immediately following construction and involve: recontouring, by filling in all trenches and ripped surfaces; grading of road's running surface, and removal of remaining materials, supplies and garbage. The reclamation will also

include construction of water bars and ripping and seeding with appropriate native weed free seed mixes as approved by the USFS.

Mitigation and monitoring measures, as identified in the EA, will be implemented to avoid and minimize negative effects to resources surrounding and within the project area. Key measures are outlined below.

If applicable, a Stormwater Management Permit will be obtained, and Stormwater Pollution Prevention Plan and Spill Plan developed and implemented by the applicant. BMPs relevant to surface water runoff and sediment control will be implemented.

RRRE will be responsible for annual weed monitoring and weed suppression along route of underground powerline. Disturbed areas will be revegetated with USFS approved weed free native seed mixes as described in the USFS Weed Management Plan and Prevention Schedules.

Rare Plants Protection and Avoidance will include the following:

- Lewis' buckwheat (*Eriogonum lewisii*) sites along the ridgeline will be marked with flags or staked before construction to alert the contractor to avoid driving equipment or storing soil/rocks/materials/etc. on road sides.
- In the large saddle in Section 6, the powerline will be diverted 30 to 40 feet south of Lewis' Buckwheat sites and the access road will be relocated to the new line. The old road will be closed with suitable barriers or gates, a fence(s) will be constructed around Lewis's Buckwheat sites to protect the sites from vehicle, human, and livestock use.
- Near rocky outcrops in Section 5, the powerline will be trenched on the north side of the road for approximately 600 feet to avoid Lewis' buckwheat populations.

To ensure public safety, the communications site road will be closed to the public access during construction due to steep terrain and confined width of the road.

Should cultural resources be encountered during implementation, the proponent will stop all disturbance activities and report the resources to the Forest Service for evaluation in accordance with the National Historic Preservation Act.

Communications Site Designation

This decision designates Pennsylvania Hill as a Communications Site.

Pennsylvania Hill has operated as a communication site since the 1970s. The 1986 Humboldt National Forest Land and Resource Management Plan (Forest Plan) did not designate

communication sites. The Scoping Notice and Notice of Proposed Action for this project stated that site designation would require a site-specific, non-significant Forest Plan Amendment. Upon closer scrutiny of Forest Service planning regulations (36 CFR 219), I have determined that the Selected Alternative does not necessitate a Forest Plan amendment. Instead, this decision administratively corrects the Forest Plan by adding the site as a non-substantive change (36 CFR 219.7[b][5]). The Forest Plan Correction Sheet is attached.

Lease Issuance

Consistent with the Forest Plan designation of the Penn Hill Communication Site, and pending completion of a Site Plan, the Forest Service will issue a Communication Site Lease for the operation of Penn Hill Communications Site to the State of Nevada (NDOIT).

In selecting an alternative to implement, I based my decision on several factors. The first is the ability of the selected alternative to meet the Purpose and Need for the proposal. I also considered the impact of the alternatives in light of the issues raised in the environmental analysis process. I specifically considered comments received during the analysis.

The following section summarizes my considerations:

1. The selected alternative fully meets the Purpose and Need for the proposal by providing a reliable power source and long-term authorization of operations at the Pennsylvania Hill Communications Site.
2. The selected alternative provides adequate protection for the resources of concern analyzed as Significant Issues in the EA. Project design features (including reclamation) and mitigation measures were sufficient to minimize the extent and duration of impacts to all resources. In addition, standards and guides specific to Forest Plan Amendment #5 (INFISH) were incorporated to avoid or minimize potential impacts to native fisheries in Trail Creek, downstream of the project area.
3. I have considered comments received during the analysis. These comments included the need for improved communications in the area, protection of rare plants and wildlife species on Penn Hill, and the control of noxious weeds. Issues were either resolved through project design or mitigation, or adequately addressed as environmental consequences.

In addition to the selected alternative, two other alternatives, the No Action Alternative (Alternative 1) and the Original Proposal Alternative (Alternative 2), were analyzed in detail during the analysis.

