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VIEW OF COMMUNICATIONS
SITE FROM THE SOUTH



VIEW OF COMMUNICATION
SITE AND POWERLINE
FROM THE WEST



SHASTA BALLY EA

WHISKEYTOWN NRA CALIFORNIA

UNITED STATES DEPARTMENT OF INTERIOR NATIONAL PARK SERVICE

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FIGURE 5

PHOTOGRAPHS

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VIEW OF COMMUNICATION
SITE INFRASTRUCTURE



VIEW OF ONE OF
KRCR TV - KLXE TV
BUILDING, ON-SITE
ENGINEER RESIDENTS



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FIGURE 6

PHOTOGRAPHS

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VARIOUS COMMUNICATIONS
TOWERS ON-SITE



VARIOUS COMMUNICATIONS
TOWERS AND EQUIPMENT
ON-SITE



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FIGURE 7

PHOTOGRAPHS

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VIEW OF VERIZON
WIRELESS TOWER
AND BUILDING
ON-SITE



COMMUNICATIONS
EQUIPMENT ON-SITE

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FIGURE 8

PHOTOGRAPHS

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SHASTA BALLY ROAD



ACTIVE ROCK FALL AREA
ON STEEP SECTION
OF SHASTA BALLY ROAD



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FIGURE 9

PHOTOGRAPHS

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ROAD CUT ALONG
SHASTA BALLY ROAD



DEFERRED MAINTENANCE
AT CRUSHED CULVERT
ALONG SHASTA BALLY ROAD



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FIGURE 10

PHOTOGRAPHS

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VIEW OF POWERLINE
CORRIDOR



VIEW OF SHASTA BALLY
SUMMIT COMMUNICATION
SITE FROM SHASTA BALLY
ROAD



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FIGURE 11

PHOTOGRAPHS

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Settlement Agreement

The United States purchased the land at the summit of Shasta Bally in 1970 subject to a lease for telecommunication purposes that the previous owners had entered into with Sacramento Valley Television, Inc. California Oregon Broadcasting, Inc. (COBi) succeeded to the lessee's interest in 1986. As the lessee, COBi operated its own wireless communication equipment on Shasta Bally and allowed third parties to operate wireless communication equipment on the site. The lease held by COBi expired on July 31, 2006 and the NPS did not offer COBi the option to renew the lease. COBi filed suit in the U.S. Court of Claims. On November 6, 2006, the United States Court of Federal Claims in *California Oregon Broadcasting, Inc. v. United States*, 74 Fed. Cl. 394 (Fed. Cl. 2006), granted COBi's motion for partial summary judgment on liability in litigation regarding the renewal provision of this lease. Ultimately, the United States and COBi settled the litigation through a Settlement Agreement executed on June 25, 2008. The Settlement Agreement identifies twenty-five (25) entities (existing tenants), including COBi, who had equipment on the site as of June 25, 2008.

The Settlement Agreement sets forth the following terms that are relevant to this document:

- A "Wind-down Period" is in effect from the date of the Settlement Agreement to and including August 31, 2009.
- Existing tenants are listed in an exhibit to the Settlement Agreement.
- During this Wind-down Period, COBi may continue to manage its agreements with existing tenants.
- COBi may not authorize any parties other than existing tenants to operate on the summit of Shasta Bally.
- Beginning on September 1, 2009, COBi will no longer have any management authority on the summit of Shasta Bally.

At the end of the "Wind-down Period", continued or new commercial uses of the site could only be authorized through the issuance of permits by the NPS in accord with applicable laws and policies. An NPS utility Right of Way (ROW) Permit is the only instrument used to authorize new or previously existing communication facilities must be converted to NPS ROW Permits. NPS ROW Permits are discretionary, revocable documents issued for 10-year periods, and they do not convey any interest in the land.

Public Scoping

Scoping is an early and open process to determine the extent of environmental issues and alternatives to be addressed in an environmental assessment. Whiskeytown NRA conducted both internal scoping with the NPS staff and external scoping with interested and affected public groups and agencies.

Two public scoping newsletters were prepared and the first newsletter was posted in November 2008 and the second newsletter was posted in March 2009. A copy of these newsletters was sent to interested parties. A news release was posted on the Whiskeytown National Recreation Area website in January 2009. The newsletters described the NPS's intent to develop a site management plan for future operations at the summit of Shasta Bally including telecommunications site and access road. Appendix A contains copies of the public scoping newsletters and news release notice.

