

CATEGORY 6 MAJOR COST RECOVERY AGREEMENT

Between

USDA, FOREST SERVICE, Roosevelt National Forest,

and Larimer County

This agreement is entered into between the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE Roosevelt National Forest (the Forest Service), and the Larimer County Sheriff's Office (the applicant) under 36 CFR 251.58.

A. RECITALS

1. On November 2, 2011, the Forest Service accepted the applicant's application for use and occupancy of National Forest System lands (hereinafter "the application"), which is enumerated in Appendix A. The Forest Service shall assess the applicant a cost recovery fee for the agency's costs to process the application.
 2. The Forest Service has determined that the fee for processing the application falls within category 6 under the applicable Forest Service processing fee schedule.
 4. The geographic area to be covered by this agreement is NW1/4 Section 9, T9N, R74W, 6th P.M. See Appendix B.
 5. The application has been submitted or the applicant's special use authorization is being issued under the Mineral Leasing Act or under other authorities and the applicant has waived payment of reasonable costs. Therefore, the Forest Service is entitled to recover its full actual costs incurred in processing the application or monitoring the authorization.
 6. Payment of a processing fee by the applicant does not obligate the Forest Service to authorize the applicant's proposed use and occupancy. If the application is denied or withdrawn in writing, the applicant is responsible for costs incurred by the Forest Service in processing the application up to and including the date the agency denies the application or receives written notice of the applicant's withdrawal. If the applicant withdraws the application, the applicant also is responsible for any costs subsequently incurred by the Forest Service in terminating consideration of the application.
 7. The Forest Service shall determine the appropriate level of environmental analysis for the application and inform the applicant prior to initiating the environmental analysis.
 8. Information associated with this agreement may be released to the public in accordance with the provisions of the Freedom of Information Act and Privacy Act.
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PART I - PROCESSING FEES

B. BASIS FOR PROCESSING FEES

Processing fees for the application are based upon the direct and indirect costs that the Forest Service incurs in reviewing the application, conducting environmental analyses of the effects of the proposed use, reviewing any applicant-generated environmental documents and studies, conducting site visits, evaluating the applicant's technical and financial qualifications, making a decision on whether to issue the authorization, and preparing documentation of analyses, decisions, and authorizations for the application. The processing fee for the application shall be based only on costs that are necessary for processing the application. "Necessary for" means that but for the application, the costs would not have been incurred. The processing fee shall not include costs for studies for programmatic planning or analysis or other agency management objectives, unless they are necessary for processing the application. Proportional costs for analyses, such as capacity studies, that are necessary for the application may be included in the processing fee.

C. AGREEMENT

In consideration of the foregoing, the parties agree as follows:

1. Scope of Work. The Forest Service shall develop a scope of work for processing the application and an estimate of the agency's costs to process the application, which will be incorporated into this agreement as Appendix C. This scope of work shall report direct costs in categories that correspond to those in the agency's accounting system, e.g., job code, personnel compensation based upon the cost to the government (salary and benefits), travel, and other direct services, materials, and supplies. In addition, the estimate of the agency's processing costs shall include the agency's indirect costs based upon the approved annual indirect cost rate. Classification of costs as direct or indirect shall be in accordance with the published Forest Service budget for the applicable fiscal year.
2. Environmental Analysis. The Forest Service shall supervise the preparation of the environmental analysis associated with the application in compliance with applicable legal requirements, including public review of the analysis, analysis of public comments, and decision documentation. In exercising this responsibility, the Forest Service shall endeavor to foster cooperation among other agencies involved in the process, and to integrate National Environmental Policy Act requirements and other environmental review and consultation requirements to avoid, to the fullest extent possible, duplication of efforts by those agencies. However, the Forest Service shall not delegate to any other agency its authority over the scope and content of the environmental analysis, or approval or denial of the application.
3. Billing. The Forest Service shall bill the applicant prior to commencement of work. The applicant agrees to pay the estimated processing fee of \$106,350.00. The bill for the estimated processing fee will be attached to the County's copy of the fully-signed and executed Agreement, which will be sent from the Forest Service's Albuquerque Service Center.
4. Payment. The applicant shall pay the initial estimated processing fee and any subsequent estimated processing fee within 30 days of the date the bill for the fee is issued. The Forest Service shall not initiate processing the application until the initial estimated processing fee is paid. If the applicant fails to pay the initial or any subsequent estimated processing fee or the fee is late, the Forest Service shall cease processing the application until the fee is paid.
5. Statement of Costs. The Forest Service shall annually report costs incurred for processing the application by providing a financial statement from the agency's accounting system to the applicant.
6. Underpayment. When the estimated processing fee is lower than the full actual costs of processing an application submitted under the Mineral Leasing Act, or lower than the full reasonable costs (when the applicant has not waived payment of reasonable costs) of processing an application submitted under other authorities, the

applicant shall pay the difference between the estimated and full actual or reasonable processing costs within 30 days of billing.

7. Overpayment. If payment of the processing fee exceeds the full actual costs of processing an application submitted under the Mineral Leasing Act, or the full reasonable costs (when the applicant has not waived payment of reasonable costs) of processing an application submitted under other authorities, the Forest Service shall either (a) refund the excess payment to the applicant or (b) at the applicant's request, credit it toward monitoring fees due.

8. Disputes

a. If the applicant disagrees with the estimated dollar amount of the processing costs, the applicant may submit a written request before the disputed fee is due for substitution of alternative estimated costs to the immediate supervisor of the authorized officer who determined the estimated costs. The written request must include supporting documentation.

b. If the applicant pays the full disputed processing fee, the Forest Service shall continue to process the application during the supervisory officer's review of the disputed fee, unless the applicant requests that the application processing cease.

c. If the applicant fails to pay the full disputed processing fee, the Forest Service shall suspend further processing of the application pending the supervisory officer's determination of an appropriate processing fee and the applicant's payment of that fee.

d. The authorized officer's immediate supervisor shall render a decision on a disputed processing fee within 30 calendar days of receipt of the written request from the applicant. The supervisory officer's decision is the final level of administrative review. The dispute shall be decided in favor of the applicant if the supervisory officer does not respond to the written request within 30 days of receipt.

9. Lack of Administrative Appeal. A decision by an authorized officer to assess a processing fee or to determine the estimated costs is not subject to administrative appeal. A decision by an authorized officer's immediate supervisor in response to a request for substitution of alternative estimated costs likewise is not subject to administrative appeal.

10. Amendment. Modifications to this agreement shall be made in writing and shall be signed and dated by both parties.

11. Expiration and Termination. This agreement expires on 12/31/2016. Either party, in writing, may terminate this agreement in whole or in part at any time before it expires. The applicant is responsible for all Forest Service costs covered by this agreement that are incurred up to the date of expiration or termination.

12. Principal Point of Contact. The Forest Service and the applicant shall each establish a principal point of contact for purposes of this agreement.

The Forest Service's contact is Carol Kruse, Special Projects Coordinator, 2150 Centre Ave-Bldg E, Fort Collins, CO 80526; 970-295-6663.

The applicant's contact is William D. "Bill" Nelson, Undersheriff, 2501 Midpoint Drive, Fort Collins, CO 80525; 970-498-5103.

This agreement is accepted subject to all its terms and conditions.

Tom Donnelly	Date
Larimer County Board of Commissioners	
Glenn Casamassa	Date
Forest Supervisor	
USDA, Forest Service	

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.. The time required to complete this information collection is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

APPENDIX A

Applications and Authorizations Subject to this Agreement

Applications

SF299 application for radio frequency testing received on August 28, 2009.

SF299 application for engineering testing received on April 29, 2010.

SF299 application for new communication site on Middle Bald Mountain received on October 28, 2011; it was screened and accepted as an application on November 2, 2011.

Authorizations

Radio frequency testing application screened and accepted, temporary permit issued in September, 2009; permit expired.

Engineering testing application screened and accepted, temporary permit issued in August, 2010; permit expired.

If radio communication site is authorized, it will be authorized under the Federal Land Policy and Management Act of 1976.

