

FINDING OF NO SIGNIFICANT IMPACT

Rogers Peak Multi-Use Instrumentation and Communication Facility Environmental Assessment

**US Department of the Interior
National Park Service
Death Valley National Park**

March 2019

INTRODUCTION

The National Park Service (NPS) prepared this *Finding of No Significant Impact* (FONSI) for the *Rogers Peak Multi-Use Instrumentation and Communication Facility Environmental Assessment* (Environmental Assessment) at Death Valley National Park (Park) in accordance with the 1969 National Environmental Policy Act (NEPA) and NPS NEPA guidance in Director's Order 12: *Conservation Planning, Environmental Impact Analysis, and Decision-Making*. The FONSI, combined with the Environmental Assessment, comprise the full and complete NEPA record of the analysis of environmental impacts and the NPS decision-making process on identifying an implementation strategy.

The FONSI summarizes the alternatives presented to stakeholders and interested members of the public for review and comment and includes the rationale for selecting *Alternative 2: Proposed Action* from the Environmental Assessment for implementation. The document also lists the specific actions the National Park Service will follow when implementing the selected alternative and explains the reasoning behind the statement that the alternative will result in no significant impacts on the environment, as defined by NEPA regulations (42 Code of Federal Regulations [CFR] Parts 1500–1508) and NPS NEPA guidance in Director's Order 12.

BACKGROUND

The Park is part of the greater Basin and Range Province, a vast physiographic region covering much of the western United States, which is characterized by alternating and mostly north-south trending valleys and mountain ranges. These valleys and mountain ranges result in long lines-of-sight for transmitting signals between communication systems in some directions and relatively short distances in others. High points on mountain ridges are particularly exceptional locations for sending and receiving these signals because there are few obstructions. Rogers Peak (9,990 feet), located in the Panamint Mountains between Telescope Peak and the Mahogany Flat Campground, is one of these locations.

The first telecommunications infrastructure on Rogers Peak were installed in 1959. The installations included repeaters, radio buildings, and an 80-foot-tall tower for Inyo County and Death Valley National Monument. By 1964, the California State Highway Department and AT&T had also installed repeaters on the peak, and by 1965 the original 80-foot tower used by Inyo County and Death Valley National Monument had been replaced. Little of the original infrastructure from the

1959–1965 era remains on Rogers Peak. Those repeaters were crushed multiple times by heavy snow and winds during the first few years of operation.

Most of the Park is in the R-2508 military airspace, which is used and managed by the Naval Air Warfare Center Weapons Division, the National Training Center at Fort Irwin, and the US Air Force Test Center at Edwards Air Force Base. The airspace is used to perform a variety of flight tests, such as sensor testing, radar testing, and ground proximity-warning systems testing. Therefore, the existing US Air Force telecommunications infrastructure on Rogers Peak is critical to the mission of regional military operations.

Mormon Peak, located approximately 14 miles south of Rogers Peak in the Panamint Mountains, has permanent commercial telecommunications infrastructure. AT&T owns this infrastructure, and it is currently the only equipment in the Park that provides telephone service and most internet into Death Valley. Because Mormon Peak has been a designated wilderness area since the enactment of the California Desert Protection Act in 1994, existing infrastructure on the mountain was considered a nonconforming use under the Wilderness Act of 1964. However, the John D. Dingell, Jr. Conservation, Management, and Recreation Act in 2019 amended Title VI of the California Desert Protection Act by incorporating the following language: “The designation of the Death Valley National Park Wilderness by section 601(a)(1) shall not preclude the operation and maintenance of the Mormon Peak Microwave Facility.” Rogers Peak has been suggested as an alternate location for the telecommunications infrastructure on Mormon Peak. However, because of design requirements and the potential for adverse impacts on Park resources under the proposal, the National Park Service and AT&T considered other options to provide phone and internet service into Death Valley.

PURPOSE OF AND NEED FOR ACTION

The purpose of the action is to evaluate site planning and infrastructure consolidation on Rogers Peak to allow for additional infrastructure, while minimizing the overall footprint of the project site.

The action is needed because multiple applicants have requested space to place new infrastructure on Rogers Peak and have filed right-of-way permit applications, in accordance with NPS authorities and the Telecommunications Act of 1996.

Under the NPS *Management Policies 2006*, the National Park Service must determine if the additional infrastructure would cause unavoidable conflicts with the Park’s mission. The evaluation of an efficient and consolidated site plan is part of the right-of-way application review process and is necessary to minimize impacts on Park resources.

SELECTED ALTERNATIVE AND RATIONALE FOR DECISION

The National Park Service has selected *Alternative 2: Proposed Action* as the alternative for implementation because it best meets the purpose of, and need for, action without causing significant impacts on Park resources. Under the selected alternative, new infrastructure will be constructed on Rogers Peak and some infrastructure will be removed. The infrastructure included under the selected alternative is described below.

Existing Infrastructure

US Air Force Tower. The US Air Force owns and operates one telecommunications tower that is 62.5 feet tall. The US Air Force tower will not be changed under the selected alternative.

California Department of Transportation (Caltrans) Communications Building. Caltrans owns a 561-square-foot building. The Caltrans building will not change under the selected alternative.

Remote Automated Weather Station. The National Oceanographic and Atmospheric Administration operates a Remote Automatic Weather Station on Rogers Peak to collect weather and atmospheric data. The Remote Automated Weather Station will not change under the selected alternative.

Renovated Infrastructure

Caltrans Tower. The current 50-foot-tall Caltrans tower will be removed from the site after a new Caltrans tower is operational. The new tower will be up to 99 feet tall and will be constructed north of the existing tower. The Caltrans tower will not have, nor will it require, obstruction lighting.

Solar Photovoltaic Arrays. The existing US Air Force solar array will be expanded or replaced with 400-watt panels to generate more electrical power. The US Navy will consolidate its power infrastructure with that of the US Air Force.

Additional solar panels will be installed in accordance with one of two different designs:

1. Solar panels will be arranged in one long array along the edge of the site with a footprint of approximately 120 x 55 feet.
2. The positioning and length of the current solar panels will be left in place, and a new solar array will be built beside the existing US Air Force solar array.