In December 2008, two public scoping meetings were held at the Community Room of Redding City Hall in Redding, CA. The NPS received over 100 comments by the end of February 2009. Approximately 90

percent of the comments were from the public and a few interested organizations. The remaining comments were from existing site tenants and people self-identified with the telecommunications industry. Several broad themes emerged from the scoping sessions and comments:

- Many comments from the public expressed concern that the site would be shut down immediately resulting in the loss of access to broadband internet, radio, television, and emergency services.
- Some of the public comments supported fair market value charges to pay for maintenance of the access road and to avoid subsidizing the operations at the site.
- Some individuals and organizations responded with concerns regarding the impact of the operations to natural and cultural resources and would like to see a long-term phase out of the facilities.
- The tenants and agencies currently broadcasting from the summit of Shasta Bally affirmed their need to remain on this specific site because of its unique location, elevation, and power supply.
- Tenants also indicated a desire to have a longer term lease with the NPS rather than the 10-year ROW Permits now required.
- Many doubted that mitigation measures to reduce resource impacts would be feasible.
- A few permittees were concerned about the cost structure of the new permit system and their share of the cost of maintaining the access road to the site.

SHPO Consultation

The undertakings described in this document are subject to Section 106 of the National Historic Preservation Act, as amended in 1992 (16USC 470 *et seq.*). Consultations with the California State Historic Preservation Officer (SHPO) are being conducted under the auspices of a Programmatic Agreement between the California SHPO and the NPS. The park sent a letter to SHPO on April 28, 2009 and SHPO sent a letter to the park on May 21, 2009 indicating that SHPO will review the EA and provide comments. This environmental assessment will be submitted to the SHPO for review and comment to fulfill park's obligations under Section 106 (36 CFR 800.8[c], *Use of the NEPA process for section 106 purposes*).

Guiding Principles

These Guiding Principles were developed because of the complex nature of the issues regarding the WCF on the summit of Shasta Bally. The park developed these principles to guide analysis of the alternatives presented in this EA.

- The planning and impact analysis process and planning decisions regarding Shasta Bally will be made with public involvement and participation.
- National Park Service planning decisions regarding Shasta Bally will not compromise public safety agency and law enforcement agency communication transmissions nor will they cause television or radio stations unexpectedly to go dark or silent.
- The National Park Service recognizes the importance of state of the art telecommunications service to the public, surrounding communities, and other agencies.

- The National Park Service will carefully consider socio-economic impacts in evaluating the alternatives and analyzing potential environmental impacts.
- Rental rates for permittees will be based on fair market value for their right of way, buildings, antennas, and towers, using a professional appraisal and structured according to NPS legal policy and management guidelines.
- Permittees will be required to comply with the provisions of applicable laws and National Park Service Right-of-Way Permits.
- Shasta Bally access road will remain open to vehicular traffic during the summer and fall seasons as it has in the past to provide opportunities for appropriate recreational activities.
- The summit of Shasta Bally has significant natural resources and scenic value, and the NPS is committed to conserving such sites. Shasta Bally is an important watershed feature which supports Whiskeytown Lake and is an “island” of high elevation habitat in a world heavily impacted by land use practices and facing an uncertain future due to changing climate.

Relationship to Other Plans and Policies

Current plans and policies that pertain to this proposal include the Whiskeytown NRA General Management Plan (GMP1999), the 2006 National Park Service Management Policies (NPS 2006), the NPS Reference Manual 53 (NPS 2000), 36 Code of Federal Regulations Part 14, and United States Code (U.S.C.). The following is more information pertaining to the current plans and policies:

Whiskeytown National Recreation Area General Management Plan

The Whiskeytown National Recreation Area General Management Plan (GMP) objectives that guide this project including the Whiskeytown Mission Statement:

Whiskeytown Mission Statement:

Whiskeytown National Recreation Area provides compatible water and land-based recreation in a mountain setting and conserves and interprets scenic, scientific, natural, cultural, and other values for the enjoyment and benefit of present and future generations.

Additionally, the GMP notes that Shasta Bally is an area of prime scenic interest as well as a spiritual place of significance to the local Wintu people. The GMP calls for the effort to preserve park resources and provide public enjoyment within the park.

NPS Management Policies

The NPS *Management Policies 2006* sets forth policies that apply to ROW Permits within all units of the National Park System. According to the *Management Policies*, ROW Permits “may be issued only pursuant to specific statutory authority, and generally only if there is no practicable alternative to such use of NPS lands.” See *Management Policies 2006*, section 8.6.4.1. These policies require that “[a]s with other special park uses, telecommunications proposals must meet the criteria” specifically set forth in the *Management Policies* “to prevent unacceptable impacts.” See *Management Policies 2006*, section 8.6.4.3. The NPS must adhere to these laws and policies as it evaluates the proposed action of issuing ROW Permits for WCF uses on Shasta Bally.