APPENDIX B

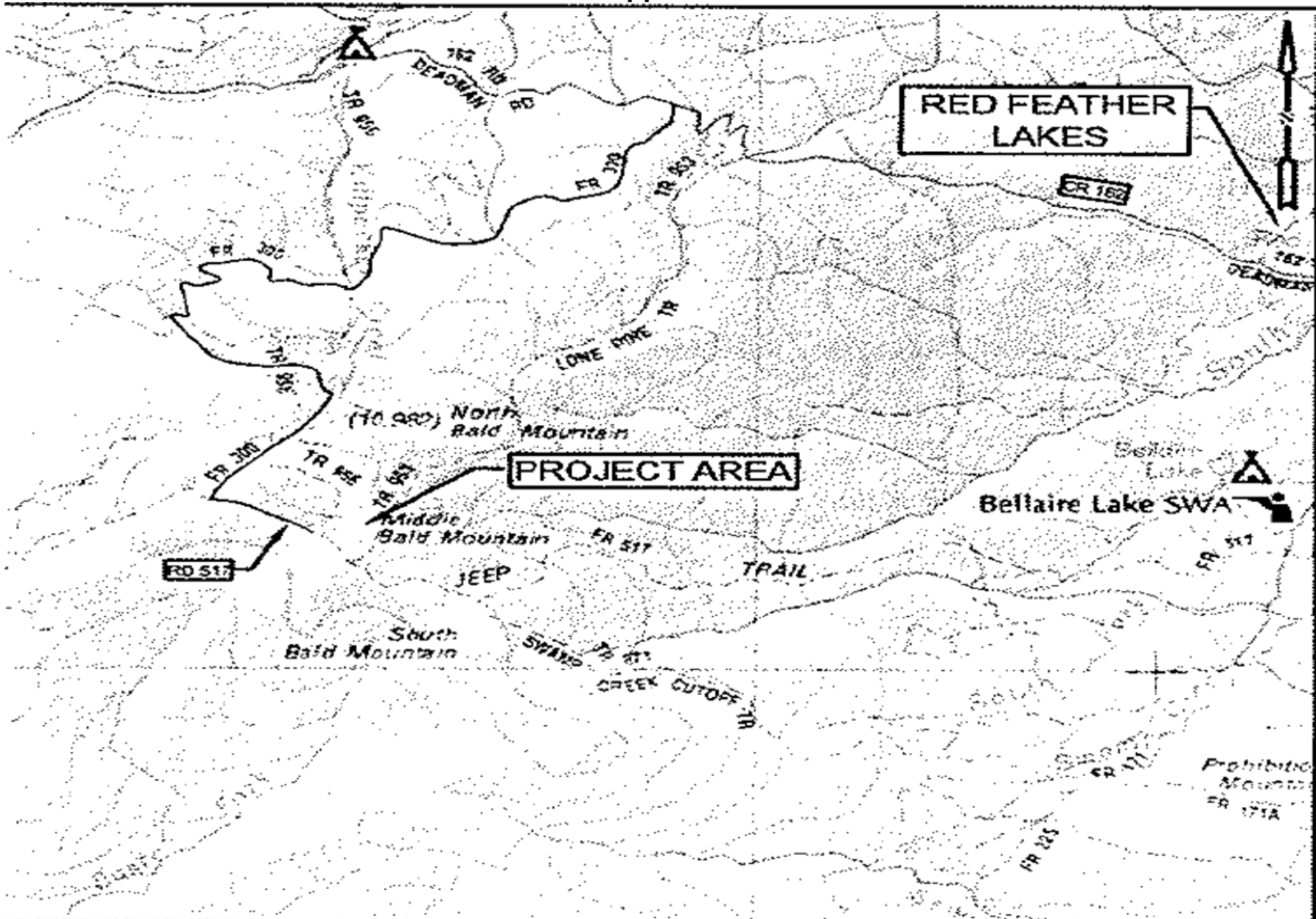
Description of Geographic Area and Project

Larimer County, State of Colorado, has filed an application with the Forest Service to construct and operate a government only, public safety radio communications site (including 800Mhz, VHF, and microwave) near the 11,012-foot summit of Middle Bald Mountain. Middle Bald is located in the Canyon Lakes Ranger District of the Roosevelt National Forest approximately 40 miles northwest of Fort Collins, CO, and approximately 5 miles southwest of the Red Feather Lakes area. The summit is located in the NW1/4 Section 9, Township 9 North, Range 74 West; or 105° 42' 25.59" W, 40° 45' 54.78" N [UTM - Nad83 Zone 13N]. There is currently no communication facility at the proposed location.

The County is proposing that the new site include a 70' tall, 3-legged, galvanized steel lattice tower with microwave and mast antennae; a 12x16' pre-fabricated equipment shelter on a 20'x16' concrete pad (shelter exterior would conform to Forest Service specifications), located approximately 190' to the northeast of the tower; a 10'x 6' standby generator with double-wall fuel tank near the equipment shelter; and a 12" x 3' galvanized steel cable tray, with pre-fabricated concrete anchors every 10', which would carry the feedlines between the shelter and the tower. The proposal includes a new 2,900' long by 10' wide access road, constructed to Forest Service specifications, beginning at NFSR 517 approx. ¼-mile west of NFSR517's intercept with the Killpecker Trail, and proceeding to the northwest of the summit. An approx. 11.5mi overhead power line is proposed to be constructed by Poudre Valley REA (PVREA) from the Red Feather Lakes area west alongside County Road 162 (Deadman Road), then south alongside NFSR 300, then southeast alongside NFSR 517 to its junction with the new access road, and northeast along the new access road to timberline. PVREA will submit a separate special use application for the proposed new powerline. If the project is approved, the new line will be amended to PVREA's master special use permit. The County proposes to install and bury the last 1,000' of primary line under the access road across the meadow from timberline to the equipment shelter. Approximately 29 acres of timber would need to be cleared to accommodate access road and powerline safety requirements.

Appendices B-1 and B-2 are project area and proposal maps, respectively. Those maps are also available in Attachment 1 to this application.

Appendix B-1



APPENDIX C Scope of Work

- I. Forest Service Deliverables
- II. Financial Plan (Estimated Agency Costs)
- III. 3rd Party NEPA Agreement
 - Appendix C III – Exhibit A. Communication Plan
 - Appendix C III – Exhibit B. Scope of Work & Work Product Description

I. Forest Service Deliverables

If the Forest Service determines that a revised list of Forest Service Deliverables, Financial Plan, 3rd Party NEPA Agreement, Communication Plan, or Scope of Work & Work Product Description is required, based on data review, scoping, subsequent analysis, or other developments, necessary revisions will be prepared and attached to this document as amendments.

Larimer County, Colorado, has applied for authorization to construct and operate a new government only, public safety radio communications site near the 11,012-foot summit of Middle Bald Mountain. The facility would include 800Mhz, VHF, and microwave equipment. The application specifies an equipment shelter, back-up generator, one 3-legged galvanized lattice tower about 190' to the southwest of the shelter, a 3' x 12" tray between the two structures to carry the feedlines, and a new 2,900' x 10' access road. The proposal includes a new 11.5mi (approx.) overhead powerline alongside existing County and NFS roads and the new access road to the eastern treeline on the west side of the meadow near the summit of Middle Bald. That portion of the powerline would be constructed by Poudre Valley REA (PVREA). PVREA will submit a separate special use application for the proposed new powerline; if the project is approved, the new line will be amended to PVREA's master special use permit. The County proposes to install/bury the final 1,000' of primary line across the meadow from treeline to the equipment building, under the access road. Communication site authorization would be issued under the Federal Land Policy and Management Act of 1976. The environmental analysis will review the use of an approximate 15-acre site on Middle Bald Mountain and the powerline and access road corridors.

The outline below assumes that an Environmental Impact Statement (EIS) will be prepared for this project by a 3rd Party NEPA consultant selected by the Forest Service.

Forest Service Responsible Party	Forest Service Tasks	Total Hours to complete
Forest Service Project Coordinator	All phases of project coordination. Coordinate specialists and 3 rd party NEPA consultant to ensure necessary reports, handbooks, manuals, guidance, and public engagement are provided; set agendas and lead IDT meetings; attend public meetings; oversee 3 rd party NEPA consultant to maintain project schedule and integrity of document(s); oversee consult with FAA; review preliminary draft and final EISs and ROD, especially for readability; coordinate with District Ranger, Forest Envir. Coordinator, and 3 rd party NEPA consultant if an appeal and/or litigation is filed, to resolution.	640
Archaeology/Cultural/Historic	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; review Section 106 report; write the consultation letters to SHPO and Tribes; write MOA if an adverse effect is	96

	determined; review archaeology affected environment and environmental effects sections of preliminary draft and final EISs.	
Botany	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; review Biological Assessment (of TES species, BA), Biological Evaluation (of Sensitive Species, BE), and Management Indicator Species/Species of Concern (MIS); review plant affected environment and environmental effects in preliminary draft and final EISs; conduct Section 7 consultation with FWS if necessary.	64
Communications Site Spec	Review project design, plans, technical specifications, and write site management plan	40
Engineering	Review of all construction documents and construction plans; liaison with County engineering	64
GIS (Geographic Information Systems)	Provide GIS shapefiles and other data to TPC as needed; review location descriptions and data, maps, etc. for accuracy	40
Hydrology	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; review hydrology report, any wetland delineation, best management practices; review hydrology affected environment and environmental effects in preliminary draft and final EISs.	80
Info Solutions Org Tech	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; provide technical specifications for FS equipment desired at the site	40
Lands/ SUP	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; review lands affected environment and environmental effects in preliminary draft and final EISs; draft and finalize SUP, database entry, calculate annual land use rental fee	200
Landscape Architecture/Visuals	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection, KOPs (key observation points), photos, photo simulations, or analyses are needed; review visuals report and compliance with Forest Plan visual objectives; review visuals affected environment and environmental effects in preliminary draft and final EISs; review construction plans, approve color(s), texture(s) of facilities.	80
NEPA and Socioeconomics	Review all NEPA documents including draft and final EISs and Record of Decision (ROD) for NEPA and Forest Plan compliance and socioeconomic analysis adequacy; coordinate with District Ranger, Project Coordinator, & 3 rd party NEPA consultant if an appeal and/or litigation is filed, through resolution.	120

