

**FLOYD HILL DISTRIBUTION LINE TIE-IN PROJECT:
DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT**

**USDA Forest Service
Arapaho-Roosevelt National Forests
Clear Creek Ranger District
Clear Creek County, Colorado
T4S R72W
July 2013**

INTRODUCTION

Location

The project area is located approximately 32 miles west of Denver, Colorado and 7.5 miles west of Evergreen, Colorado in the southern portion of the Arapaho National Forest (ARF) in southeastern Clear Creek County, T4S, R72W, and portions of sections 20, 27, 28, and 29 (see **Figure 1**). Access to the project area is through the Mount Evans Scenic Byway, (also known as Colorado State Highway 103 and Squaw Pass Road) and Clear Creek County Road (CR) 470.

Background

Intermountain Rural Electric Association (IREA) provides reliable electric service to consumers within its assigned territory. Currently, outages periodically occur at the nearby Floyd Hill and Conifer substations and along the distribution lines originating from these substations. IREA seeks to protect against outages and provide reliable service to customers in this area. On December 22, 2009, the Forest Service accepted an application from IREA proposing to construct a new distribution line connecting the Conifer Substation with the Floyd Hill Substation.

PURPOSE AND NEED OF THE PROJECT

Currently, outages periodically occur at the Floyd Hill and Conifer substations or along distribution lines originating from these substations. The purpose of the proposed project is to improve reliability of service delivery to customers in this area. At this time, there is no alternate source of power, and consumers in the project area are without electric power until outages are located and repaired. IREA has determined that constructing a line to tie the two power sources together will allow it to provide reliable electric power to both of these areas by reducing outage times and addressing a variety of operating concerns.

Because the project area is located on National Forest System lands, the Forest Service needs to amend the existing special use permit (SUP) to authorize the new line and issue a temporary construction permit to construct the proposed project.



Floyd Hill Distribution Line Tie-in Project

Figure 1: Project Location

Decision

Based on my review of the Floyd Hill Distribution Line Tie-in Project Environmental Assessment (EA), comments from the public on the EA, Forest Service responses to these comments, and information contained in the project record, I have decided to approve Alternative 2, the proposed action, and issue IREA an amendment to its current SUP to add the line to the permit and issue temporary construction permit that will allow the construction of a distribution line connecting the two substations. The actions of Alternative 2 are described herein.

The distribution line for this proposed action, which will connect the Conifer Substation with the Floyd Hill Substation, will start at the east edge of the Echo Hills Imes Subdivision and parallel CR 470 before heading west and crossing under the Mount Evans Scenic Byway. The line will be buried along the byway shoulder before crossing under the road again and heading southwest. The line will turn northwest before terminating at the Conifer Substation. The distribution line, once constructed, will be 2.97 miles long and be located within the newly acquired Beaver Brook Watershed area.

The proposed action will include the following components.

- A 12.5 kilovolt, three-phase distribution line roughly 15,660 feet long, within a 20 foot easement will be constructed to connect the Conifer and Floyd Hill substations.
- The line will be a combination of overhead and underground lines.
- A 20 foot right-of-way (ROW) (10 feet from the center line of pole locations) will be cleared of all vegetation for the overhead and underground portions of the line.
- Maintenance of the line will follow the Operation and Maintenance Plan, which is part of the existing SUP.

The overhead portion of the line will include 35-foot-high wood poles installed to a depth of 6 feet, with 10-foot crossarms for raptor protection. Span lengths will vary from approximately 150 to 275 feet depending on terrain considerations. The 0.4 mile of the existing Beaver Brook line, located along CR 470, will be rebuilt as authorized under the SUP, by replacing poles and installing new anchors. The new poles will be placed within the existing ROW alignment but will not necessarily be in the same location. For the underground portion of the line, approximately 3,000 feet of electric cable will be buried 48 inches deep, either by trenching or directional boring.