Fuel Depot. The propane tanks will be moved to a new location on Rogers Peak to open up the flat, top area for development. The new location of the tanks on the northeast side of the site will be at a lower elevation on Rogers Peak. The location for the propane tanks is relatively flat and will not require much backfill or grading. Five new propane tanks will be added, bringing the total number of propane tanks on the site to 10. Additionally, a 40 x 80-foot concrete pad will be developed on the location for the propane tanks.

NPS and US Air Force Communication Buildings. The two communication buildings will be demolished. The NPS's, Bureau of Land Management's, and US Air Force's indoor equipment will be consolidated in the new US Navy radome support structure, as described below.

New Infrastructure

US Navy Radome. The US Navy will build a 28-foot-diameter radome containing a telemetry antenna. The radome will be mounted on a support structure located on the eastern side of Rogers Peak. The combined height of the radome and support structure will be no higher than 60 feet. The support structure will contain a generator, batteries, and communications equipment for the US Navy, US Air Force, Bureau of Land Management, and National Park Service.

AT&T Tower. An AT&T tower will be constructed on the north side of Rogers Peak. It will be up to 99 feet tall and will not have, nor will it require, obstruction lighting. A 12 x 25-foot communications building, a solar array, generator, and two propane tanks will also be installed near the tower. The site will tie into the First Responder Network Authority (FirstNet) system.

GX2 Technology Infrastructure. GX2 Technology, a private connectivity services company, will collocate a microwave dish on AT&T's tower to increase AT&T's bandwidth across its communication systems in Death Valley.

Construction and Staging Requirements

Construction. An 80 x 80-foot construction pad will be developed and used as a laydown area. After construction of the US Navy radome is complete, the construction pad will be removed and the area will be used for AT&T's infrastructure.

Staging. Staging areas for construction vehicles, equipment, and materials may be needed and could be located near Wildrose Campground, Thorndike Campground and Mahogany Flat Campground in previously disturbed areas.

Hairpin Turn. The hairpin turn located along the Rogers Peak service road will be widened by 25 feet to accommodate larger construction vehicles.

MITIGATION MEASURES

The National Park Service places strong emphasis on avoiding, minimizing, and mitigating potentially adverse environmental impacts. To help ensure the protection of natural and cultural resources and the quality of the visitor experience, the National Park Service will implement the following mitigation measures and best management practices under the selected alternative.

<i>Mitigation</i>	<i>Responsible Party</i>
<p>General Considerations</p> <ul style="list-style-type: none"> ▪ Incorporate all resource protection measures listed below in the construction specifications, and instruct workers to avoid conducting activities outside the project area. ▪ Ensure contractor vehicle engines do not idle for extended periods. ▪ Remove all tools, equipment, barricades, signs, and surplus materials from the project area upon completion of the project. ▪ Conduct all construction activities during daylight hours to avoid light pollution at night. ▪ Inspect construction equipment for invasive, nonnative plant seeds before they enter the Park. Any nonnative plant seeds found shall be removed and the equipment re-inspected. ▪ Salvage topsoil, store according to soil conservation guidelines, and replace once construction is complete. ▪ Implement erosion control measures that provide for soil stability and prevent movement of soils during adverse weather conditions (e.g., silt fences and tarps). ▪ Use a stormwater pollution prevention plan and project specifications for road maintenance and dust control measures in construction areas, including active haul roads. 	<p>Contractor, with oversight from the NPS Project Manager and US Navy Project Manager</p>

<p><i>Visitor Experience and Safety</i></p> <ul style="list-style-type: none"> ▪ Inform visitors in advance of construction activities via a number of outlets, including the Park’s website, various signs, the Furnace Creek Visitor Center, and/or contact stations. ▪ Schedule work to avoid construction activity and construction-related delays during peak visitation, to the extent practical. ▪ Locate staging sites in areas that will minimize impacts on visitor experience and clearly identify staging sites in advance of construction. 	<p>Contractor, with oversight from the NPS Project Manager and US Navy Project Manager</p>
<p><i>Visual Resources</i></p> <ul style="list-style-type: none"> ▪ Select neutral colors (e.g., matte finish, light gray) for the towers and radome to better blend into the natural background of the Park. ▪ Restrict the height of constructed infrastructure to only what is necessary and no greater than 99 feet to reduce its visibility in the Park. ▪ Prohibit external lighting on Rogers Peak structures. 	<p>Contractor, with oversight from the NPS Project Manager, NPS Cultural Resources Manager, and US Navy Project Manager</p>
<p><i>Wilderness Character</i></p> <ul style="list-style-type: none"> ▪ Site staging and storage areas for construction vehicles, equipment, materials, and soils in previously disturbed areas outside wilderness areas. ▪ Require contractors to maintain construction equipment properly to minimize noise in adjacent wilderness areas. ▪ Restrict the height of constructed infrastructure to only what is necessary and no greater than 99 feet to reduce its impacts to wilderness character. ▪ Ensure no permanent improvements are made in designated wilderness. 	<p>Contractor, with oversight from the NPS Project Manager, NPS Wilderness Stewardship Specialist, and US Navy Project Manager</p>

OTHER ALTERNATIVES ANALYZED IN THE ENVIRONMENTAL ASSESSMENT

Alternative 1: No Action Alternative

Under Alternative 1, the multi-use instrumentation and telecommunications infrastructure currently on Rogers Peak would remain. No additional structures would be constructed. The US Navy would not establish a new instrumentation site; Caltrans would not replace its existing telecommunications tower; and AT&T and GX2 Technology would not install new telecommunications infrastructure on Rogers Peak. The hairpin turn, located approximately 1.75-miles northeast of Rogers Peak along the service road, would not be expanded to accommodate larger construction vehicles.

Existing Infrastructure

US Air Force Tower. The US Air Force owns and operates one telecommunications tower that is 62.5 feet tall. The US Air Force, National Park Service, and Bureau of Land Management have antennas on the tower. Antenna mounting space remains for governmental agencies.