Alternative 1 - No Action

The No Action Alternative serves as the baseline against which the Proposed Action (Selected Alternative) is evaluated. Under the No Action Alternative, the powerline to Pennsylvania hill would not be built. The currently approved power sources, (solar, propane, wind) would be the sole sources of power to the site. In addition, the Pennsylvania hill Communications Site would not be designated in a Forest Plan Amendment, nor would a long term lease be issued to the State of Nevada for operation of the existing communications site. This alternative would not be consistent with Forest Service Policy (FSH 2709.11-90.3) requiring communication site designation in the Forest Plan.

Alternative 2 – Original Proposal

The Original Proposal Alternative also involved the issuance of Special Use Permit to Raft River Rural electric to construct and operate a buried powerline to Pennsylvania Hill along Forest Road 170. The line would follow the alignment of the Forest Road 170, with no re-routes considered to minimize impacts to the known populations of rare plants. This alternative, like the selected alternative, also proposed designating the Pennsylvania Hill Communications Site and issuing a long term lease to the State of Nevada for operation of the existing facilities. This alternative did not adequately protect isolated populations of the Forest Service sensitive species, Lewis's buckwheat (*Eriogonum lewisii*).

Public Involvement

Public input regarding the Proposed Action was invited through the mailing of a scoping letter on April 15, 2005. This letter was mailed to approximately 28 addresses. The project was also listed in the Humboldt-Toiyabe National Forest Schedule of Proposed Actions in April 2005.

The Mountain City Ranger District on the Humboldt-Toiyabe National Forest provided *Notice of Proposed Action (NOPA)* on the proposal in April of 2006. The Notice and Opportunity to Comment of Proposed Action was published in the Elko Daily Free Press Newspaper on April 12, 2006. The *Notice of Proposed Action* was mailed to interested parties on April 6, 2006.

Tribal Involvement

Six letters were sent to tribal governments dated May 5, 2005 as part of initiating tribal consultation regarding the project. No verbal or written responses were received in response to this letter. A follow-up letter was sent to the Shoshone-Paiute Tribes of Duck Valley on April 11, 2006. A meeting with the Shoshone-Paiute Tribes of Duck Valley by the District Ranger in Owyhee, NV on March 1, 2006 did not reveal any concerns for the project.

Finding of No Significant Impact

The Finding of No Significant Impact incorporates by reference the project environmental assessment and the project's Administrative Record, including specialist's reports and comments. After considering the environmental effects described in the EA, I have determined that the Selected Alternative will not have a significant effect on the quality of the human environment, considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

1. My finding of no significant environmental effects is not biased by the beneficial effects of the action.
2. There will be no significant effects on public health and safety. The general public will be excluded from the project area during construction by traffic controls and barricades. At the communications site, the public will be excluded from the facilities through fencing, gates, and warning signs.
3. There will be no significant effects on unique characteristics of the area. The Roadless Area adjacent to the project will not be impacted, and parklands, prime farmlands, wetlands, wild and scenic rivers, and ecologically critical areas are not present.
4. The effects on the quality of the human environment are not highly controversial. They are not significantly different in scope than those at other communications sites on National Forest System lands in Nevada.
5. The Forest Service has considerable experience with the types of activities to be implemented. The effects analysis in the EA shows the effects are not uncertain, and do not involve unique or unknown risk.
6. The action will not establish a precedent for future actions with significant effects. This decision applies only to the Pennsylvania Hill site. Future expansion or alteration at the Pennsylvania hill site would be subject to additional site-specific NEPA analysis, and approval would depend on that analysis.
7. The cumulative impacts, as described in the EA, are not significant.
8. The action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places (NRHP). The action will also not cause a loss or destruction of significant scientific or historical resources, because there are no known scientific resources within the project area and historic period values were determined to be adequately captured by previously

archeological studies of the area. Impacts to cultural resources are limited to disturbing several small prehistoric sites that are not NRHP eligible (see Section 3.9 of the EA).

9. The action will not adversely affect any federally endangered or threatened species or habitat that has been determined to be critical under the Endangered Species act of 1973. In addition, the action will not adversely affect any Forest Service sensitive species.
10. The action will not violate Federal, State, and local laws and requirements for the protection of the environment. Applicable laws and regulations and environmental requirements of other agencies were considered in the analysis for this project.

Findings Required by Other Laws and Regulations

My decision is consistent with all applicable laws, Executive Orders, regulations and policies as summarized below.