Project Design Criteria

Potentially adverse effects from implementing the selected alternative will be mitigated through project Design Criteria. Forest Plan goal, standards, and guidelines will also be followed. Design Criteria to be implemented throughout the project include:

Wildlife Design Criteria

- Structures will be designed and built so that they do not create unreasonable or unnecessary movement barriers or hazards for wildlife.
- Any known raptor nests will be protected by enforcing a no-disturbance buffer around active nest sites between nest-site selection through fledging, which is generally March through July.
- Clearing vegetation prior to the onset of the nesting season (mid-March through mid-July) when possible, or conducting migratory bird nest surveys if vegetation clearing is scheduled during the nesting season will minimize the take of migratory birds and reduce local impacts on species that nest in and adjacent to the construction areas.
- In order to minimize disturbance to nesting boreal owls, no construction activities would be permitted to occur within ¼-mile of a known or suspected nest between April 15 and July 15. If construction during the breeding season cannot be avoided, pre-construction surveys would be conducted utilizing a USFS approved protocol. If no nests are located, no timing restrictions would be necessary. If pre-construction surveys are not conducted, no construction activities would be permitted within any portion of the project area between April 15 and July 15.
- Construction will be limited to daylight hours.
- Existing forest cover adjacent to access roads will be maintained to the maximum extent possible.
- Overhead lines will be hung from wooden poles with 10-foot crossarms for raptor protection.

Forest Vegetation and Watershed Health Design Criteria

- Large woody debris will be retained to retain moisture; trap soil movement; provide microsites for establishment of forbs, grasses, shrubs, and trees; and provide habitat for wildlife.
- Where known occurrences of Species of Local Concern plant species are found adjacent to the project area, the Forest Service botanist will recommend site-specific protection measures to the appropriate personnel to minimize any trend toward federal listing or loss of viability on the Planning Unit. Sites will be flagged for avoidance or minimal impact during construction activities.
- Vegetation within the ROW will be cleared by hand using chain saws or other methods identified in IREA's Forest Plan-approved Vegetation Plan.
- As directed by the Forest Service, the existing road and other areas that might be damaged by construction activities will be closed and rehabilitated following construction.

- Topsoil removed during construction will be salvaged and stockpiled and later used during rehabilitation efforts.
- Slope stabilization, revegetation specifications, and locations will be developed and identified in a revegetation plan by IREA's contractor and approved by the Forest Service botanist, engineer, and landscape architect.
- To minimize risk of noxious weed introduction and spread, all equipment used for ground-disturbing activities (not including service trucks or other vehicles that remain on roadways) will be required to be clean (free of mud, dirt, and plant parts, or other debris that could contain or hold seeds, prior to entering the project area). Equipment will be considered clean when a visual inspection does not disclose such material. Disassembly of equipment components or specialized tools will not be required.
- All imported fill material, revegetation plant mixes, and mulch material will be certified weed-free and subject to inspection by the Forest Service.
- If straw is used for revegetation or erosion control, it will be certified weed-free per the Forest Service Weed Free Forage Products Order Number: R2-2005-01.
- Sites will be revegetated with certified weed-free seed. Seed mixes will be developed in accordance with the ARP revegetation policy and in consultation with the Forest Service botanist or botanical representative. Independent testing of seed by the Forest Service may be required.
- IREA will conduct a noxious weed inventory along the proposed route prior to construction, and will periodically check for noxious weeds along the corridor, using qualified personnel approved by the Forest Service. If noxious weeds are found, IREA will treat them using appropriate methods consistent with the ARP Noxious Weed Management Plan and in compliance with the ARP Guidance to Herbicide Application on Forest Service Lands by Non-Forest Service Personnel.
- Drainage features will be installed as needed per engineering standards or identified by the Forest Service engineer, hydrologist, or soil scientist.

Wetland and Riparian Area Design Criteria

- Wetland areas will be avoided to the greatest extent practical.
- No new road construction or upgrade of existing roads will occur within wetlands.
- No mechanized clearing of the ROW within wetlands will be permitted.
- Equipment, construction materials, and staging areas will be stored away from wetland and riparian areas.
- Helicopter pads will be located away from wetland and riparian areas.

- Temporary fencing and/or barriers will be placed along the line in the project area to prevent contractors from working outside established construction limits to protect wetlands, riparian, and other areas (e.g., sensitive plant and animal habitat) from accidental construction equipment encroachment.
- Ground-based equipment will not be permitted within 100 feet from the edge of streams, or within the edge of riparian or wetland vegetation.

