UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
SALEM DISTRICT OFFICE
TILLAMOOK RESOURCE AREA

FINDING OF NO SIGNIFICANT IMPACT
For the
High Heaven Right-of-Way
DOI-BLM-OR-S060-2010-004-EA

I. Introduction

An Interdisciplinary Team has prepared an Environmental Assessment (EA# DOI-BLM-OR-S060-2010-004-EA) in response to a request from Yamhill County for an amendment to an existing right-of-way on BLM-managed lands to increase the size of the compound at the High Heaven communication site and install additional equipment. The project area is in the Panther Creek drainage, tributary to the North Yamhill River, on BLM lands in Township 3 South, Range 5 West, section 33, Willamette Meridian, Yamhill County, Oregon, within the Adaptive Management Area (AMA) land use allocation. The EA analyzed two alternatives; a no-action alternative and the proposed action. The proposed action would issue an amendment to the right-of-way permit to install a new emergency generator and 12x32 foot prefabricated equipment shelter, extend the permitted compound area on the eastern side of the existing compound by eight feet and enclose it with a chain link fence, and install two new 500-gallon propane tanks. The County wishes to perform the work as soon as they receive permission from BLM, which will most likely be in April or May, 2010.

II. Background

The EA is in conformance with the *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, dated 1994 (PRMP/FEIS) and the *Salem District Record of Decision and Resource Management Plan*, dated 1995 (ROD/RMP). The analysis supporting this EA is also tiered to the *Final Supplemental Environmental Impact Statement (EIS) on Management of Habitat for Late Successional and Old Growth Forest Related Species Within the Range of the Northern Spotted Owl (Northwest Forest Plan,)* dated 1994 and its *Record of Decision*, dated 1994.

III. Finding of No Significant Impact

I am adopting the EA, in which the effects analysis indicates that there would not be a significant impact on the quality of the human environment from the implementation of either alternative. This finding and conclusion is based on my consideration of the Council of Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and intensity of the impacts described in the EA.

Context

The objective of this project is to meet the management direction in the *Salem District Record of Decision and Resource Management Plan*, dated 1995 (ROD/RMP) to "Allow expansion of communications facilities on existing communication sites" (ROD/RMP pg. 56). Another ROD/RMP objective is to make BLM-administered lands available for needed rights-of-way where consistent with local comprehensive plans (ROD/RMP page 55), which is also consistent with this action.

The project consists of granting an amendment to an existing permit to move a fence and allow installation of a new backup generator and two propane tanks. The project would not be regional or national in scope.

Intensity

Impacts that may be both beneficial and adverse (40 CFR 1508.27 (b)(1))

All impacts have been considered in the EA. The ROD/RMP anticipated these kinds of effects from right-of-way requests.

Public Health and Safety (40 CFR 1508.27(b)(2))

No aspect of the proposed action would have an effect on public health and safety.

Unique characteristics of the geographic area (40 CFR 1508.27(b)(3))

There are no known historic or cultural resources within the project area, and the High Heaven Communication Site, which has been heavily disturbed for over 20 years, is not likely to contain cultural deposits. There are no parklands, prime or unique farmlands, wetlands, floodplains, Wild and Scenic Rivers, wilderness or Areas of Critical Environmental Concern.

Degree to which effects are likely to be highly controversial (40 CFR 1508.27(b)(4))

The effects on the quality of the human environment of the proposed activity are not highly controversial. The processing of right-of-way requests has occurred since the first perpetual right-of-way grants were established as early as the 1950's. The checkerboard pattern of ownership between the BLM and private landowners makes this an integral part of business in Western Oregon.

Degree to which effects are highly uncertain or involve unique or unknown risks (40 CFR 1508.27(b)(5))

The possible effects of the proposed action on the quality of the human environment are not highly uncertain and do not involve unique or unknown risk.

Consideration of whether the action may establish a precedent for future actions with significant impacts (40 CFR 1508.27(b)(6))
The proposed project does not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant effects. As stated above, right-of-way requests are very common in western Oregon with the checkerboard ownership pattern.

Consideration of whether the action is related to other actions with cumulatively significant impacts (40 CFR 1508.27(b)(7))
There are no cumulatively significant impacts identified in the environmental assessment.

Scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places (40 CFR 1508.27(b)(8))
The proposed activities would not affect districts, sites, highways, structures or objects listed in or potentially eligible for listing in the National Register of Historic Places. Nor would the activities cause a loss or destruction of significant scientific, cultural or historical resources.

Threatened or endangered species and their critical habitat (40 CFR 1508.27(b)(9))
The EA identified no effects on ESA listed wildlife or fish species or their critical habitats (EA page 4).

Any effects that threaten a violation of Federal, State, or local laws or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10))
The proposed action would not violate Federal, State or local laws imposed for the protection of the environment. These include the Endangered Species Act and the Clean Water Act.