Humboldt National Forest Land and Resource Management Plan of 1986 – This decision is consistent with the Forest Plan and all amendments, including Amendment #5 (INFISH) and its policy of multiple use of National Forest System Lands.

2005 Planning Rule (36 CFR Part 219) - This decision to designate the communications site in the Humboldt Land and Resource Management Plan is consistent with the Humboldt LRMP (36 CFR 219.8[e]), and provisions for Administrative Corrections for non-substantive changes in the Forest Plan [219.7(b)(5)].

Title V. Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1761-1771) - Authorizes the use of National Forest System lands for telecommunications uses.

Telecommunications Act of 1996 (Pub. L. 104-104; 47 U.S.C. 332) - Requires Federal agencies to facilitate the development and placement of telecommunications equipment on buildings and land they manage when placement does not conflict with the agency's mission or current or planned use of the property.

Endangered Species Act of 1973 – A Biological Assessment and Biological Evaluation (BA/BE) has been completed for this action. The BA/BE found that no federally listed threatened or endangered plant or wildlife species will be adversely affected by this action. In regards to Lewis's buckwheat, a Forest Service sensitive plant species found in the project area, it was determined that the project may impact individuals, but that the project would not contribute towards listing or cause a loss of viability for the species.

Migratory Bird Treaty Act - As described in Section 3.3 of the EA, Proposed Action (Selected Alternative) impacts to nesting birds from construction disturbance would be minimal and of

short duration. The action complies with the US Fish and Wildlife Service Director's Order #131 related to the applicability of the MBTA to federal agencies and requirements for permits for "take". In addition, the action complies with Executive Order 13186 because the analysis meets agency obligations as defined under the January 16, 2001 MOU between the Forest Service and USFWS.

National Historic Preservation Act of 1966 – A cultural site survey of the area was conducted. The SHPO concurred with the Forest Service's findings of "no effect" and recommendations.

Floodplain Management and Protection of Wetlands – The Proposed Action is not located on, nor will it impact, any floodplain or wetland.

Environmental Justice – As discussed in Section 3.14 of the EA, the Proposed Action (Selected Alternative) will not have a disproportionately high and adverse human health or environmental effects on minority or low-income populations.

Implementation Date

Implementation of this decision may occur upon publication of the legal notice for this Decision Notice.

Administrative Review or Appeal Opportunities

This decision is not subject to appeal under 36 CFR Part 215 because only supportive comments were received on the Proposed Action.

This decision is subject to appeal by the existing special use permit holder, Nevada Department of Information Technology, pursuant to 36 CFR 251.82. Appeals must meet the content requirements of 36 CFR 251.90. The appeal must be postmarked or received by the Appeal Reviewing Officer within 45 days of the date of this decision. A notice of appeal, including the reasons for appeal, must be filed with: Regional Forester, Intermountain Region USFS, 324 25th Street, Ogden, Utah 84401; or by fax to 801-625-5277; or by email to: appeals-intermtn-regional-office@fs.fed.us. Emailed appeals must be submitted in rich text (rtf), Word (doc) or portable document format (pdf) and must include the project name in the subject line. Appeals may also be hand delivered to the above address, during regular business hours of 8:00 a.m. to 4:30 p.m. Monday through Friday. A copy of the notice of appeal must be filed simultaneously with the Deciding Officer, Forest Supervisor Edward C. Monnig, 1200 Franklin Way, Sparks, NV 89431, or by fax to 775-355-5399, or by email to: comments-intermtn-humboldt-toiyabe@fs.fed.us.

Contact

A copy of the Environmental Assessment for this project is on file at the Mountain City Ranger District, 2035 Last Chance road, Elko, Nevada 89801 telephone (775-738-5171) and the Humboldt-Toiyabe National Forests office at 1200 Franklin Way Sparks, Nevada, 89431, telephone (775-331-6444). The assessment is also available electronically on the Forest website at: <http://www.fs.fed.us/r4/htnf/>. For additional information concerning this decision or the Forest Service appeal process, contact Will Wilson, Project Leader, Mountain City Ranger District, 2035 Last chance Road, Elko, NV 89801, telephone (775) 778-6132, fax (775) 778-6199.

_____/s/ Edward C. Monnig_____

____September 12, 2006_____

Edward C. Monnig
Forest Supervisor
Humboldt-Toiyabe National Forest

Date

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