Caltrans Tower. Caltrans owns and operates one telecommunications tower that is 50 feet tall. The tower was originally designed to accommodate four 8-foot microwave dishes. However, Southern California Edison built 10-foot-wide dishes on the Caltrans tower. The tower was not designed to handle those heavier dishes, so the tower's legs were galvanized and welded to support the dishes, and the tower currently lacks structural integrity. In addition to the Caltrans and Southern California Edison equipment, California Office of Emergency Services, Inyo County, the Federal Bureau of Investigation, and Southern California Edison have antennas on the tower. The tower is currently at capacity and therefore cannot hold additional equipment.

Solar Photovoltaic Arrays. The two solar arrays present on the site generate power for existing infrastructure. The US Air Force owns the upper solar array, and Southern California Edison owns the lower solar array. The US Air Force solar array provides power to US Air Force infrastructure and National Park Service and Bureau of Land Management equipment, which is connected to a battery system. The Southern California Edison solar array provides power to the Caltrans tower, which is connected to two battery systems.

Fuel Depot. The fuel depot is located above ground in the middle of the site on the flattest part of Rogers Peak. Five 1,000-gallon propane tanks fuel the Southern California Edison generator. An underground storage tank, which historically held diesel fuel, has been abandoned in place on the site.

Caltrans Communications Building. Caltrans owns a 561-square-foot building, which is commonly referred to as the vault. The building contains Caltrans and California Office of Emergency Services' equipment, the Southern California Edison battery system and generator, and equipment racks. The building is equipped with small floorboard heating but is not cooled.

NPS Communications Building. The National Park Service owns a 63-square-foot building that contains both NPS and Bureau of Land Management communications equipment. The building contains a small cooling system and equipment racks. A communications circuit exists between this building and the Caltrans communications building. The circuit is connected through a fiber-optic cable.

US Air Force Communications Building. The US Air Force owns a 162-square-foot building that contains a solar array battery system and communications equipment. Access to this building is limited by security clearance.

Remote Automated Weather Station. The National Oceanographic and Atmospheric Administration operates a Remote Automatic Weather Station on Rogers Peak to collect weather and atmospheric data. The station also includes equipment that collects accurate snowfall measurements. The station is located on a concrete base that measures 2 x 2 feet.

ALTERNATIVES NOT ANALYZED IN THE ENVIRONMENTAL ASSESSMENT

A number of alternatives, or alternative elements, were identified during internal scoping, agency scoping, public scoping, and tribal consultation. During scoping, these options did not meet the purpose of and need for action, were deemed not feasible, were out of scope of the current planning process, or had impacts on resources that could not be mitigated and were not retained for detailed analysis in this Environmental Assessment. They are described below.

Other Locations in or near Death Valley

The right-of-way permit applicants examined other locations—both inside and outside the Park—for suitability of siting telecommunications infrastructure. However, locations outside the Park did not provide the applicants with the optimal height and geography needed to meet engineering requirements for the proposed infrastructure. Furthermore, the majority of the mountain peaks in the Park are in designated wilderness areas, limiting the options for siting the infrastructure. Therefore, this alternative was dismissed from detailed analysis.

Maximum Build AT&T Tower on Rogers Peak to Replace Mormon Peak Infrastructure

AT&T's telecommunications link from Furnace Creek to Slate Mountain is located on Mormon Peak. If AT&T were to replace this link with telecommunications infrastructure on Rogers Peak, it would need to be approximately 300 feet tall to have a line-of-sight over a ridge to Slate Mountain. The Federal Aviation Administration requires obstruction lighting on all towers 200 or more feet tall. This alternative was dismissed from detailed analysis because it would adversely affect dark night skies and the daytime viewshed.

WHY THE SELECTED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT

The National Park Service used the following NEPA criteria, defined in 40 CFR 1508.27, to evaluate the significance of the action:

- ***Impacts that may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial.***

No significant effects have been identified for the selected alternative. Most adverse impacts associated with implementation of the selected alternative will be temporary, lasting only as long as construction. Long-term adverse impacts to visual resources will occur from renovation or construction of new infrastructure and to wilderness character from the use of cellular phones in designated wilderness areas. However, there will be long-term beneficial impacts to visitor safety because cellular service will enhance communication capabilities within the Park, including for emergency response personnel.

- ***The degree to which the proposed action affects public health or safety.***

The selected alternative considers public health and safety in the design of the infrastructure. The infrastructure will affect public health and safety by increasing cellular services, which will tie into the FirstNet system and will provide additional communication access in remote areas. The infrastructure will also enable accurate location reporting to response teams during an emergency. Therefore, the overall effect of the selected alternative on public health and safety will be beneficial.

- ***Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.***

The selected alternative will not have adverse or beneficial impacts on prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas because these resources do not exist in the project area. Though the National Park Service assumes the project area is eligible for listing in the National Register of Historic Places, the selected alternative will not change the historic character of the Rogers Peak Service Road or the telecommunications site. Furthermore, no cultural resources within the viewshed of the project area will be adversely affected.

- ***The degree to which the effects on the quality of the human environment are likely to be highly controversial.***

Highly controversial effects exist when there is a substantial dispute as to the size, nature, or effect of a major federal action. No highly controversial effects were identified during public scoping, preparation of the Environmental Assessment, or during the public review periods for the Environmental Assessment.

- ***The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.***

No highly uncertain effects or unique and unknown risks are involved with implementation of the selected alternative. The selected alternative also involves mitigation measures and best management practices to minimize risk to the human environment.

- ***The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.***

The selected alternative will not establish a precedent for future actions with significant effects because no significant effects have been identified for either alternative analyzed in the Environmental Assessment. Similar existing facilities already exist within the Park and in other parks within the National Park System. The selected alternative does not represent a decision in principle about future actions, only the current proposed action.

- ***Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.***

The Environmental Assessment considered the cumulative impacts of the selected alternative with several past, present, and future actions. No individually or cumulatively significant impacts were identified.

- ***The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.***

The National Park Service initiated consultation with the California Office of Historic Preservation on August 24, 2017. The National Park Service described the area of potential effects for the project, which includes the service road to Rogers Peak and the 2.75-acre parcel of non-wilderness at the peak. The National Park Service also submitted an assessment of effects, which stated that the project would have no adverse effect on these areas. The National Park Service received concurrence from the California Office of Historic Preservation on January 16, 2019. This concurrence stated that the selected alternative will not adversely affect historic districts, sites, highways, structures, or objects listed in, or eligible for listing, in the National Register of Historic Places.