Public Affairs	Work closely with the Project Lead, District Ranger, and 3 rd party NEPA consultant throughout the process to ensure adequate, accurate, and consistent public information; provide public notifications of public meetings and assist with preparation of display materials; assist with County, State, and Federal elected official news briefs, meetings, and tours.	160
Range & Noxious Weeds	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; review weeds and range/grazing permits reports; review range and noxious weeds affected environments and environmental effects in preliminary draft and final EISs.	64
Recreation	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; review recreation report; review recreation affected environment and environmental effects in preliminary draft and final EISs.	80
Silviculture and Vegetation	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; review silviculture/vegetation report; review timber and vegetation affected environment and environmental effects in preliminary draft and final EISs; determine timber treatment methods; write timber removal plan.	48
Soils	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; review soils report; review soils affected environment, environmental effects, and best management practices in preliminary draft and final EISs.	80
Wildlife/Fisheries Biology	Review consultant's data/analysis and NEPA viability report; advise consultant on protocols, etc., if updated or additional surveys/data collection or analyses are needed; review BA/BE/MIS reports; review wildlife affected environment and environmental effects in preliminary draft and final EISs; conduct Section 7 consultation with FWS if necessary.	80

All personnel listed above will be involved in Forest Review Team (RT) meetings.

Information to be supplied by Applicant

Technical drawings, plans for construction, operation and maintenance plans, and other information specifically related to this project.

Potential Forest Service Coordination with other Agencies

- US Fish and Wildlife Service
- State Historic Preservation Office
- Federal Aviation Agency
- Other Affected Parties

II. Financial Plan

(Estimated agency cost for processing Application)

Estimated for Fiscal Years 2012 & 2013

Personnel Needed for Processing	Estimated Processing Hours	Estimated Labor Costs*
Project Coordinator	640	\$33,333.00
Archaeology/Cultural/Historic	96	\$ 4,516.00
Botany	64	\$ 3,362.00
Comm Site Specialist	40	\$ 1,634.00
Engineering	64	\$ 2,640.00
GIS	40	\$ 1,547.00
Hydrology	80	\$ 4,187.00
ISO Tech	40	\$ 1,875.00
Lands/SUP	200	\$ 9,253.00
Landscape Architect/Visuals	80	\$ 4,257.00
NEPA Coordinator/Socioeconomics (Forest)	120	\$ 5,508.00
Public Affairs	160	\$ 6,432.00
Range & Weeds	64	\$ 2,474.00
Recreation	80	\$ 4,179.00
Silviculture/Vegetation	48	\$ 2,577.00
Soils	80	\$ 2,571.00
Wildlife /Fisheries Biology	80	\$ 3,695.00
TOTAL HOURS	<u>1,976</u>	TOTAL LABOR <u>\$95,074.00</u>

* Labor costs are based on the individual's hourly rate, as calculated by the Work Plan system, rounded to nearest dollar

Estimated Operating Costs

Misc. supplies including photocopying, print/publication of NOI, ROD, NOA, etc.	\$4,000.00
Total DIRECT Costs (Labor + Operating)	<u>\$99,074.00</u>

Indirect Costs:

7.4 % rate for overhead determined by Albuquerque Service Center, rounded to nearest dollar	Total INDIRECT Costs (Overhead) <u>\$ 7,276.00</u>
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APPLICATION PROCESSING GRAND TOTAL \$106,350.00

III. NEPA Preparation: Roles of the Forest Service and Applicant and Conditions and Requirements of the Third Party Contract.

A. PURPOSE

The purpose of this part of the Scope of Work is to articulate the working arrangement, conditions and requirements whereby a third-party contractor ("Prime Consultant" or "Consultant") will be chosen, supervised and directed by the Forest Service to prepare a National Environmental Policy Act of 1969 ("NEPA") analysis ("NEPA Analysis" or "the Analysis") of the application submitted to the Forest Service by the Applicant, Larimer County Sheriff's Office, for authorization of a new government only, public service communication site near the summit of Middle Bald Mountain in Larimer County, Colorado. The proposal includes a 70' tall, 3-legged, galvanized steel lattice tower with microwave and mast antennae; a 12x16' pre-fabricated equipment shelter on a 20'x16' concrete pad (shelter exterior would conform to Forest Service specifications), located approximately 190' to the northeast of the tower; a 10'x 6' standby generator with double-wall fuel tank near the equipment shelter; and a 12" x 3' galvanized steel cable tray, with pre-fabricated concrete anchors every 10', which would carry the feedlines between the shelter and the tower.

The proposal also includes a new 2,900' long by 10' wide access road, constructed to Forest Service specifications, beginning at NFSR 517 approx. ¼-mile west of NFSR517's intercept with the Killpecker Trail, and proceeding to the northwest of the summit. An overhead power line is proposed to be constructed by Poudre Valley REA from the Red Feather Lakes area west alongside County Road 162 (Deadman Road), then south alongside NFSR 300, then southeast alongside NFSR 517 to its intercept with the new access road, and northeast along the new access road to timberline. PVREA will submit a separate special use application for the proposed new powerline; if the project is approved, the new line will be amended to PVREA's master special use permit. The County proposes to install and bury the last 1,000' of primary line under the access road across the meadow from timberline to the equipment shelter. Approximately 29 acres of timber would need to be cleared to accommodate access road and powerline safety requirements.

B. STATEMENT OF MUTUAL INTERESTS AND BENEFITS.

The Forest Service has discretion to accept or reject the Applicant's proposal, and as part of its decision process, the Forest Service must comply with the NEPA, the National Forest Management Act of 1976, the Forest Service special-use permit regulations in 36 C.F.R. 251, and other applicable statutes, regulations, Executive Orders, and the Forest Service Manual and Handbook direction (collectively, "the applicable legal requirements").

Based upon the Project description and other information provided by the Applicant, and an initial assessment of the Project, the Forest Service has determined that [] an Environmental Assessment (EA) must be prepared to determine whether an Environmental Impact Statement (EIS) is required or a Finding of No Significant Impact is possible, or [X] an Environmental Impact Statement must be prepared. The NEPA documents will be prepared by a third party contractor in a manner consistent with the applicable legal requirements and the requirements of this Agreement.

The Parties agree that the Analysis will be given a high priority, will be initiated and completed promptly, will utilize existing information and resource specialists to the greatest extent appropriate, will focus on key environmental issues and will provide an opportunity for full participation by interested members of the public and governmental agencies consistent with the applicable legal requirements.

The Parties agree that the Forest Service retains sole responsibility for making decisions with regard to the Analysis.

C. IN CONSIDERATION OF THE ABOVE, THE PARTIES AGREE AS FOLLOWS:

1. It is understood by the Applicant and the Forest Service that the Analysis will be prepared by a Prime Consultant hired from a list of Forest Service approved contractors and paid for by the Applicant. The Prime Consultant will be chosen solely by and serve under the direct supervision and control of the Forest Service. The Prime Consultant's work product will be considered Forest Service work product owned by the Forest Service because it will be prepared under Forest Service supervision and is intended to meet legal requirements that apply to the Forest Service. Subject to prior Forest Service approval, the Prime Consultant may obtain technical assistance or information from one or more independent, third-party subcontractors. The combination of the Prime Consultant and any approved subcontractors working under the direction of the Forest Service Project Manager will be sufficient to prepare the Analysis.
2. Based upon a review of the Project and the information developed to date, the Forest Service and the Prime Consultant will make every effort to meet a time schedule mutually agreed upon in writing by the Applicant and the Forest Service. The schedule may be subsequently modified due to events or conditions beyond the control of the Parties. In that event, the Forest Service and the Applicant will agree in writing to a new schedule.
3. Meetings between the Applicant and the Forest Service, for the purpose of exchanging facts and/or information, and updating the status of the Analysis, will occur at the following key points in the planning stage for the Analysis:
 - a. Prior to selection of the Prime Consultant or subcontractors.
 - b. Prior to establishing a written time schedule for the preparation of the Analysis.
 - c. At the pre-work meeting with the Prime Consultant to review this Scope of Work.
4. Prior to issuance of the NEPA scoping letter, the meetings specified in paragraph 3 above will not limit the communications between the Applicant and the Forest Service regarding procedural matters, scope of analysis, technical feasibility, mitigation, or other matters that in the Forest Service's judgment require input from the Applicant. All such meetings will generally include the Forest Service Project Manager and the principal contact for the Applicant.
5. Once the NEPA scoping letter has been issued, contact by the Applicant with the Prime Consultant or the Forest Service will be limited to matters of budget or scheduling (see F.3 and F.4).