Soils Design Criteria

- Machinery will not be used on slopes greater than 35 percent grade, except for slopes shorter than 100 feet long.
- Heavy equipment will be restricted from operating when soil conditions are too wet. Soils are too wet when soil can be molded into a ball that holds together under repeated tosses, or if the soil can be rolled into a 3 millimeter thread without breaking or crumbling.
- Temporary restrictions on off-road equipment operation will be implemented in periods of heavy rains, when soils are wet, or when excessive soil damage is occurring due to unsuitable operating conditions.
- Unless otherwise determined through consultation with the Forest Service soil scientist and botanist, effective ground cover will be established through seeding or mulching on disturbed sites to prevent accelerated on-site soil loss and sediment delivery to streams.
- Allowable chipped material depth and percent ground cover, outside the power line ROWs will be determined by the Forest Service representative on a site-specific basis.
- When masticating/chipping felled trees or existing down slash, masticated materials will be spread discontinuously (less than 60 percent of surface covered by 4 inches maximum depth of chips). Masticated/chipped materials may be scattered outside the corridor to achieve this criterion.
- When required, the road and other disturbed sites will be stabilized and maintained during and after implementation to control erosion.
- Waterbars and drainage dips will be installed as appropriate and identified by a Forest Service engineer, hydrologist, or soil scientist.

Water Quality Design Criteria

- A detailed construction Storm Water Pollution Prevention Plan will be developed for the project to help minimize the potential for discharge of pollutants from the site during construction activities.

- Temporary erosion control measures such as straw bales, silt fences, and excelsior logs will be constructed during the project and maintained until sufficient revegetation has been established to protect soil stability.
- Existing erosion problem areas will be repaired by improving drainage and revegetating and stabilizing slopes.

Cultural Resources Design Criteria

- As specified in the Class III Cultural Resource Investigation, IREA will be required to avoid resources that are listed on or eligible for listing on the National Register of Historic Places (NRHP). Sites that have not been evaluated for the NRHP will also be avoided. If additional cultural resources are discovered during construction, the ARP Authorized Officer will be notified and work will stop in the area of the finding until appropriate Design Criteria are implemented.

Public Safety Design Criteria

- Illegal off-road vehicle use within the ROW will be prevented as much as possible by installing barrier features as gates, buck and pole fence, and/or large rocks. Monitoring will occur to see if the barriers constructed are effective, or if there is a need for additional structures. Complete elimination of illegal off-road vehicle use may not be possible with resources available for enforcement and monitoring.
- The following construction-related Design Criteria will be implemented to ensure public safety:
 - Highway 103 will have temporary road closures to accommodate helicopter take-offs and landings during construction. Coordination will occur with CDOT to obtain a Special Use Permit for temporary road closures.
 - Traffic control personnel will be in place during all construction activities that involve temporary lane closures.
 - Temporary construction signing will be placed above and below active work areas.
 - Information notices about the project will be posted at the Forest Service visitor center and on IREA's website.
 - For delays longer than 30 minutes, public notice will be given in advance through the local news media and informational signs.
 - IREA will be required to keep work areas in an orderly condition; dispose of all refuse properly; and obtain permits for the construction and maintenance of all construction camps, stores, warehouses, latrines, and other structures in accordance with applicable requirements. No edible foodstuffs will be stored in a location accessible to scavengers.

- IREA will use only approved portions of the ROW for storing material and equipment, and will not use private property for storage without written permission of the owner.
- IREA will comply with all legal load restrictions when hauling material and equipment on public roads to and from the project.
- IREA will maintain access to trails, roads, streets, businesses, parking lots, residences, garages, and other features.
- The Mount Evans Scenic Byway will be kept open on weekends without construction delays from 6:00 p.m. Friday to 11:00 p.m. Sunday and on national holidays; and during special events permitted by the Forest Service and Clear Creek County such as the Triple Bypass Bicycle Tour, Colorado Rocky Mountain Bicycle Tour, Ride the Rockies, Red Rock Century Ride, and others as necessary.
- Emergency service providers will be provided with up-to-date information on construction schedules, anticipated delays, and locations.
- IREA will be required to provide immediate passage through the construction area for all emergency service vehicles.

Visual Resources Design Criteria

- Transition facilities will be located as far back from the Mount Evans Scenic Byway ROW as possible.
- Paint colors and materials used for poles and other equipment will be chosen to allow the distribution line to blend in with surrounding vegetation and landscape.
- Wire used for the distribution line will be a non-reflective material.