- ***The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.***

There are no confirmed federally listed threatened, endangered, or candidate species in the immediate project area. In a letter dated August 30, 2017, the US Fish and Wildlife Service stated that it does not have any concerns regarding the proposed action, and that the low height of the proposed towers and antennas should not pose a threat to migratory birds.

- ***Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.***

The selected alternative does not threaten a violation of applicable Federal, State, or local environmental law or requirements imposed for the protection of the environment.

PLANNING AND PUBLIC INVOLVEMENT

Internal Scoping

The internal scoping process for the Environmental Assessment began on August 29, 2017. Representatives from the Park, NPS Denver Service Center, US Navy, and project consultants met to discuss the purpose and need for the project, potential alternatives that could meet these needs, issues and impact topics, applications for right-of-way permits, and cumulative actions that could affect the project. The group also initiated plans for public scoping activities. Throughout the development of this Environmental Assessment, the project team coordinated regularly to review relevant issues, discuss the development of alternatives and impact analyses, and include input from other agencies and the public in the planning process.

Two workshops were held with right-of-way permit holders and applicants involved with the project, including the National Park Service, US Navy, US Air Force, Caltrans, Southern California Edison, Inyo County, the California Office of Emergency Services, AT&T, GX2 Technology, Xanterra Corporation, and the project consultants. These workshops were held on October 6, 2017, and January 9, 2018, and facilitated the development of conceptual site plans and phasing options for the demolition and construction of infrastructure on Rogers Peak.

Public Scoping

Public scoping for this Environmental Assessment began on August 16, 2017, with the issuance of a scoping notice. The scoping notice contained information on the proposed project and solicited comments from the public. The notice was posted on the NPS Planning, Environment, and Public Comment (PEPC) website, and the public comment period closed on September 15, 2017.

During the public scoping comment period, the National Park Service received 21 comments. The majority of these comments concerned the benefits to visitor safety of having access to cellular

service, as well as suggestions for new alternative elements. These new alternative elements included, but were not limited to; limiting the height of any new towers on Rogers Peak, ensuring no obstruction lighting would be required for these towers, and relocating the existing infrastructure from Mormon Peak. Commenters also expressed concern regarding the potential for cellular use in the backcountry and the potential increase in Park visitation.

Review of the Environmental Assessment

The Park published a news release and notification letter on December 14, 2018, indicating the availability of the Environmental Assessment for comment. These documents were published on the Park website at <https://www.nps.gov/deva/learn/news/newsreleases.htm> and the PEPC website at <https://parkplanning.nps.gov/parkHome.cfm?parkId=297>. Because of the partial shutdown of the federal government that occurred on December 21, 2018, the PEPC website was taken offline. This limited the ability of affected parties and the public to provide comments on the Environmental Assessment. The PEPC website went back online on February 4, 2019. To ensure the public had the opportunity to review and comment on the Environmental Assessment, the comment period was extended through February 25, 2019. Any comments entered into PEPC prior to the shutdown, as well as any written comments mailed during the shutdown, were considered and included in the overall project record.

Ninety-six comments were received on the Environmental Assessment during the comment period. While the comments expressed support for, or opposition to, the project, concerns were raised regarding adverse impacts associated with the selected alternative. Responses to these concerns are found in Appendix A.

AGENCY CONSULTATION

The National Park Service initiated consultation with relevant agencies during the preparation of the Environmental Assessment. This consultation is discussed in more detail below.

Section 7 of the Endangered Species Act

Federal agencies, under Section 7 of the Endangered Species Act, are required to consult with the US Fish and Wildlife Service to ensure that any action authorized, funded, or carried out by the agencies are not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. The National Park Service sent a letter to the US Fish and Wildlife Service on August 17, 2017, requesting information concerning federally listed or candidate species in the project area. In a letter dated August 30, 2017, the US Fish and Wildlife Service stated that the project area does not support any federally proposed or listed species, nor does it contain proposed or designated critical habitat. The US Fish and Wildlife Service also stated it does not have any concerns regarding the proposed action and that the low height of the proposed towers and antennas should not pose a threat to migratory birds.

Section 106 of the National Historic Preservation Act

Section 106 of the National Historic Preservation Act requires federal agencies to consider the impacts of their undertakings on historic properties. Compliance with Section 106 of the National Historic Preservation Act was carried out separately but concurrently with the planning process. The National Park Service sent a letter to the California Office of Historic Preservation on August 24, 2017, initiating consultation for the project. The letter described the area of potential effects for the project and identified the service road to Rogers Peak and the 2.75-acre parcel of non-wilderness at

the peak. The National Park Service also submitted an assessment of effects, which stated that the project would have no adverse effect on these areas. On January 16, 2019, the National Park Service received a letter from the California Office of Historic Preservation stating that it had no objection to the finding of no adverse effect.

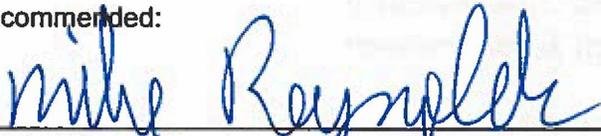
TRIBAL CONSULTATION

The National Park Service sent letters on August 24, 2017, to the Big Pine Paiutes, Bishop Paiutes, Independence Paiutes, Lone Pine Paiutes, and the Timbisha Shoshone Tribes describing the proposed project and initiating consultation under the National Historic Preservation Act. Letters were also sent to the Tribal Historic Preservation Officers. No formal responses were received from tribal representatives. Because the Park is located in the Timbisha Shoshone Tribe's homeland, the National Park Service continued consultation, sent the tribe the assessment of effects, and solicited comments. The National Park Service will continue to consult with the tribes throughout the right-of-way permitting process.