D. THE FOREST SERVICE SHALL:

1. Establish a Project Coordinator ("Project Manager") as the principal point of contact for the Forest Service on all matters relating to the NEPA Analysis. The duties of the Project Manager shall include oversight of all analyses; facilitation of communications between the Forest Service, the Applicant, the Prime Consultant, and subcontractors to assure a timely and thorough exchange of relevant information among them; oversight of the public involvement plan developed by the Forest Service, including, without limitation, all necessary scoping meetings and other public reviews; and other duties as required to complete the Analysis.
2. Select the Prime Consultant based on past experience, technical competence, availability to perform work, cost factors and an absence of conflict of interest. A qualified Prime Consultant for this Project will be able to:

- a. The Prime Consultant will provide to the Forest Service upon request all resumes of its own team experts as well as any subcontractors that the Prime Consultant plans to use.
 - b. Develop a public involvement plan for the public scoping.
 - c. Arrange for and participate in the agency and public scoping meetings and make available to the Forest Service and the public any summary of the scoping comments to develop issues and alternatives.
 - d. Design visual aids for meeting and open houses including maps, handouts, poster boards, mailers, etc.
 - e. Develop an information mailer/newsletter and news released for the scoping period and comment period, as well as for the release of the final analysis and decision documents.
 - f. Develop a mailing list and, at the direction of the Forest Service, analyze and draft responses to the comments for Forest Service review and approval.
 - g. Be responsible for conducting and completing all necessary studies, inventories and suitable reports for all resource values in the scoping process. The Prime Consultant will have sufficient experience in writing Biological BA/BE to require minimal oversight by FS Biologists prior to FS Biologist approval.
3. Review and approve the contract between the Applicant and the Prime Consultant to ensure its compliance with this Scope of Work and the Communications Protocol.
 4. Furnish copies of the following information to the identified parties:
 - a. The Prime Consultant and/or the Applicant shall be provided with the agreed-upon schedule of work between the Forest Service and the Applicant.
 - b. The Prime Consultant and/or the Applicant shall be provided with an outline of the format to be used for the NEPA Analysis as specified at 40 C.F.R. 1500-1508.
 - c. The Prime Consultant and/or the Applicant shall be provided a copy of the relevant Forest Plan, Forest Plan environmental analysis, and Record of Decision with all amendments to those documents.
 - d. The Prime Consultant and/or the Applicant shall be provided copies of the statutes, regulations, Executive Orders, Forest Service Manuals and Handbooks which control or guide the preparation of the Analysis.
 - e. The Prime Consultant shall be provided with written comments or reports prepared by the Forest Service Interdisciplinary Team.
 - f. The Prime Consultant shall be provided with copies of letters, comments or other materials received by the Forest Service from interested parties or agencies in the scoping session, comments on the document, or at other stages in the analysis process.
 - g. The Prime Consultant and/or the Proponent may be provided additional information as specified in Exhibit B.
 5. Meet with the Prime Consultant throughout the preparation of the [] EA [X] EIS to provide direction and make ultimate decisions regarding, at a minimum, the following topics:

- a. The significant issues that will be addressed in the Analysis.
 - b. The design criteria for the proposed action and the alternatives to the proposed action.
 - c. The alternatives to be analyzed in detail and the alternatives that will not be analyzed in detail.
 - d. The changes to the [] EA [X] EIS required by the comments received from the public.
 - e. Proposed mitigation measures and analysis and disclosures required by those measures.
6. Evaluate the information submitted by the Prime Consultant, subcontractors, the Applicant, or others, and maintain responsibility for the accuracy of that information (40 CFR 1506.5). Make the final determination regarding inclusion or exclusion of material from the Analysis and take responsibility for the scope and content of the Analysis.
 7. Convene a Forest Service Interdisciplinary Team ("ID Team") as required by 40 CFR 1500 to oversee the Analysis. It is anticipated that the ID Team will function principally as a review team, providing technical guidance to the Project Manager, Prime Consultant, and any subcontractors regarding the issues and alternatives to be addressed in the Analysis. The ID Team will provide input and guidance on the adequacy of existing data and studies, and such additional matters as are useful to the prompt and efficient completion of the Analysis in compliance with the applicable legal requirements. Every effort will be made to avoid duplication of tasks between the Project Manager, Prime Consultant, any subcontractors, and ID Team members and to focus the Analysis on significant issues.
 8. Provide the necessary personnel and other resources to complete Forest Service responsibilities regarding the Analysis in a timely and professional manner.
 9. Respond to Freedom of Information Act (FOIA), 5 U.S.C. 552 and Privacy Act, 5 U.S.C. 552a requests regarding the Project and Analysis. If the Applicant, Prime Consultant or any subcontractors have provided the Forest Service with business information that would be responsive to a FOIA or Privacy Act request, the Forest Service will provide the Applicant, Prime Consultant or any subcontractors with prompt notification of any request for that information under FOIA. The Applicant, Prime Consultant or any subcontractors will be given reasonable time in which to assert privilege on information or records considered proprietary under FOIA. The Applicant, Prime Consultant, or any subcontractors will be notified of the Forest Service's determination regarding disclosure of such records prior to the disclosure date. The Forest Service retains the right and authority to determine what is releasable in accordance with FOIA. The Applicant, Prime Consultant or any subcontractors will be promptly notified of all instances in which FOIA requesters bring suit seeking to compel disclosure of submitted information. 7 CFR 1.12.
 10. Coordinate the release of the Decision Document.
 11. Supervise the preparation of the Analysis in compliance with applicable legal requirements including, but not limited to, ensuring public review of the Analysis and review of public comments. In exercising this responsibility, the Forest Service will endeavor to foster cooperation among other relevant agencies and to integrate NEPA requirements with other environmental review and consultation requirements in order to avoid, to the fullest extent possible, duplication of efforts by such agencies. (40 CFR 1500.5(g)-(h), 1501.2(d)(2), 1506.2) However, the Forest Service will not delegate to any other agency its authority over the scope and content of the Analysis or Forest Service approval of the Project.

12. Provide direction to the Prime Consultant for design, organization, indexing, preparation and maintenance of documents regarding the Analysis. Using documents provided in part by the Prime Consultant, and consistent with the applicable legal requirements, create and certify the official administrative record for the Project.
13. Determine whether the standard Communications Protocol ("Protocol") (attached as Exhibit A to this document) or amended Protocol (amended as necessary to reflect the complexity of the Project, and the requirements of the Federal Advisory Committee Act, the Freedom of Information Act, and related agency guidance) shall apply to the Analysis. Comply with the standard or modified Protocol.
14. Keep the Applicant informed of the status of the Analysis, and discuss with the Applicant any additional data needs and any necessary changes to the terms of the Applicant's contract with the Prime Consultant.
15. Invite the Applicant to attend meetings with federal, state, regional, and local agencies and the public whenever possible and as appropriate (e.g., discussions on procedural matters; physical, biological, and social issues; the proposed action and alternative actions; effects and their mitigation; and other compliance requirements).
16. Meet with the Applicant as early as possible to discuss the Project description, and components of the Analysis as needed to determine mitigation measures necessary to avoid or mitigate adverse effects.
17. Address Applicant-proposed alternatives and respond to procedural and substantive comments submitted by the Applicant during the Analysis process.
18. Maintain responsibility for public review of the Analysis, public hearings, analysis of public comments, and distribution of documents
19. Receive all public comments on the Draft Analysis. Determine any necessary modification(s) to the Analysis as a result of public comments.
20. To the fullest extent possible, utilize existing information, inventories, studies, and reports to support the Analysis, provided that such information can be verified by the Forest Service and is accurate as required by 40 CFR 1506.5(a) and (c).
21. Retain the sole responsibility for making decisions regarding and approving the NEPA analysis. The Forest Service reserves the right to terminate the Analysis in its sole discretion and for any reason, including lack of performance or poor work quality by the Prime Consultant and/or its subcontractors.