Project Monitoring

Monitoring during project implementation will be completed to ensure that goals, standards, and guidelines of the Forest Plan and Design Criteria and management measures of the Watershed Conservation Practices (WCP) Handbook are met where resources may be affected by project activities. **Table 1** details items to be monitored. Clear Creek County will provide a qualified Environmental Compliance Officer (ECO), who will inspect project construction drawings before construction begins. The ECO will ensure that all Design Criteria are part of the construction plans and inspect the project site before, during, and after construction to ensure compliance with all Design Criteria. The ECO will also complete and provide weekly inspection reports to the Forest Service. In addition, the Forest Service will review all construction plans, have representation on site, and monitor the implementation of the Design Criteria.

Table 1: Project Monitoring for the Floyd Hill Distribution Line Tie-in Project

Item to be Monitored	Responsibility	Timing of Monitoring and Duration	Objective for Monitoring
Recreation	Forest Service Recreation Staff or Planner	2 years post-construction.	Ensure that no illegal access to roads and trails is occurring in the project site and determine whether additional barriers or fencing are needed.
Botanical resources, including forest vegetation and rare plant species	Forest Service Botanist/IREA Biologist*	During project area design, layout, and construction.	Ensure compliance with Forest Plan, WCP Handbook, and mitigation requirements.
Nesting habitat for raptors, migratory birds, and other sensitive avian species	Forest Service Wildlife Biologist/IREA Biologist*	During project area design, layout, and construction.	Monitor known nest locations and discover new nest locations to ensure compliance with Forest Plan and mitigation requirements.
Noxious and undesirable weed infestations and spread	Forest Service/Contractor Botanist and/or Invasive Plants Coordinator*	During project area design, layout, construction, and post-construction until revegetation is complete. Also periodically after construction, with frequency to be agreed on by the Forest Service and IREA after initial weed inventory and post-construction site review.	Ensure compliance with Forest Plan, WCP Handbook, ARP Noxious Weed Management Plan, and mitigation requirements.
Soil compaction, erosion, and disturbance	Forest Service Soil Scientist/IREA Soil Scientist*	During project area design, layout, construction, and post-construction until revegetation is complete.	Ensure compliance with Forest Plan, WCP Handbook, and mitigation requirements.
Riparian areas/wetlands	Forest Service Hydrologist/IREA Biologist/IREA Wetland Scientist*	During project construction and post-construction for two growing seasons or until mitigation is complete.	Ensure compliance with Forest Plan, WCP Handbook, and mitigation requirements.
Soil and vegetation recovery in construction and rehabilitation areas	Forest Service Landscape Architect and Botanist/IREA Biologist*	Post-construction for two growing seasons or until mitigation is complete.	Evaluate soil and vegetation recovery in disturbed locations.
Heritage/cultural resources within and adjacent to the project area	Forest Service Archeologist/IREA Archeologist*	During project design and construction.	Document, examine, and protect historic/cultural properties.

Item to be Monitored	Responsibility	Timing of Monitoring and Duration	Objective for Monitoring
Motorist and Cyclist Safety	Forest Service Engineer/IREA	During project construction.	Ensure public safety is not compromised.

*Clear Creek County contractor.

Rationale for the Decision

I have made this decision after careful consideration of the environmental analysis of the effects of the two alternatives. My decision meets the requirements of the National Environmental Policy Act (NEPA), responds to the purpose and need for this project described in Chapter 1 of the EA, and responds to the issues identified during the planning process and comments received from the public during scoping and the public comment period. I have made this decision based on the rationale described below.

I first considered whether my decision will achieve and comply with Forest Plan standards, goals, and guidelines. Alternative 2 with modification best meets these standards, goals, and guidelines, where Alternative 1 (No Action) does not.

Secondly, I considered which of the alternatives will best meet the purpose and need of the project (EA page 1) and determined that Alternative 2 will best meet the purpose and need by reducing periodic outages and improving the reliability of electric service delivery to customers within IREA’s assigned territory, while minimizing impacts on other important resources (see the Issues described below) analyzed in the EA. Alternative 1 (No Action), required by law, does not meet these objectives.

I reviewed the site-specific analysis that was completed within the project area and the issues raised by the Forest Service Review Team and the public. I am convinced there has been sufficient site-specific environmental analysis completed on each of the alternatives.

Other Alternatives Considered

I considered one other alternative—No Action. A comparison of these alternatives can be found in Table 3 of the EA on page 21. Under the No Action alternative, the Forest Service would not issue a SUP or a temporary construction permit. IREA would not construct the Floyd Hill distribution line connecting the Floyd Hill and Conifer substations. Without the distribution line, outages would continue to occur periodically.