CONCLUSION

Implementation of the selected alternative for the project will not have significant impacts, individually or cumulatively, on the human environment. The determination is sustained by the analysis in the Environmental Assessment, agency consultations, inclusion and consideration of public comments, and mitigation measures to reduce, eliminate, or compensate for impacts to one or more affected resources. No unmitigated adverse impacts will occur on sites or districts that are listed, or that are eligible for listing, in the National Register of Historic Places. No highly uncertain or controversial impacts, unique or unknown risks, or precedents have been identified. All of the requirements of the National Environmental Policy Act have been satisfied, and the preparation of an Environmental Impact Statement is not required. Death Valley National Park will implement the selected alternative.

Recommended:

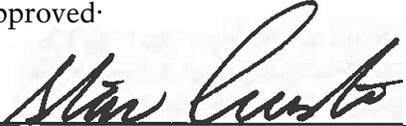


Mike Reynolds, Superintendent
Death Valley National Park
National Park Service



Date

Approved:



Stanley Austin, Regional Director
Pacific West Region
National Park Service



Date

ERRATA

Rogers Peak Multi-Use Instrumentation and Communication Facility Environmental Assessment

***US Department of the Interior
National Park Service
Death Valley National Park***

March 2019

An errata sheet is necessary for the project because factual corrections need to be made to the *Rogers Peak Multi-Use Instrumentation and Communication Facility Environmental Assessment* (Environmental Assessment) and because substantive public comments must be addressed. The corrections made herein do not increase the degree of impacts described in the Environmental Assessment or change the determination that no significant impacts will occur under the selected alternative. Existing text to remain in the Environmental Assessment is found in *italics*, additions to the text are underlined, and deleted text is shown in ~~strikeout~~.

Chapter 1, Page 2: *Background*. *Because Mormon Peak has been a designated wilderness area since the enactment of the California Desert Protection Act in 1994, existing infrastructure on the mountain is was considered a nonconforming use under the Wilderness Act of 1964. However, the John D. Dingell, Jr. Conservation, Management, and Recreation Act in 2019 amended Title VI of the California Desert Protection Act by incorporating the following language: “The designation of the Death Valley National Park Wilderness by section 601(a)(1) shall not preclude the operation and maintenance of the Mormon Peak Microwave Facility.”*

Chapter 2, Page 7: *Caltrans Tower*. *Caltrans owns and operates one telecommunications tower that is 50 feet tall. The tower was originally designed to accommodate four 8-foot microwave dishes. However, the California Office of Emergency Services Southern California Edison built 10-foot-wide dishes on the Caltrans tower. The tower was not designed to handle those heavier dishes, so the tower’s legs were galvanized and welded to support the dishes, and the tower currently lacks structural integrity. In addition to Caltrans and California Office of Emergency Services Southern California Edison equipment, California Office of Emergency Services, Inyo County, the Federal Bureau of Investigation, and Southern California Edison have antennas on the tower. The tower is currently at capacity and therefore cannot hold additional equipment, such as antennas or microwave dishes.*

Chapter 2, Page 17: *Mitigation Measures. General Considerations*: *Inspect construction equipment for invasive, nonnative plant seeds before they enter the project area and remove any that are found Park. Any nonnative plant seeds found shall be removed and the equipment re-inspected.*

Chapter 2, Page 17: *Mitigation Measures. General Considerations*: *Use a stormwater pollution prevention plan and project specifications for road maintenance and dust control measures in construction areas, including active haul roads.*

Chapter 2, Page 17: Mitigation Measures. Visual Resources: ~~Minimize~~ Restrict the height of constructed infrastructure to only what is necessary and no greater than 99 feet to reduce its visibility in the Park.

Chapter 2, Page 17: Mitigation Measures. Visual Resources: Prohibit external lighting on Rogers Peak structures.

Chapter 2, Page 17: Mitigation Measures. Wilderness Character: Restrict the height of constructed infrastructure to only what is necessary and no greater than 99 feet to reduce its impacts to wilderness character.

Chapter 5, Page 44: ~~California Office of Historic Preservation~~ Section 106 of the National Historic Preservation Act. Section 106 of the National Historic Preservation Act requires federal agencies to consider the impacts of their undertakings on historic properties. Compliance with section 106 of the National Historic Preservation Act was carried out separately, but concurrently, with the planning process. The National Park Service sent a letter to the California Office of Historic Preservation on August 18 24, 2017, initiating consultation for the project. The National Park Service wrote to the California Office of Historic Preservation, letter described the area of potential effects for the project and identified the service road to Rogers Peak and the 2.75-acre parcel of non-wilderness at the peak. The National Park Service also submitted an assessment of effects, which stated that the project would have no adverse effect on these areas. The National Park Service is currently waiting for a determination from the California Office of Historic Preservation On January 16, 2019, the National Park Service received a letter from the California Office of Historic Preservation stating that it had no objection to the finding of no adverse effect.

Chapter 5, Page 44: The National Park Service sent letters on August 24, 2017, to the Big Pine Paiutes, Bishop Paiutes, Independence Paiutes, Lone Pine Paiutes, and the Timbisha Shoshone Tribes describing the proposed project and initiating consultation under the National Historic Preservation Act. Letters were also sent to the Tribal Historic Preservation Officers. No formal responses were received from tribal representatives. Because the Park is located in the Timbisha Shoshone Tribe's homeland, the National Park Service continued consultation, sent the tribe the assessment of effects, and solicited comments. The National Park Service will continue to consult with the tribe throughout the right-of-way permitting process.

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APPENDIX A

Responses to Public Comments on the Rogers Peak Multi-Use Instrumentation and Communication Facility Environmental Assessment

The National Park Service is required to respond to substantive comments submitted during the public review period. Substantive comments are those that:

- question, with reasonable basis, the accuracy of the information in the 1969 National Environmental Policy Act (NEPA)-compliant document;
- question, with reasonable basis, the adequacy of the environmental analysis;
- present reasonable alternatives other than those presented in the NEPA-compliant document; or
- cause changes or revisions in the proposal.

In other words, substantive comments raise, debate, or question a point of fact or analysis. Comments that merely support or oppose a proposal or that merely agree or disagree with NPS policy are not considered substantive and do not require a formal response.

The following text summarizes the substantive comments received during the comment period and is organized into concern statements and responses. All page numbers contained herein refer to the *Rogers Peak Multi-Use Instrumentation and Communication Facility Environmental Assessment* (Environmental Assessment).