E. THE APPLICANT SHALL:

1. Establish a principal point of contact for the Applicant on all matters relating to the Analysis.
2. Enter into a contract with the Prime Consultant **that contains all of the following requirements and that is approved by the Forest Service:**
 - a. Selection by the Prime Consultant of its principal point of contact for all matters relating to the Analysis.
 - b. Inclusion of all the requirements specified in Exhibit B.
 - c. Execution of a disclosure statement by the Prime Consultant, each of the Prime Consultant's professional personnel, and any of the Prime Consultant's subcontractors as

well as the subcontractor's professional personnel stating that the Prime Consultant, the Prime Consultant's professional personnel and the Prime Consultant's subcontractors and the subcontractor's professional personnel have no financial interest in the outcome of the Analysis. (40 C.F.R. 1506.5(c))

- d. A statement that the Prime Consultant's work product will be considered Forest Service work product owned by the Forest Service. All work will be prepared under Forest Service supervision and is intended to meet legal requirements that apply to the Forest Service. Subject to Forest Service approval, the Prime Consultant may obtain technical assistance or information from one or more independent, third-party subcontractors.
- e. Acknowledgment that the Applicant is solely responsible for all Primary Consultant and subcontractor fees, costs, and expenses, and the Primary Consultant and subcontractors shall make no claim against the Forest Service for such fees, costs, and expenses.
- f. A provision that states that neither the Prime Consultant nor any subcontractors may conduct public surveys or questionnaires without prior approval of the Forest Service.
- g. Acknowledgment that the Prime Consultant will be under the supervision of the Forest Service, and the Forest Service will make the final determination concerning the scope and contents of the Prime Consultant's work.
- h. A requirement that the Prime Consultant conduct its Analysis in full compliance with all applicable legal requirements.
- i. A requirement that the Prime Consultant and its subcontractors (if any) document all of their work, including any sampling, testing, field observations, literature searches, analyses, recommendations, letters, e-mails and other work that supports the Analysis. The Prime Consultant shall maintain a master index of all documents it receives or generates that are directly or indirectly considered in the decision making process or that demonstrate compliance with laws, regulations or policies. The index will show at a minimum the date, author, addressee, source document, document number and page number, and subject matter of the document. The Prime Consultant and any subcontractors shall also document all the Forest Service records in a similar and compatible manner. The index shall be an appendix to the Analysis and used to incorporate by reference the items listed in the index to the Analysis. The index shall be updated throughout the preparation of the Analysis. These documents and index will form the basis of the Administrative Record compiled and designated by the Forest Service. The term "document" as used in this paragraph includes data of any sort, including but not limited to electronic media; planning data; maps; files; reports; e-mails; computer, audio or video tapes and disks; and other records.
- j. A requirement that the documentation be maintained in a system pursuant to Forest Service direction as specified in paragraph D.12, above.
- k. A requirement that the Prime Consultant and any subcontractors comply with the Communications Protocol. An acknowledgment that all communications will be part of the Forest Service's deliberative process regarding the Project.
- l. A requirement that the Prime Consultant meet with and brief the Forest Service with pertinent information to facilitate Forest Service direction and guidance regarding the process on the following topics:
 - i. The significant issues that will be addressed in the Analysis.
 - ii. The design criteria for the proposed action and the alternatives to the proposed action.
 - iii. The alternatives to be analyzed in detail and the alternatives that will not be analyzed in detail.

- iv. The changes to the EA / EIS required by the comments received from the public.
 - v. Proposed mitigation measures and analyses and disclosures required by those measures.
- m. A requirement that if the Applicant or the Forest Service terminates this MOU, the Prime Consultant will submit to the Forest Service a written report on the environmental work and analyses it or its subcontractors performed prior to the date of termination as well as copies of all work product gathered or created by the Consultant or its subcontractor prior to the date of termination.
- n. A requirement that the Prime Consultant work closely with the Forest Service on the following tasks:
- i. Developing a public involvement plan for public scoping;
 - ii. Arranging for and participating in the agency and public scoping meetings, if required, and providing the Proponent and the public any summary of the results;
 - iii. Designing visual aids for meetings and open houses, including maps, handouts, poster boards, mailings and any other required preparation for the meetings or open houses, if an open house is required.
 - iv. Developing a mailing list of persons and entities who have expressed interest in the Project;
 - v. Preparing draft responses to public comments for Forest Service consideration prior to Forest Service finalization of its responses to public comments; and conducting and completing all necessary studies, inventories, and suitable reports for all resources that may be impacted by the Project and that will be disclosed during the scoping process. These may include but are not limited to cultural features; sensitive, threatened and endangered plant and animal species; wetlands; visual esthetics; fisheries; riparian zones and tundra environments.
 - vi. Analyzing the direct, indirect, and cumulative effects of the proposed action and alternatives. The final scope of this analysis will be determined through the public scoping process.
- o. A requirement that if a litigation hold notice is issued by the United States Department of Justice or by the USDA Office of the General Counsel, the Prime Consultant and any subcontractors will comply with all the terms of that notice.
- p. A requirement that if there is a legal challenge to the Forest Service's NEPA compliance for this Project, the Prime Consultant and any subcontractors, must make available to the Forest Service any information requested by the Forest Service. The contract must also require the Prime Consultant to respond to all Forest Service requests for information and testify at deposition and/or trial regarding any aspect of the Project about which the Prime Consultant possesses information.
3. Provide to the Prime Consultant or the Forest Service any necessary or relevant technical or environmental information it may have and which in the Forest Service's sole discretion is needed for the Analysis.
4. Respond to data requests and provide review comments (such as a description of the Project and changes thereto) within a reasonable time set by the Forest Service. If the Proponent fails to provide requested materials on schedule, the Analysis schedule will be adjusted by the Forest Service to the extent necessary for timely completion of the Analysis.
5. Provide information about the feasibility of design criteria, mitigation measures and related agreements as requested by the Forest Service.
6. Be solely responsible for all Primary Consultant and subcontractor fees, costs, and expenses and

make no claim against the Forest Service for such fees, costs, and expenses.

7. Fund all reproduction, printing, and distribution of preliminary, Draft, and Final Analysis, unless otherwise agreed to by the Forest Service.
8. Respond to Freedom of Information Act (FOIA), 5 U.S.C. 552 and Privacy Act, 5 U.S.C. 552a requests regarding the Project and Analysis within established timeframes provided by the Forest Service.

F. IT IS MUTUALLY AGREED AND UNDERSTOOD BY THE PARTIES THAT:

1. The complexity and the independent nature of the NEPA process requires a common understanding of the roles of the Forest Service personnel, the Applicant, the Prime Consultant, and other interested persons, agencies, and organizations. The role of the Applicant is the same as it would be if the process were being entirely performed by Forest Service personnel, with no Applicant financing.
2. The Prime Consultant will work under the supervision of the Forest Service, and the Forest Service will make the final determination concerning the scope and content of the Consultant's work.
3. Information and data collected by the Prime Consultant and any subcontractors may be inserted in the Administrative Record prepared by the Forest Service.
4. If a litigation hold notice is issued by the United States Department of Justice or by the USDA Office of the General Counsel, both the Project Applicant and the Prime Consultant will comply with all the terms of that notice.
5. If there is a legal challenge to the Forest Service's NEPA compliance for this Project, the Applicant, Prime Consultant and any subcontractors, must make available to the Forest Service any information requested by the Forest Service, all at the Proponent's expense. The Applicant, Prime Consultant and any subcontractors shall also respond to all Forest Service requests for information and testify at deposition or trial regarding any aspect of the Project about which the Applicant, Prime Consultant, or any subcontractors possesses information, all at the Applicant's expense.
6. The independent nature of the NEPA process creates the need to conduct the process with integrity. As specified in paragraph D.13, above, the Forest Service Project Manager will establish the process for the efficient flow of communication between the Prime Consultant, the Applicant and the Forest Service. Oral and written communications among ID team members are protected from disclosure to preserve the integrity of the deliberative process. Individuals who disclose this kind of information to the public and/or the Applicant will be excluded from further participation in the analysis.
7. The Prime Consultant is an important part of the interdisciplinary process and will aid and support the Forest Service ID Team.
8. All work products created pursuant to this Agreement, including but not limited to, all data and analysis, shall be the property of the Forest Service.
9. As required by NEPA, the Forest Service will give full consideration to a "No Action Alternative" and other alternatives identified by the ID team that are technically and economically feasible and address the purpose and need and significant issues. The Applicant's financing of this analysis will have no bearing on the consideration given to the "No Action" or other alternatives.