Two other alternatives were considered but not analyzed in the EA. These are 1) issuance of an SUP for the construction of the distribution line along an alternative alignment, and 2) burial of the distribution line along the alignment. These alternatives were eliminated from further analysis because it was determined that the selected alternative could best meet the purpose and need of the project.

Public Involvement

Public involvement for the project began in 2011 with letters sent to the public, newspaper articles, and fieldwork by the project team to gather data. External involvement by the public and

other agencies included: soliciting comments to a project description letter; field trips; consultation with the State Historic Preservation Office; and informal discussions with the Colorado Division of Wildlife, the Public Utility Commission of Colorado, Clear Creek County, the U.S. Army Corps of Engineers, and the Colorado Department of Transportation.

To date, the public has been invited to participate in the project in the following ways:

- The Forest Service opened the public scoping period by publishing a legal notice in two Clear Creek County newspapers including the *Canyon Courier* and the *Clear Creek Courant* on June 8, 2011.
- An email or hardcopy notification indicating the opening of the scoping period was sent to approximately 60 area residents, interested parties, and people frequenting the area for recreational purposes seeking their comments on the action proposed by the Forest Service.
- On September 24, 2012, the Forest Service notified interested parties of the slight modification of the proposed action to bury the distribution line along the Mount Evans Scenic Byway.

A total of ten correspondences were received, four from area residents and six from local businesses or government agencies. These public comments, scoping letters, mailing lists, and meeting notes are part of the project file located at the Clear Creek Ranger District Office, 101 Highway 103, Idaho Springs, Colorado 80452.

The Forest Service Review Team incorporated comments received during the public scoping process into the project and identified several issues regarding the effects of the project. The alternatives analyzed for the EA were developed specifically to address these issues, including:

Key Issues

- **Visual Impacts**—Construction and operations of the Floyd Hill distribution line could affect the scenic integrity of the landscape and viewshed for local residents and recreators using the Mount Evans Scenic Byway, Beaver Brook Watershed, and surrounding areas.

Other Issues

- **Wetlands and Riparian Areas**—Wetlands and riparian areas exist within the area. Construction and operation of the Floyd Hill distribution line could indirectly affect stream health, riparian areas, and wetland function.
- **Soils**—Most soils in the project area have high potential for erosion if protective cover is removed. Construction and operation of the Floyd Hill distribution line could directly and indirectly affect rates of soil erosion, soil compaction and exposure, and soil productivity.
- **Proposed Threatened and Endangered Species (PTES) and Management Indicator Species (MIS) for Wildlife, Fish, and Plants**—The project area and immediate vicinity contains habitat for certain PTES and MIS. Constructing the proposed distribution line

including ROW clearance and maintenance, access roads, and helicopter access areas could affect PTES and MIS and their habitat and could fragment habitat within and/or adjacent to the project area.

- **Cultural Resources**—In consultation with the Colorado SHPO, a portion of the Mount Evans Scenic Byway has been recommended as eligible for listing under the NRHP. The construction of the new distribution line could affect the historic structures found along the roadway. In addition, the historic viewshed from the road could be impacted by the construction and location of the proposed distribution line.

On March 29, 2013, the Floyd Hill Distribution Line Tie-in Project EA was made available to the public and mailed or emailed to the ten individuals who responded to the original scoping letter and to those who expressed an interest in being notified about the project. An invitation to comment on the project was also published in the *Fort Collins Coloradoan* on March 29, 2013, in the legal notice section to initiate the 30-day public comment period to comply with provisions of 36 CFR 215. 6. The 30-day comment period extending from March 29 through April 29 was initiated. Two responses were received within the 30-day period. The public comments received on the project are included in Appendix A of this Decision Notice.

Finding of No Significant Impact

After considering the environmental effects described in the EA, I have determined that these actions 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. Context and Intensity

Impacts associated with the project are discussed in Chapter 3 of the EA and in the project record. Those that would be impacted by the project include local residents and others who may be traveling along the Mount Evans Scenic Byway. The impacts are within the range of those identified in the Forest Plan. Alternative 2 will not have significant impacts on other resources identified in the EA. After careful consideration of the EA, the record, and in documented consultation with resource specialists, it is my finding that the effects of the Floyd Hill Distribution Line Tie-in Project are not significant. My finding that the adverse impacts are not significant is not biased by the beneficial impacts described in the analysis.