1. **CONCERN STATEMENT:** One commenter inquired as to whether the NPS explored locations other than Rogers Peak for placement of the US Navy radome, and suggested the radome be placed at a location with fewer impacts on wilderness.

RESPONSE: As noted on page 18 of the Environmental Assessment in the section titled “Alternatives Considered but Dismissed from Detailed Analysis.” the NPS and right-of-way permit applicants examined other locations, both inside and outside the Park, for suitability of siting telecommunications infrastructure. Locations outside the Park did not provide the applicants with the optimal height and geography needed to meet engineering requirements for the proposed infrastructure. In addition, the majority of the mountain peaks in the Park are in designated wilderness areas, limiting the options for siting the proposed infrastructure and would have resulted in greater direct impacts to wilderness character. For these reasons, this alternative was dismissed from detailed analysis.

2. **CONCERN STATEMENT:** In addition to the alternatives analyzed in the Environmental Assessment, one commenter requested that the NPS consider two other alternatives:
 - **The NO Military Radome Alternative:** This alternative would allow the other communication facilities to expand, but not allow the visually intrusive military radome to be built.

- **The NO Military Radome with Shorter Communication Towers Alternative:** This alternative would allow no radome and permit communication towers that are not as high.

RESPONSE: In evaluating the range of reasonable alternatives, the NPS considered many variations of the proposed actions, including permitting rights-of-way for only some of the requested applicants, and several possible site configurations and dimensions. The proposal of not constructing a radome and maintaining the existing tower heights are evaluated in the no action alternative.

The alternative presented for further analysis met the purpose and need of the Environmental Assessment, which is to evaluate the environmental effects of installing infrastructure associated with proponents' requests for right-of-way permits.

3. **CONCERN STATEMENT:** One commenter stated that the NPS should consider a cumulative analysis of military facilities on public lands.

RESPONSE: Cumulative actions are limited to past, present, or reasonably foreseeable future actions that affect the same resources as the proposed action. The potential impacts of military facilities on public lands outside of Death Valley National Park are outside the scope of the analysis for this EA.

4. **CONCERN STATEMENT:** Commenters stated that the Park should not be commercialized by companies like AT&T, and that the project would establish precedent for similar future actions and would not preserve natural conditions in the Park.

RESPONSE: Executive Order 13821 states, "It shall therefore be the policy of the executive branch to use all viable tools to accelerate the deployment and adoption of affordable, reliable, modern high-speed broadband connectivity in rural America [...]." To implement this policy and enable sustainable rural broadband infrastructure projects, executive departments and agencies (agencies) should seek to reduce barriers to capital investment, remove obstacles to broadband services, and more efficiently employ Government resources."

NPS Management Policies 8.6.4.3 states "Requests . . . will be considered in accordance with the Telecommunications Act of 1996 (47 USC 332 note), which authorizes but does not mandate a presumption that such requests be granted absent unavoidable conflict with the agency mission, or the current or planned use of the property or access to that property." The project will not establish a precedent for future actions because similar infrastructure already exists on Rogers Peak. Commercial cellular towers are already located in Death Valley National Park at Stovepipe Wells (with a NPS-issued right-of-way) and at The Oasis at Death Valley (on private property). Furthermore, the project does not represent a decision in principle about future actions, only the current proposed action.

5. **CONCERN STATEMENT:** One commenter had several questions concerning AT&T's use of Rogers Peak for telecommunications infrastructure, including the following:
 - Does AT&T retain exclusive cellular service rights if this project is approved?
 - Will other cell phone providers be permitted to apply for/use of the site in the future?
 - What is the technical capability, benefits, and reliability of the cell service AT&T is proposing to provide (e.g. bandwidth, data service, anticipated coverage area (no maps

- are provided in the EA), non-interference electronically with other commercial and D.O.D. military site users?
- How has inevitable immediate and future growth demand for these additional cellular services been technically evaluated in terms of data service capability, bandwidth capability, provision for adequate capacity to accommodate inevitable increased cellular service demand?

RESPONSE: AT&T would not have exclusive cellular rights on Rogers Peak if the proposal is approved; other cell service providers could request permission to install cellular equipment on Rogers Peak. The NPS right-of-way permit would require tower owners to consider reasonable applications for colocation from other agencies and corporations, including other cellular providers. If space were not available, any additional towers or structures proposed would be subject to environmental review. The Finding of No Significant Impact (FONSI) identifies infrastructure such as the "AT&T tower" and the "CalTrans tower," since these entities currently have infrastructure on Rogers Peak and/or have submitted applications to the NPS requesting permission to site infrastructure on Rogers Peak. However, if for any reason the infrastructure were not developed on Rogers Peak, then the NPS would consider any future applications for similar infrastructure under this FONSI, as long as their siting conforms to the site plan analyzed in the Environmental Assessment and approved under this FONSI. However, any applications for additional or different infrastructure may require additional compliance. The NPS right-of-way evaluation process includes a technical analysis for interference with other equipment. There has already been communication between the NPS, existing stakeholders, and permit applicants to prevent frequency interference. Any further technical capabilities and evaluation questions should be referred to AT&T.

6. **CONCERN STATEMENT:** One commenter inquired if the Park facilities and access roads planned for staging and construction will benefit from receiving improvements, upgrades, and/or expansion in terms of long-term benefits to public use. The commenter also inquired what these physical public improvements will be, and whether the US Navy radome will create permanent or seasonal public access restrictions or closures.

RESPONSE: NPS does not expect any significant long-term benefits or consequences to the public from improvements to Park roads, as the access road to Rogers Peak will largely look and function as it does currently. Upper Wildrose Road (a public road to Mahogany Flat Campground) is not likely to receive more frequent road grading. The proposed widening of the "hair-pin turn" will be on the section of road that is closed to public vehicles. The public can hike up that section of road to the summit of Rogers Peak, but this is unlikely to be affected by the project in the long term.

There would be temporary closures of Rogers Peak to public hiking during construction periods.

7. **CONCERN STATEMENT:** One commenter inquired about the impacts to visitors and aircraft from the enlarged reflective surface of the expanded solar array.