10. Either party, in writing, may terminate the Cost Recovery Agreement (FS-2700-26) in whole, or in part as stated in clause C.11 of that Agreement, at any time before the date of expiration. In the event of termination, it is agreed to as follows:
 - a. The analysis preparation process will terminate.
 - b. All documentation, reports, analyses, and data used in the analysis developed by the Applicant, the Prime Consultant, or the Prime Consultant's subcontractors up to the date of termination will be delivered to the Forest Service for inclusion in the administrative record.
 - c. The Prime Consultant shall submit to the Forest Service a written report of the environmental work and analysis it or its subcontractors performed prior to the date of termination as well as copies of all work product gathered or created by the Consultant or its subcontractor prior to the date of termination.
11. Any information furnished to the Forest Service under this Scope of Work is subject to possible disclosure under the Freedom of Information Act (5 U.S.C. 552).
12. This Scope of Work does not prevent the Forest Service or the Applicant from participating in similar activities with other public and private agencies, organizations, and individuals.
13. This Scope of Work is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.
14. This Scope of Work may be amended upon written agreement of all parties.

**APPENDIX C-III
EXHIBIT A – COMMUNICATIONS PROTOCOL**

Pursuant to paragraph III. D.13. of the Scope of Work between the Arapaho and Roosevelt National Forests and Pawnee National Grassland (ARP) and Larimer County Sheriff's Office, the following outlines a protocol to facilitate communication and coordination for the exchange of information between the Applicant, the Forest Service and the Prime Consultant. All communication between the Forest Service and the Prime Consultant will be part of the Forest Service's deliberative process regarding the Project.

Contact Information

Forest Service Project Manager

Carol Kruse
Forest Supervisor's Office
2150 Centre Ave – Bldg E
Fort Collins, CO 80521
Phone: 970-295-6663
FAX: 970-295-6696 (please notify when sending faxes)
E-Mail: ckruse@fs.fed.us

Applicant Contact

William D. "Bill" Nelson, Undersheriff
Larimer County Sheriff's Office
2501 Midpoint Dr.
Fort Collins, CO 80525
Phone: 970-478-5103
Fax: 970-478-9203
nelsonwd@co.larimer.co.us

Prime Consultant Contact

X
X
X
Phone: ____
FAX: ____
E-Mail: ____

While Applicant is entitled to a consultive relationship with the Forest Service regarding joint development of any plans and resolution of issues associated with the administration of any special use permits, this same consultive relationship does not extend to implementation of Forest Service NEPA procedures. While opportunities for communication between the Applicant and the Forest Service are still extensive, they generally do not go beyond those available to the general public.

Law, regulation, policy, and agency guidance require that NEPA procedures be implemented in an open, fair, and balanced manner, providing the public and the Applicant with equal access to the Forest Service and its decision-making process.

Since the Prime Consultant works for the Forest Service, it is prudent for the Prime Consultant to communicate regularly with the Project Manager. The following communication practices will be observed during the NEPA process for the Project:

1. The Applicant shall not seek to influence the Prime Consultant on substantive matters related to the Project and the Analysis, including, but not limited to, issue identification, impact analysis, alternative identification and mitigation development, other than through discussions with the Project Manager as permitted by terms of this Agreement.
2. The Forest Service is the sole provider of direction and supervision to the Prime Consultant. As such, internal information available to the Prime Consultant is not available to the Applicant unless prior approval is obtained from the Forest Service. The Parties expect that the Forest Service and its ID Team and the Prime Consultant will be engaged in deliberative communications in the development of the EA (or the EIS, as necessary). The Parties understand and agree that these deliberative communications will not be released to the Applicant and are exempt from release under FOIA.
3. The Project Manager will provide the Applicant with periodic updates regarding milestones achieved in the Analysis.
4. The Applicant's communications with the Prime Consultant will be limited to issues related to billing, and other non-Analysis related issues pertaining to their contract. If the Applicant or the Prime Consultant have other issues they would like to discuss with one another, all such communication shall occur through the Forest Service.
5. Any information submitted to the Case Manager and/or the Project Manager by the Applicant for the purposes of the Analysis which the Applicant considers to be confidential information and exempt from disclosure under the Freedom of Information Act (FOIA) shall be labeled as such by the Applicant. In the event that a member of the public submits a FOIA request which describes Applicant's confidential information, the Forest Service will notify the Applicant of such a request provided under the terms of agency regulations (7 CFR § 1.2 and 43 CFR § 2.15).
6. All communications from the Applicant to the Forest Service regarding the Analyses which shall be made between the Applicant's principal point of contact and the Project Manager, unless the Project Manager instructs the Applicant's principal point of contact to communicate directly with another Forest Service employee or with the Case Manager. The parties recognize that the Applicant may need to contact representatives of the Forest Service from time to time on matters which do not relate to the Analyses, and nothing in this Agreement shall limit communication on such other matters.
7. Nothing in this Agreement shall prevent the Applicant from participating in public review of the Analyses to the same extent as is permitted to any other member of the public.
8. All requests for information from the public or media shall be directed to the Forest Service. Neither the Applicant nor the Prime Consultant shall speak for the Forest Service.

Date

Forest Supervisor
Arapaho and Roosevelt National Forests and
Pawnee National Grassland

Date

Undersheriff
Larimer County, Colorado

Date

Prime Consultant

**APPENDIX C-III
EXHIBIT B – SCOPE OF WORK AND WORK PRODUCT DESCRIPTION**

I. NEPA SCOPING THAT WILL BE REQUIRED

The Prime Consultant will assign to and/or subcontract for staff for this project who have experience, preferably extensive experience, preparing environmental impact statements for Federal agencies, preferably for the Forest Service. TPC specialists and/or subcontractors performing field work, analyses, and writing the reports and NEPA documents must meet minimum Forest Service qualification standards and must be pre-approved by the Forest Service.

The Prime Consultant (TPC) will work with the Project Manager (PM) to develop and submit the *Federal Register* Notice of Intent [compliant with 40 CFR 1508.22 and 36 CFR 220.5(b)] as quickly as possible following their contract with the County being signed. TPC will develop a Forest Service-reviewed and -approved scoping letter, maps, and other necessary materials for the EIS scoping, then send the letter and other necessary materials to interested federal, state, and local agencies, the general public, and Indian tribes if necessary. TPC will conduct internal and external scoping under the direction and review of the Forest Service to determine the range of issues and alternatives to be addressed in the EIS. The USFS will provide an initial mailing list that TPC will maintain and update for the Forest Service. TPC will be responsible for all mailings. TPC will analyze public comments to identify important issues and alternatives to the proposal to be addressed in the EIS. TPC will conduct a public open house if the Forest Service Deciding Officer determines any such meeting is necessary. TPC will contact, coordinate, and work with Forest Service specialists and the Project Manager throughout the entire EIS process.

II. ISSUES THAT MUST BE ADDRESSED IN THE NEPA ANALYSIS

Issues and Alternatives

TPC will analyze all scoping comments and provide to the Forest Service: 1) a Scoping Report which both summarizes and categorizes all scoping comments and includes an appendix of all comments received; 2) copies of all Scoping materials (including those used at any public open houses); and 3) a list of those to whom scoping letters and notices were sent. Based on internal and external scoping comments, TPC will also prepare a list of: Key Issues and Other Issues Selected for Detailed Analysis; and Issues Dismissed from Detailed Analysis; with the rationale or justification for placing each issue under one of those three headings. That list must be approved by signature of the Forest Service Deciding Officer prior to moving ahead with analysis.

At the appropriate time, TPC will provide to the Forest Service a list of: the proposed action, no action, and a reasonable range of alternatives to the proposed action which will be analyzed in detail in the EIS; and the alternatives considered but eliminated from further analysis, with the rationale or justification for each determination. Reasonable alternatives not within the jurisdiction of the Forest Service, if any, should be included. That list must be approved, by signature of the Forest Service Deciding Officer, prior to analysis of the effects of the alternatives selected for detailed analysis.

Data Collection

Data can be collected from existing sources, if available and acceptable to the Forest Service. Acceptable existing sources could include maps, surveys, inventories, reports, and other information and data related to both environmental issues and the technical aspects of the proposal. Any necessary field data collection and surveys for TES species, Sensitive Species, Management Indicator Species, cultural resources, or any other resources will be conducted by TPC according to protocols approved in advance by the Forest Service. TPC will maintain all records and reports for the Forest Service.