Analysis has also concluded that implementation of the proposed actions will not change the likelihood of and need for listing of any Special Status Species under the ESA as identified in BLM Manual 6840 and BLM OR/WA 6840 policy.

Pursuant to Executive Order 13212, the BLM must consider the effects of this decision on the National Energy Policy. As there would be no impact to the exploration, development or transportation of undeveloped energy sources from the proposed action, a Statement of Adverse Energy Impacts is not required.

Conclusion

Based on the information contained in the EA (DOI-BLM-OR-S060-2010-004-EA), and all other information available to me I have determined that the proposed action would not have a significant impact on the human environment within the meaning of section 102(2) (c) of the National Environmental Policy Act of 1969, and that an Environmental Impact Statement is not required. I have determined that the effects of the proposed activities would be in

conformance with the *Record of Decision and Resource Management Plan* for the Salem District.

/s/ Steve Small	March 12, 2010
Steve Small	Date
Tillamook Field Manager	

UNITED STATES DEPARTMENT OF THE INTERIOR
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SALEM DISTRICT OFFICE
TILLAMOOK RESOURCE AREA

DECISION RECORD
For the
High Heaven Communication Site Right-of-Way
DOI-BLM-OR-S060-2010-004-EA

DECISION

It is my decision to implement the proposed action as described in the High Heaven Communication Site Right-of-Way Environmental Assessment (EA# DOI-BLM-OR-S060-2010-004-EA). The project will issue an amendment to the existing right-of-way permit with Yamhill County on BLM land in Township 3 South, Range 5 West, section 33, Willamette Meridian, Yamhill County, Oregon. The amendment will allow the County to install a new emergency generator and 12x32 foot prefabricated equipment shelter, extend the permitted compound area on the eastern side of the existing compound by eight feet and enclose it with a chain link fence, and install two new 500-gallon propane tanks. The County wishes to perform the work as soon as they receive permission from BLM, which will most likely be in April or May, 2010.

Consultation with the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) is not required. The Environmental Assessment (EA) analyzed the proposed action and the Finding of No Significant Impact (FONSI) documented that there would be no significant impacts.

This decision is in conformance with the Salem District Record of Decision and Resource Management Plan (ROD/RMP) and will not have significant environmental impacts beyond those already addressed in the environmental impact statement prepared for the ROD/RMP.

CONSULTATION AND COORDINATION

Public Scoping and Review

The Environmental Assessment (DOI-BLM-OR-S060-2010-004-EA) was released for 15-day public comment period on February 24, 2010. The document was posted on the Salem District web page. No comments were received.

Consultation

The EA determined that the project would be of *No Effect* on ESA-listed wildlife or fish species or their critical habitats, or Essential Fish Habitat under the Magnuson-Stevens Fisheries

Conservation and Management Act. Consultation with the National Marine Fisheries Service and U.S. Fish and Wildlife Service is not required.

SURVEY AND MANAGE

The High Heaven Communication Site Right-of-Way Project is consistent with the 2001 Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines, as incorporated into the Salem District Resource Management Plan.

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Rey, et al.*, No. 08-1067 (W.D. Wash.) (Coughenour, J.), granting Plaintiffs' motion for partial summary judgment and finding a variety of NEPA violations in the BLM and USFS 2007 Record of Decision eliminating the Survey and Manage mitigation measure.

Judge Coughenour deferred issuing a remedy in his December 17, 2009 order until further proceedings, and did not enjoin the BLM from proceeding with projects.

This project may proceed even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision. This is because the High Heaven Communication Site Right-of-Way Project meets the provisions of the last valid Record of Decision, specifically the 2001 Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (not including subsequent Annual Species Reviews). For the High Heaven Communication Site Right-of-Way Project, surveys are not required because the project area is a heavily disturbed ground surface that is not considered habitat for any survey and manage species.

ADMINISTRATIVE REVIEW OPPORTUNITIES

The effective date of this decision shall be the date of posting of the Notice of Decision and FONSI on the Salem District web page (March 12, 2010). Any person adversely affected by this decision may appeal it to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. If an appeal is taken, a notice of appeal must be filed at the physical address of the Tillamook Resource Area, Salem District BLM office within 15 days from the date of this decision. In an appeal the appellant has the burden of showing that the decision is in error.

If, pursuant to 43 CFR 4.21, an appellant wishes to file a petition (request) to stay (suspension) this decision during the time that an appeal is being reviewed by the IBLA, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a

stay must also be submitted to each party named in this decision, to the Interior Board of Land Appeals and to the appropriate office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If a stay is requested, the applicant has the burden of proof to demonstrate that a stay should be granted. Except as otherwise provided by law or other pertinent regulations, a petition for stay of a decision pending appeal 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 immediate and irreparable harm if the stay is not granted, and
(4) Whether the public interest favors granting the stay.

/s/ Steve Small March 12, 2010
Steve Small Date
Tillamook Field Manager