RESPONSE: The proposed solar photovoltaic panels will be constructed of dark-colored (usually blue or black) materials and covered with anti-reflective coatings. For this reason, the enlarged solar array is not expected to increase impacts to visitors or aircraft.

8. **CONCERN STATEMENT:** One commenter had questions concerning safety and the capabilities of improved communications, including the following:
- Specifically how will DEVA-NPS visitor safety, law enforcement, and administrative efficiency and communications be enhanced and more reliable?
 - How do site improvements provide an increased level of reliability; capacity for NPS search and rescue, law enforcement, fire, interagency (e.g. CHP, NHP, BLM, County Sheriffs) cooperators and administrative radio capability?

RESPONSE: Currently, cellular service in the Park is not reliable and may not be available during emergencies such as search and rescue operations. The increased cellular service capabilities would allow first responders to tie into the FirstNet system, an interoperable public safety broadband network. Once established, the network will add to the communication mechanisms used by first responders in the Park by giving them priority use of the cellular network during emergencies.

Internal NPS communications that are too long or nuanced for radio communications will benefit from greater cellular coverage.

Many emergencies, such as motor vehicle accidents, are first observed by members of the public who currently do not have access to emergency beacons, satellite phones, or NPS radios. The addition of a cell tower on Rogers Peak is expected to expand the geographic coverage of cell phones, reducing the time it takes to report emergencies, and therefore the emergency response time.

Caltrans has asserted that a taller tower would increase the coverage area and quality of radio communications for their employees and co-locators (including CHP and Inyo County).

9. **CONCERN STATEMENT:** One commenter stated that the US Navy radome would be taller than existing support buildings, and the glaring white dome would be seen from miles away. The commenter also stated that the radome would be extremely visible from Telescope Peak.

RESPONSE: The NPS required the US Navy to propose the minimum support structure that will provide the “look-down” angle and coverage that the US Navy requires to track aircraft in the area. The US Navy originally proposed a 60-foot structure (including the height of the radome itself). As their designs are becoming more detailed, it is likely they will be able to limit the structure’s total height to 54 feet, but 60 feet is what is being analyzed in this document.

The infrastructure on Rogers Peak is visible from multiple observation points within the Park including Telescope Peak. The renovated or new infrastructure on Rogers Peak will not appreciably alter these views. As noted in the Environmental Assessment, there will be adverse impacts to visual resources but the impacts will be localized. To mitigate the visual impact of the radome the structure will be painted a neutral color to help it and other structures blend into the surrounding environment.

As noted on page 17 of the Environmental Assessment, under Mitigation Measures, Visual Resources, neutral colors (e.g., matte finish, light gray) for the towers and radome will be selected. Please also see response to concern statement #18.

10. **CONCERN STATEMENT:** One commenter inquired about the visual impacts of the AT&T and Caltrans towers, including the following:

- Will either or both of the new 99' CalTrans and AT&T towers create an aviation hazard?
- Will either or both of the new 99' CalTrans and AT&T towers require nighttime hazard/warning lighting for aviation?
- How will proposed new lighting for the site impact DEVA's International Night Sky designation?

RESPONSE: On March 15, 2019, the Federal Aviation Administration (FAA) issued determinations of “No Hazard to Air Navigation” for the Navy radome (2019-AWP-1532-OE), the Caltrans tower (2019-AWP-1552-OE), and the AT&T tower (2019-AWP-1535-OE). The proposed infrastructure will be a maximum of 99 feet, which is well below the FAA nighttime lighting minimum height requirement of 200 feet. In addition, NPS will not allow nighttime lighting. Therefore, there will be no impacts to night skies in the Park.

11. CONCERN STATEMENT: One commenter stated that the Environmental Assessment does not consider additional air traffic from the US Navy through wilderness areas and asked the following questions:

- How many missions do the Navy and Air Force currently fly in the wilderness?
- What will the total be after the new telemetry is installed?
- Is it necessary to fly lower to the ground than through the gap in Lake Hill?
- What additional data can be gathered from these low flights?
- How is this consistent with wilderness?

RESPONSE: Most of the Park is within the R-2508 military airspace, which is managed by the Naval Air Warfare Center Weapons Division at China Lake, the National Training Center at Fort Irwin, and the US Air Force test Center at Edwards Air Force Base. The California Desert Protection Act (PL 103-433), which established Death Valley National Park, specifically authorizes continued military overflights over the Park including designated wilderness.

No change to existing military flights in R2508 Joint Use Airspace is proposed in this proposed action, both in terms of number of missions or flight altitudes. The R2508 airspace allows for flight operations above Death Valley within the 1977 Park boundaries to a minimum altitude of 3,000 feet above ground level, and to a minimum altitude of 200 feet above ground level in Military Operating Areas outside of the 1977 Park boundary. Low flying over national parks and wilderness areas is an extremely sensitive issue closely monitored by the R2508 Joint Policy Planning Board in conjunction with Death Valley National Park.

12. CONCERN STATEMENT: In order to adequately assess impacts to wilderness and visual resources, one commenter requested that the NPS describe the scope, frequency, and magnitude of ground and helicopter access to Rogers Peak for maintenance.

RESPONSE: Maintenance activities associated with the telecommunications infrastructure is not expected to appreciably change under the preferred alternative. Therefore, the impacts will be as described in Chapter 4 of the Environmental Assessment. Stipulations related to maintenance activities, including the use of helicopters and the rationale for their use, will be established in the right-of-way permit, if issued, for each entity with equipment on Rogers Peak.

The NPS permits will stipulate that access to Rogers Peak will be by road rather than by air, when possible. Use of helicopters will still be required to maintain infrastructure and equipment after heavy snowfalls. Because Rogers Peak and the administrative road (no public vehicle

access) are outside wilderness, there would be no impacts on the untrammeled, natural, or undeveloped qualities of wilderness associated with maintenance of the telecommunications equipment. There would be minimal adverse impacts to solitude from the administrative use of motor vehicles and helicopters; however, the impacts are the same for both the no-action and the preferred alternative.

13. **CONCERN STATEMENT:** Commenters questioned whether the AT&T tower is beyond the scope of the minimum requirements for administration of the Park under the Wilderness Act. Commenters also inquired whether cellular service in the Park and the height of the new AT&T and Caltrans towers are necessary, given the impacts to wilderness character.