Project Design Criteria and monitoring as described in the EA will keep project impacts below the level of significance. Forest Service representatives will regularly inspect project operations to assure conformance with the terms of the EA, Forest Plan, WCP Handbook, and appropriate state and federal laws. In addition, the Floyd Hill Distribution Line Tie-in Project is within the scale and context of past construction projects occurring within the ARP.

2. Public Health and Safety

Specific Design Criteria were incorporated into the action to that public health and safety is maintained during and following project implementation. Project activities will not significantly affect public health and safety because these Public Safety Design Criteria (page 14 of the EA

and discussed above) will be fully implemented and monitored throughout the duration of construction.

3. Unique Characteristics of the Area

A unique characteristic of the area that will be impacted by the project is the Mount Evans Scenic Byway. However, by adhering to Forest Plan standards, Design Criteria, WCP measures, and monitoring requirements, impacts to the Byway and on forest health and vegetation, watershed, soils, water quality, noise, environmental justice, prime rangeland, forest land, and farm land, air quality, or social groups will not occur or will not be significant.

4. Controversy

The activities described in Alternative 2 do not involve effects on the human environment that are likely to be highly controversial (40 CFR 1508.27). Public comment during scoping and the comment period regarding this project focused primarily on safety, project design elements, wildlife, wetlands, cultural resources, and visual resources. These concerns were mitigated through project Design Criteria and specific mitigations. I find the effects on the human environment are not highly uncertain, are unlikely to involve unique or unknown risks, and are not likely to be highly controversial.

5. Uncertainty

The activities described in Alternative 2 will not involve effects that are highly uncertain or involve unique or unknown risks (40 CFR 1580.27). Pertinent scientific literature has been reviewed and incorporated into the analysis process, and the technical analyses conducted for impact determinations are supportable with use of accepted techniques, reliable data, and professional judgment. Impacts are within limits that are considered thresholds of concern. Issues of public concern and possible environmental effects of the project have been adequately addressed in the analysis and Design Criteria outlined on pages 10 through 15 of this decision. Therefore, I conclude that there are no highly uncertain, unique, or unknown risks

6. Precedent

My decision to implement the activities included in Alternative 2 does not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. I have made this decision based on the overall consistency of the project with Forest Plan goals, standards, guidelines, and management practices and the capabilities of the land.

7. Cumulative impacts

The EA considers all connected, cumulative, and similar actions in the scope of the analysis (Section 2.6 pages 19 and 20). The direct and indirect effects of this action, when added to the direct and indirect effects of past, present, and reasonably foreseeable actions are considered and disclosed in Chapter 3 of the EA, and there are no significant cumulative effects.

8. Properties on or Eligible for the National Register of Historic Places

No direct or indirect impacts will occur on cultural resources as a result of the action. Cultural resources located outside of the proposed distribution line alignment, including the five

identified artifact dumps and one prospector site will see no impacts from the proposed distribution line and associated components. Impacts on an historic two-track road will not occur, as the majority of the resource is located outside of the proposed distribution line alignment. For the portion of the road that is within the proposed corridor, previous impacts have occurred and the segment is not considered a contributing segment of the resource; however, it is recommended that this site be avoided, which will minimize additional impacts on the site. No impacts will occur at culvert sites located outside of the proposed distribution line alignment. Culvert sites located directly in the proposed distribution line alignment will be avoided.

9. Proposed, Threatened and Endangered (PTES) or Sensitive Species

The action will not adversely affect any PTES or sensitive species or its critical habitat that has been determined to be critical under the Endangered Species Act of 1973. A Biological Evaluation (BE) and a Biological Assessment (BA) for PTES wildlife, sensitive plants, and Forest Service MIS was conducted and concludes that implementation of Alternative 2 with modifications will have either no effect or may affect but is not likely to adversely affect listed species. The BA and BE have been summarized in the EA and the full reports are located in the project file. Design Criteria for protecting wildlife are found on page 11 of the EA.