Threatened, Endangered, and Sensitive Species (TES) Habitat Delineation and Wetlands Delineation

Threatened, Endangered, and Sensitive species habitat in the project area, and any wetlands, will be identified and delineated by TPC in coordination with Forest Service personnel. The delineations will

include a preliminary assessment based on aerial photos/GIS and preparation of an exhibit showing habitat communities and wetlands in the project area. For the purpose of this task, the project effect areas will be defined by the resource of interest.

Cultural Resources

TPC will complete a Class III cultural resources inventory of the project's area of potential affect (APE) after first coordinating with Forest Service personnel. TPC's certified Principal Investigator will complete a field inventory according to the standards of the Colorado State Historic Preservation Office (SHPO) and the Colorado Historical Society. TPC will prepare a Class III Cultural Resource Report after field work is completed. Previously recorded sites in the Study Area will be re-evaluated (and recorded on site forms); sites outside the APE will not be re-evaluated or recorded. The cultural resource inventory report will be provided to the Forest service for review, acceptance, and submittal to Colorado SHPO.

III. DRAFT EIS PREPARATION

This section provides an outline and brief description of expectations regarding *document* organization and content. Steps in the NEPA *process* not mentioned here (e.g., Notice of Intent) will be outlined in Section VIII, Deliverables and Timetable. TPC will prepare a Draft environmental impact statement (EIS); a "supplemental"-style final EIS which includes Draft EIS comments and responses as an appendix and changes to the Draft EIS narrative based on pertinent comments; a Record of Decision; and other resource and consultative reports as specified below. All documents will be reviewed and approved by the Forest Service prior to finalization, printing, and release and distribution to the public.

The EIS will be prepared using the format shown below, and in accordance with NEPA and CEQ regulations (40 CFR 1502). In addition, the EIS will address 36 CFR 215 and 36 CFR 220, other applicable laws and regulations, and Executive Orders including, but not limited to: the Clean Water Act, National Historic Preservation Act, Endangered Species Act, and Clean Air Act; Executive Order 11990 (Wetlands), Executive Order 11988 (Floodplains), and Executive Order 12898 (Environmental Justice); Energy Requirements; and Conservation Potential of Alternatives and Prime Forest Land. The outline of the EIS will be similar to the outline provided below.

The following provides specifications for the content for each of the major sections comprising the document. The information presented below serves as the minimum content for an acceptable submittal.

- a) Cover Page
The cover sheet should not exceed one page and must include: 1) the responsible agencies involved in development of the EIS; 2) title and location of the proposed action; 3) the name, address, and telephone number of the USFS contact person; 4) a designation of the statement as draft or final; 5) a brief abstract of the EIS contents; and 6) the date by which comments must be received [40 CFR 1502.10 and .11]. A copy of the cover letter distributing the EIS should follow the Cover Page.
- b) Executive Summary
Summarize the EIS in a concise and accurate manner. Emphasize in the summary the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved [40 CFR 1502.12].
- c) Table of Contents
Include a table of contents with sufficient detail to allow readers to quickly locate major subject matter in the EIS, particularly specific impact topics and alternatives analyzed in the document. Include the Appendices. At a minimum, this section should also include a List of Figures, List of Tables, and Abbreviations and Acronyms.

Chapter 1

d) Project Area Description

Include appropriate information necessary for the reader to understand the project location. Such information should include a legal description of the project area and any location maps.

e) Purpose of and Need for Action

This section must provide a concise explanation of the underlying purpose and need to which the Agency is responding by proposing this action [40 CFR 1502.13]. The “purpose” of the project is a statement of goals and/or objectives that the Forest Service intends to fulfill by taking the action (not the reason for preparing the EIS). The “need” describes the conditions prompting the Forest Service to consider the action and explains why the Forest Service is proposing the action at this time.

TPC will prepare the Purpose of and Need for Action section and submit it to the Forest Service for review. TPC will edit the text for consistency with other sections and modify, as needed, based on Forest Service review comments.

f) Proposed Action

This section summarizes the Forest Service’s proposed action and the proposed location. Maps, diagrams, and/or photographs may be included .

TPC will prepare the proposed action section, including all illustrations, etc., and submit it to the Forest Service for review. TPC will edit the text for consistency with other sections and modify, as needed, based on Forest Service review comments.

g) Consistency with the Forest Plan

TPC will document the pertinent Arapaho-Roosevelt National Forest and Pawnee National Grassland Land and Resource Management Plan (Forest Plan) Management Area prescriptions, standards, goals, and objectives. TPC will discuss the compliance (or not) of the proposed action with the Forest Plan and whether or not a decision to implement an action alternative will require a Forest Plan amendment

h) Compliance with Applicable Federal and State Regulations

TPC will identify future regulatory compliance activities necessary to implement the project, including the potential need for authorizations and other agency approvals or coordination. This should be a focused description of project-related compliance requirements, and not an encyclopedic description of state and federal regulations.

i) Decision(s) to be Made

TPC will describe what decision(s) the Deciding Officer will make relative to the alternatives, and what his decision(s) will be based upon.

j) Permits, Approvals, and Regulatory Requirements

TPC will list any/all of the above that would be needed if the decision were to implement an action alternative.

k) Public Involvement

TPC will present an overview of public involvement activities implemented as part of the process of estimating environmental effects of any action. This may include distribution of press releases or newsletters, public meetings, workshops, or other methods used to obtain public input. In addition, persons, organizations, and agencies contacted for information and assisting in identifying important issues, developing alternatives or analyzing effects should be listed in this section.

l) Issues

As discussed under “Issues and Alternatives” above, issues raised during scoping shall be evaluated and classified as either “Key and Other Issues Selected for Detailed Analysis” or “Issues Dismissed from Detailed Analysis.” TPC will write a clear and concise discussion of each issue, justifying the issue’s placement under one of these two headings [40 CFR 1502.12]. The issues should be presented as Cause and Effect statements if the proposed action were taken. Those issues being carried forward into detailed analysis will be grouped into relevant impact topics (e.g., by affected resource) to help focus the affected environment and environmental consequences discussions in those chapters. The topics and issues discussions should track through the document and be consistent between chapters. Those issues dismissed from detailed analysis will not be addressed further in the EIS.

Chapter 2

m) Alternatives Considered

TPC will briefly explain how alternatives are derived from issues and comments, and that other alternatives than the proposed action and no action may be analyzed in detail to ensure consideration of a reasonable range of alternatives [40 CFR 1502.14].

- 1) *Proposed Action*: TPC will describe the proposed action, including all proposed facilities, roads, and powerlines, in detail. Descriptions should be clear and concise. Construction procedures and land requirements (necessary rights-of-way, etc.) will be included in the description. Any design criteria, mitigation, and/or monitoring that would be required if this alternative were implemented will be discussed, including how the mitigation addresses any issue(s). Maps, diagrams, photographs, visual simulations, etc., may be included to assist with the reader’s understanding of the proposed action.
- 2) *No Action*: TPC will concisely describe the no action alternative. The Forest Service may provide TPC with some information helpful in describing this alternative, and TPC will work closely with Forest Service personnel to develop this description. TPC will be responsible for integrating the details into the clear and concise written description. Any mitigation that would be required if this alternative were implemented will be discussed, including how the mitigation addresses any issue(s).
- 3) *Other Alternatives Analyzed in Detail*: TPC will fully but concisely describe each other alternative being analyzed in detail. For each alternative, any mitigation that would be required if it were implemented will be discussed, including how the mitigation addresses any issue(s).

TPC will prepare and/or include maps, photos, and other materials which illustrate and clarify differences among the alternatives in order to assist the reader’s understanding of the range of alternatives and their differences. TPC will consult with the Forest Service to determine whether or not the environmentally-preferable alternative will be identified in the DEIS.

n) Alternatives Considered but Eliminated from Detailed Analysis

TPC will include a description of alternatives considered but eliminated from further study. The narrative will identify any such alternatives and present the rationale or justification for each alternative being dismissed. Justification for eliminating such alternatives from further analysis should be based primarily on factors relating to the alternative’s responsiveness to the Purpose of and Need for the project, feasibility, and/or the scope of the project. Agency preference is not a defensible rationale for dismissing an alternative.

The Forest Service’s preferred alternative(s) may be identified, should the Forest Service Deciding Officer decide to do so and unless another law prohibits the expression of such preferences.

o) Past, Present, and Reasonably Foreseeable Future Actions That Could Lead to Cumulative Effects

TPC will provide a list of any such Federal, State, local, Tribal, or private actions (this list could be organized by resource).

p) Alternatives Comparison Table

TPC shall create a table(s) at the end of Chapter 2 to summarize the alternatives' effects in a matrix for easy comparison by the reader. The table should sharply define:

- 1) the important and distinctive features of each alternative;
- 2) the degree to which each alternative meets the Purpose of and Need for the the project (the objectives);
- 3) how each alternative addresses the key issues; and
- 4) the resource effects of each alternative.