NPS *Management Policies 2006*, Section 8.6.4.3 on Telecommunications Sites, states that “[a]s with other special park uses, telecommunication proposals must meet the criteria listed in sections 1.4.7.1 and

8.2 to prevent unacceptable impacts.” Sections 1.4.7.1 and 8.2 state that “[f]or the purposes of these policies, unacceptable impacts are impacts that, individually or cumulatively, would:

- Be inconsistent with a park’s purposes or values, or
- Impede the attainment of a park’s desired future conditions for natural and cultural resources as identified through the park’s planning process, or
- Create an unsafe or unhealthful environment for visitors or employees, or
- Diminish opportunities for current or future generations to enjoy, learn about, or be inspired by park resources or values, or
- Unreasonably interfere with:
 - park programs or activities, or
 - an appropriate use, or
 - the atmosphere of peace and tranquility, or the natural soundscape maintained in wilderness and natural, history, or commemorative locations within the park, or
 - NPS concessioner or contractor operations or services.”

Section 8.6.4.3 also states that “Superintendents will avoid or minimize potential impacts of current and future telecommunications facilities by ensuring that the facilities and their supporting infrastructure:

- Are located where they would have the least impact on park resources and values;
- Are not located in scenic, historic, and/or sensitive areas integral to the park’s mission;
- Include maximum potential for future co-location.”

Section 8.6.4.3 further states that “[n]ew traditional towers (i.e., monopole or lattice) should be approved only after all other options have been explored.” The section goes on to add that “[i]f a traditional tower is necessary, it should not be visible from any significant public vantage point.”

NPS Reference Manual 53

National Park Service Reference Manual 53 (RM-53) sets forth National Park Service policy with regard to special park uses, which include ROW Permits. RM-53 states the following policies regarding wireless telecommunication facility ROW Permits:

- Only FCC licenses can apply for wireless telecommunication facility permits (RM-53, Appendix 5, Exhibit 6, page A5-43; see also *NPS Management Policies 2006*, section 8.6.4.3).
- A ROW Permit is a “discretionary and revocable document” that “does not convey or imply any interest in the land” (RM-53, Appendix 5, page 1).
- ROW Permits should be issued for periods no longer than ten (10) years (RM-53, Appendix 5, page 7).
- “If utility service and access to the proposed site is already in existence, the park must consider what additional impacts the proposed use might cause and the possibility of additional utility rights-of-way needed.” (RM-53, Appendix 5, Exhibit 6, Page A5-48).
- “If the requested use is to place an antenna on an existing tower already under NPS permit (co-locate), then the applicant must first obtain permission, in writing, from the existing permittee. After such permission has been obtained, the applicant must then apply for a separate ROW

Permit from the NPS by following the applicable procedures . . .” (RM-53, Appendix 5, Exhibit 6, Page A5-48).

RM-53 also reiterates the general policy framework set forth in the *Management Policies 2006*. RM-53 states that the “NPS is under congressional mandate not to allow any use of NPS land that would impair or be a derogation of the values and purposes for which the park was authorized or be incompatible with the public interest, except when authorized by Congress.” See RM-53, Appendix 5, page 1. RM-53 also states that “ROW Permits will only be issued for those requests for which there is no practicable alternative and will not result in a derogation of the resources, values and purposes for which the park was established.” See RM-53, Appendix 4, Exhibit 6, page A5-45.

36 Code of Federal Regulations Part 14

The regulations at 36 CFR Part 14 set forth the specific National Park Service regulations regarding ROW Permits. These regulations include the following requirements:

- Applicants and ROW Permit holders are required to reimburse the costs of the National Park Service, subject to certain limited exceptions (36 C.F.R. § 14.22).
- ROW Permit holders are required to pay fair market value for use and occupancy of the lands, subject to certain limited exceptions (36 C.F.R. § 14.26).

16 U.S.Code

As a unit of the National Park System, the Park is managed according to NPS laws and policies. The primary mission of the NPS is “to conserve the scenery and the natural and historic objects and the wild life [within units of the National Park System] and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. See 16 U.S.C. § 1. The purpose of Whiskeytown National Recreation Area is to “provide for the public outdoor recreation use and enjoyment of the Whiskeytown reservoir and surrounding lands in the State of California by present and future generations and the conservation of scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters.” 16 U.S.C. § 460q.

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