10. Legal Requirements for Environmental Protection

The action will not violate federal or applicable state and local laws or requirements for the protection of the environment. Consultations conducted for compliance with federal law are listed in Appendix C of the EA. The project is consistent with the 1997 Revision of the Arapaho and Roosevelt National Forests and Pawnee National Grassland Land and Resource Management Plan. Applicable laws and regulations are considered below:

- Clean Air Act—There is no action in Alternative 2 that will affect air quality, therefore the project will be in accordance with provisions of the Clean Air Act as administered by the state of Colorado.
- Clean Water Act—The Clean Water Act requires federal agencies to comply with all federal, state, interstate, and local requirements, administrative authority, and process and sanctions with respect to the control and abatement of water pollution. Executive Order 12088 also requires the Forest Service to meet the requirements of the Act.
- Environmental Justice—Executive Order 12898 requires federal agencies to identify and address disproportionately high and adverse human health or environmental effects on minority and low-income populations. My decision will not have a disproportionately adverse effect on any minority or low-income population or community.
- Floodplains and Wetlands—There are no floodplains associated with the project area. However, wetlands do exist within the project area. Construction and operation of the Floyd Hill distribution line could indirectly affect stream health, riparian areas, and wetland function. Indirect impacts on wetlands and tributaries may occur due to sedimentation and changes to drainage patterns from both the overhead and underground sections of the distribution line. The placement of access points and/or anchor points near tributaries have the potential to have temporary indirect impacts as a result of

sedimentation and changes to drainage patterns; however, because of the small size of the tributaries and the ability to avoid the tributary, if impacts do occur they will be minimal. Removing trees around a wetland or riparian area may also increase the sediment load to that wetland or riparian area until revegetation occurs over the short term (until vegetation could be reestablished in disturbed areas); therefore, some erosion will occur. However, such erosion will be minimized through the use of best management practices.

- National Forest Management Act—My decision is consistent with the intent of the Forest Plan. The project was designed in compliance with Forest Plan goals, standards, and guidelines. Additionally, Alternative 2 with modifications incorporates appropriate land and resource management plan guidelines to meet the stated purpose and need.
- MIS—MIS for the ARP were identified and considered in the BE for this project and in the EA (see Section 3.5). The selected MIS are elk, mule deer, golden-crowned kinglet, hairy woodpecker, mountain bluebird, pygmy nuthatch, warbling vireo, greenback cutthroat trout, brook trout, and brown trout. This decision will not adversely affect the populations or their habitat. Temporary and short-term displacement effects resulting from increases in human activity and use of machinery will not likely detrimentally alter individual survivorship or population status. Direct and indirect effects on MIS associated with the proposed action will have a low degree of impact. This level of impact is based on the relatively small disturbance area compared to the available and potentially suitable habitats that occur on the ARP, the low likelihood and short duration of direct effects on individuals, and the low potential for these effects to have a meaningful impact on forest-wide population trends for these species. Therefore, no change in the status to the forest-wide populations of these species will occur as a result of implementation of the proposed project.

Implementation Date

Implementation of this project will not occur for minimum of 50 days following publication of the legal notice in the *Fort Collins Coloradoan* if no appeal is received. If an appeal is filed, implementation will not occur for a minimum of 15 days following disposition of the appeal. If multiple appeals are filed, the disposition date of the last appeal will control the implementation date.

Administrative Review or Appeal Opportunities

My decision to implement Alternative 2 of the Floyd Hill Distribution Line Tie-in Project EA is subject to appeal pursuant to 36 CFR 215.13. Any written notice of appeal must be submitted in accordance with 36 CFR 215.14, content of an appeal, including the reasons for the appeal. Only those individuals or organizations that submitted comments, or otherwise expressed interest during the comment period are eligible to appeal this decision. Any appeal must be filed with the:

USDA Forest Service
Appeal Deciding Officer
Region 2
740 Simms St

Golden, CO 80401

If you fax an appeal, please include a cover page stating how many pages you are faxing.

Fax: 303-275-5134

Email: appeals-rocky-mountain-regional-office@fs.fed.us

It is an appellant's responsibility to provide sufficient activity-specific evidence and rationale, focusing on the decision, to show why the Responsible Official's decision should be reversed. An appeal submitted to the Appeal Deciding Officer becomes part of the appeal record. At a minimum, an appeal must include the following (§ 215.14):

- (1) Appellant's name and address (§ 215.2), with a telephone number, if available;
- (2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal);
- (3) When multiple names are listed on an appeal, identification of the lead appellant (§ 215.2) and verification of the identity of the lead appellant upon request;
- (4) The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision;
- (5) The regulation under which the appeal is being filed, when there is an option to appeal under either this part or part 251, subpart C (§ 215.11(d));
- (6) Any specific change(s) in the decision that the appellant seeks and rationale for those changes;
- (7) Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement;
- (8) Why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and
- (9) How the appellant believes the decision specifically violates law, regulation, or policy.