RESPONSE: The infrastructure and equipment on Rogers Peak is not in designated wilderness and a minimum requirements analysis is not required. The maximum height of the proposed AT&T and Caltrans towers will be up to 99 feet and could be lower. The actual height of the towers will be stipulated in the right-of-way permit if one is issued. The impacts to wilderness character are described on page 42 of the Environmental Assessment. Please see the response to comment number 9 related to the use of cellular technology and decisions related to the height of towers in the Park.

14. **CONCERN STATEMENT:** One commenter stated that a separate evaluation of the five qualities of Wilderness Character from the Telescope Peak Trail should be included in the Environmental Assessment.

RESPONSE: The five qualities of Wilderness Character have been considered in the document. The fifth quality, “other features of value”, is dismissed in the first paragraph of “Wilderness Character, Affected Environment” on page 20. Because Rogers Peak is not in designated wilderness, impacts from views to the peak from wilderness are discussed on page 27, which states, “Visual impacts from Telescope Peak would be adverse and noticeable, however, existing infrastructure on Rogers Peak is currently visible from Telescope Peak, and the increase in impact would not considerably alter the views from this location. There will be no construction on Telescope Peak resulting from the proposed action, therefore, other wilderness character qualities will not be affected.”

The four qualities of wilderness that were retained for analysis (untrammeled, natural, undeveloped, and opportunities for solitude) are also discussed in the Wilderness Character section on pages 41 and 42 of the “Wilderness Character, Environmental Consequences” section.

15. **CONCERN STATEMENT:** Commenters stated that the Environmental Assessment should list potentially affected wildlife species and assess the impacts to these species, including birds, insects, and rare plants. Commenters also inquired as to what wildlife studies have been conducted.

RESPONSE: The NPS analyzed the proposal for potential impacts to wildlife and other biological resources present in the Park, including bird species. Based on Park research and monitoring of natural resources in the Park, the scoping team determined that there would be little to no impact to biological resources. Therefore, the topic was dismissed from detailed analysis.

16. **CONCERN STATEMENT:** One commenter stated that the NPS should extend the comment period due to the government shutdown that occurred in December 2018.

RESPONSE: The NPS published a news release and notification letter on December 14, 2018, indicating the availability of the Environmental Assessment for comment. These documents were published on the Park website and the NPS PEPC website. Because of the partial shutdown of the federal government that occurred on December 21, 2018, the PEPC website was taken offline. This limited the ability of affected parties and the public to provide comments on the Environmental Assessment. The PEPC website went back online on February 4, 2019. To ensure the public had the opportunity to review and comment on the Environmental Assessment, the comment period was extended through February 25, 2019.

17. **CONCERN STATEMENT:** Commenters inquired about the impacts to biological resources, visual resources, and wilderness character from the solar arrays and US Navy radome, and recommended the following mitigation measures:

- Solar panels and the US Navy radome should be tinted earth-tone colors
- Solar panels should be kept as close as possible to the existing size and number
- The Park should consider placing the US Navy radome on the ground rather than on top of a support building

RESPONSE: Impact associated with visual resources posed by the Navy radome is a design consideration of this action. As noted in "Mitigation Measures" of the Environmental Assessment, visual impact of the radome is mitigated by 1) selection of neutral colors (e.g. matte finish, light gray) for the radome to better blend into the natural background of the Park, as well as 2) minimizing the height of constructed infrastructure to reduce its visibility in the Park. These measures are key elements of the Navy radome design, which along with the National Park Service goals of minimizing the number of buildings at Rogers Peak, resulting in a design that balances required technical system performance, minimizes the number of required buildings, as well as mitigating visual impacts posed by the Navy radome.

The Navy's analysis has shown that if the radome were on the ground (rather than raised on the support structure), its effective areas of coverage would be significantly reduced by line-of-sight obstacles.

Mitigation of effects associated with the solar field is additionally considered as well. A goal of the Navy/Air Force implementation is to minimize the impact of this solar field by minimizing its size as much as possible. To this end, this implementation is based on the use of high efficiency solar panels to meet energy production requirements in as small of a footprint as possible. Use of colored solar panels was considered as an alternative to the use of high efficiency panels; market research indicated that available panels demonstrate a far lower efficiency, and would result in a large growth in solar field footprint (30 to 80% over the high efficiency solution, depending on panel manufacturer) to meet the required energy production. Based on this analysis, the preferred approach in keeping with National Park Service goals for minimizing development on Rogers Peak is to implement a minimally sized footprint for the solar array via use of high efficiency solar panels.

18. **CONCERN STATEMENT:** One commenter stated that the Park should evaluate how much the proposed project would benefit the mission of the NPS and whether a military facility expansion would actually be needed to maintain Park operations. The commenter also asked the following questions:

- Is there an actual need for the Air Force to place their facility here and why must we use our National Parks to do so?
- Why can they not maintain existing operations with what they have or a less visually obtrusive proposal?
- Is this needed for the military expansion of the Nevada Test and Training Range?

RESPONSE: The R2508 Joint Use Airspace above Death Valley is a multi-service, national resource and is jointly managed by the three principal military activities in the Upper Mojave Desert region (Naval Air Warfare Center Weapons Division, China Lake; Edwards Air Force Base; and the National Training Center, Ft. Irwin). The placement of Navy and Air Force instrumentation at Rogers Peak is intended to enhance coverage of this critical airspace, to include the ability to better track and communicate with military systems already operating in the airspace above Death Valley. This instrumentation is intended to enhance operational safety for flight crews, as well as better support the critical test and evaluation operations conducted within the R2508.

19. **CONCERN STATEMENT:** A commenter expressed concern about the safety of the radome and if there was the chance the radome could break off during a weather event and roll down the hill. The commenter was also concerned about the equipment on Rogers Peak and asked if it would be removed when no longer in use.

RESPONSE: The safe operation of the Navy radome was an important consideration during the design of the structure. The radome has been designed to withstand the extreme weather conditions expected at Rogers Peak, to include wind loading. Any right of way permit issued by the NPS will require that equipment be removed when it is no longer in use.