Appeals that do not meet the requirements of 36 CFR 215.14 will be dismissed.

Pursuant to 36 CFR 215.9(a), if no appeal is filed, implementation of this decision may occur on, but not before, the fifth day from the close of the appeal-filing period. All appeals must be filed within 45 days of the date that the legal notice appears in *Fort Collins Coloradoan* in Fort Collins, Colorado.

Contact

For additional information concerning this decision or the Forest Service appeal process, contact:

Patti Turecek, Lands and Minerals Staff, Clear Creek Ranger District, Arapaho National Forest,
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And Pawnee National Grassland

7-9-13
DATE

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APPENDIX A: RESPONSE TO PUBLIC COMMENTS ON THE ENVIRONMENTAL ASSESSMENT

The Environmental Assessment (EA) for the Floyd Hill Distribution Line Tie-in Project was mailed to interested and involved members of the public and organizations on March 29, 2013. An invitation to comment on the project was also published in the *Fort Collins Coloradoan* newspaper on March 29, 2013, in the legal notice section to initiate the 30-day public comment period to comply with provisions of 36 CFR 215. 6. The comment period ended April 29, 2013. By April 29, 2013, two comment letters or emails with a total of 5 comments were received from individuals and organizations. Comments received in response to this solicitation, including names and addresses of those who comment, are considered part of the public record for this project. The comments directed towards the Floyd Hill Distribution Line Tie-in Project EA are summarized below, by issue.

Public Safety and Illegal Off-Road Vehicle Access

Comment 1: “I am also concerned that during or after this project there will be off-road use from a much wider NFS access road up to my property. This occasionally occurs now so with a new 20 foot ROW it will increase significantly. The report states, rocks, barriers and pole fences will be used to discourage this activity. I prefer these items are used to prevent it! Can these items be utilized so it is almost impossible to drive up this access road? Once up this short road there is only private land and thus trespassing has occurred.”

Comment 2: “Illegal OHV use should be eliminated from the ROW.”

- **Response:** The Design Criteria for the preferred action have been revised to state that “Illegal off-road vehicle use within the ROW will be prevented as much as possible by installing barrier features such as gates, buck and pole fence, and/or large rocks.” However guaranteed elimination of illegal off-road vehicle use may not be possible with current staffing. . Monitoring will occur to see if the barriers constructed are effective, or if there is a need for additional structures.

Impacts on Private Property

Comment 3: “My house is on the southern edge of this project and 1/3 mile to east of old Squaw Pass picnic area. The address is 76 Squaw Mtn Trail. Based on Figure 1 there will a lot of activity and tree clearing on an existing access road up from Hwy 103 to my property and also on an existing access road leaving my property headed east-south east along an existing NFS road. What will be done to prevent damage on and around my property? Will there be heavy machinery parking and driving along this area? I own about 200 yards of this proposed access so have concerns about soil and rock damage and potential for trees being cleared off my property.”

- **Response:** Any use of private property for use in construction of the Floyd Hill Project will have to be approved by the landowner. There will be no tree removal or other construction happening on private property without consent. Prior to the start of construction, the USFS and the proponent will conduct a site visit with adjacent property owners to flag property boundaries and discuss the project.

Impacts to Floodplains

Comment 4: “According to the IREA engineers burying the line...” An unbiased source? What has been advised in areas subject to floods and tidal actions?”

- Response: There are no floodplains that will be impacted by the project. The Forest Service agrees with the assessment of IREA engineers that complete burial of line would be infeasible. The impacts of burying the line in the project are would be extensive given the geologic conditions that exist. In addition, inclusion of specific design criteria which minimize visual impacts enable the construction of an above ground utility line to conform with the Forest Plan for this area.

Impacts to Traffic on Mount Evans Scenic Byway

Comment 5: Rick Solomon of the Colorado Department of Transportation indicated that IREA will need to obtain a Special Use Permit from CDOT for temporary road closures.

- Response: In order to accommodate helicopter take-offs and landings during construction, IREA will need to impose temporary road closures along Highway 103. Because this activity will affect traffic along portions of a state highway, IREA will need to obtain a Special Use Permit from CDOT. Changes were made to the EA to reflect this requirement (Table 1, pg. 8).

General Comments

Comment 6: “Maps could have been better (showing start/end)”

- Response: The project map was revised to show start and end points at the Conifer and Floyd Hill substations.