These summaries should be in the form of a matrix for easy comparison of alternatives. The comparison must sharply define differences among alternatives [40 CFR 1502.14] and should be an easy, visual summary of the narrative explanations and comparisons in Chapter 2.

Chapter 3

q) Affected Environment

TPC will succinctly describe the existing environment that could potentially be affected by the project alternatives, or that would affect any alternative(s), if it/they were implemented. Consistent with CEQ regulations [40 CFR 1502.15], this chapter will present a **concise and focused** description of the environment in the project area (not the Forest or Region as a whole). Information presented should particularly focus on sensitive or controversial resources and/or those resources anticipated to incur project-related effects. Data and analyses shall be commensurate with the importance of the impact based on the key issues. Detailed background or support materials will be incorporated by reference and/or placed in an appendix.

TPC will consult with the Project Manager to determine if this section will be organized by resources or by key issues. Chapter 4 will follow the same organization.

TPC will consult with the Forest Service and other agencies (e.g., counties, municipalities, and others) to obtain other resource and socioeconomic information necessary to prepare the affected environment section. The socioeconomic section will describe present social and economic conditions and trends relevant to the project issues, and will likely focus on the 1) small communities and residents in unincorporated portions of the project area; 2) businesses and incomes dependent on project area resources; 3) recreation such as fishing, hiking, camping, and hunting; and 4) road system and traffic conditions. Information or data included in this or other chapters should include appropriate reference citations (author and date) in the text, with data sources summarized in the bibliography. Detailed background or support materials will be placed in an appendix.

TPC will prepare submission materials for any required Forest Service consultations relating to compliance with the Endangered Species Act, the National Historic Preservation Act, and other relevant regulations. The Forest Service will consult per sections 106 and 110 of the National Historic Preservation Act (State Historic Preservation Officer and Advisory Council for Historic Preservation) and Section 7 of of the Endangered Species Act (U.S. Fish and Wildlife Service). TPC will reference any consultation results in the decision documents.

TPC will consult with the Project Manager to determine if the affected environment and environmental consequences discussions should be separate chapters or combined into one. That decision will be made based on which format provides the reader with the clearest, easiest comparisons among the alternatives.

Chapter 4

r) Environmental Consequences

TPC will write the environmental consequences narrative to describe an objective analytical evaluation of the estimated potential effects or effects of each of the alternatives on each of the

resources described in the affected environment section. The environmental consequences section will both inform the reader and facilitate informed decision-making. CEQ requires the impact analysis to be concise, clear, to the point, and to emphasize the real environmental issues. Narrative should be focused and succinct, rather than encyclopaedic. Conclusions on effects should be presented with supporting analysis; the rationale for the conclusion must be provided [40 CFR 1502.16]. Detailed background or support materials shall be included by reference and/or be placed in an appendix. TPC will utilize appendices and references to the greatest extent reasonable to prevent bulk and to focus narrative discussion on the environmental effects of the alternatives as they relate to the key issues.

CEQ regulations require that effects analyses include objective discussions of adverse and beneficial effects, short- and long-term effects, direct and indirect effects, cumulative effects, and irreversible and irretrievable effects germane to each key issue [40 CFR 1502.16]. Analytical methodologies will be approved in advance by the Forest Service to ensure the professional and scientific integrity of the analysis and discussions in the EIS; the Forest Service will determine whether the methodologies discussion will be in the narrative or in an appendix. TPC will then analyze and describe all such effects of each alternative. TPC will work with the Forest Service to identify relevant, reasonable mitigation measures to improve the alternatives and will analyze the effectiveness of the proposed mitigation measures, as well as the probability that such measures would be implemented.

The analyses and document narrative must objectively describe the intensity (or magnitude) and duration of the effects within the context of the project area, and any local, regional, or national effects; as well as any potential conflicts between each of the alternatives and the objectives of Federal, regional, State, County, and local land use plans. The relationship between short-term uses and the maintenance and enhancement of long-term productivity, as well as any irreversible or irretrievable commitments of resources, must also be disclosed for each alternative, if it were to be implemented. TPC will work closely with Forest Service personnel to finalize the narrative for each resource and prepare resource reports for any resource identified in the Key Issues.

Cumulative effects as defined in 40 CFR 1508.7 must be disclosed. For each issue topic under each alternative, TPC will analyze cumulative effects by adding the incremental effects of each alternative's actions to effects resulting from "other" actions. Per CEQ definition in 40 CFR 1508.7, cumulative actions result from the incremental effect of the action when added to other past, present, and reasonably foreseeable future actions, and may include projects within the Forest but outside the scope of this project, and/or projects or activities on adjacent lands being conducted by non-Forest Service entities. The preparation of legally-defensible cumulative effects analyses is a key element of the environmental consequences chapter, and recent case law has demonstrated its importance. TPC will coordinate closely with Forest Service personnel when preparing this section of the EIS.

Forest Service Region-approved methods must be used to address Management Indicator Species and Roads Analysis. As required by agency policy and guidance, the environmental effects analysis should highlight the potential effects (or lack thereof) of each alternative to wetlands; floodplains; threatened or endangered species; cultural resources; prime and unique farmlands, rangelands, and timberlands; low income or minority populations; environmental justice; energy requirements; and conservation potential of the alternatives.

TPC will consult with the Project Manager to determine if the affected environment and environmental consequences discussions should be separate chapters or combined into one. That decision will be made based on which format provides the reader with the clearest, easiest comparisons among the alternatives.

Chapter 5

s) List of Preparers

TPC shall maintain and prepare a list for the EIS of the names of those primarily responsible for preparing the EIS and which sections, or for preparing significant background papers, together with their qualifications (expertise, experience, professional discipline, etc.) [40 CFR 1502.17].

t) List of Agencies, Organizations, and Persons to Whom Copies of the DEIS Were Sent

TPC shall maintain and prepare a list of the names only (no addresses) of those to whom an EIS was sent, either as hard copy or electronically, and to whom written or email notification was sent of the availability of the EIS in a public library, on the World-Wide Web, or at other locations.

Appendices

- u) Appendices typically include such background and supporting materials as the Biological Evaluation, Biological Assessment, Biological Report, Cost-Benefit Analysis, Road Analysis, Technical Reports, and other analyses or substantive information.

IV. ADDITIONAL REPORTS

These reports will be prepared by TPC in consultation with appropriate USFS specialists and will be included in the project record, Appeals and Administrative Records if necessary, and as referenced appendices in the EIS. Additional reports will include, but may not be limited to, the following:

Resource Reports

TPC may be asked to provide a wetlands report and a Class III Cultural Resources report for Forest Service review and approval prior to developing the environmental analysis document. If the other resource assessments are needed, such as visual/scenery, timber inventories, socio-economics, cost-benefit analysis, wildlife, and/or recreation, those needs will be determined during scoping and issue development and may result in modification of TPC's Scope of Work. TPC will coordinate with Forest Service personnel to acquire the necessary data and information to compile these environmental consequences reports. These reports will be summarized and referenced in the affected environment section of Chapter 3, and will remain part of the administrative record for this project.

Biological Assessment

TPC will conduct a biological assessment (BA) for the purpose of identifying effects to any federally- listed endangered species, proposed, candidate or threatened species that are likely to be affected by the proposed or alternative actions. The BA should provide a determination statement for listed, proposed, and candidate species and critical habitat following U.S. Fish and Wildlife Service guidelines, Section 7 of the Endangered Species Act requirements, and the Southern Rockies Lynx Amendment. The BA will include results of on-site inspections determining the presence of listed, proposed, or candidate species and/or habitat, findings of previous surveys and studies, and an analysis of the likely effects of the actions on the species or habitat based on biological studies, review of the literature, and the views of species experts. The BA will also describe any known unrelated past, current, and future Federal, State, Tribal, or local activities ("cumulative effects") that have or are reasonably certain to occur within the action area that are likely to affect the listed, proposed, or candidate species. The BA should address all listed, proposed, and candidate species found in the project area, not just those that are likely to be affected. TPC will coordinate closely with Forest Service personnel for proper format when dismissing those species not likely to be affected. TPC will prepare a Letter of Consultation for the Forest Service biologists for consultation with the U.S. Fish & Wildlife Service. TPC will prepare the BA as a separate document appropriate for Forest Service submittal to U.S. Fish & Wildlife Service as Section 7 consultation; the Forest Service has a template TPC should follow. The Forest Service biologists must approve the BA prior to USFWS submission. The Forest Service will conduct the consultation with the USFWS.

Biological Evaluation (BE)

TPC will consult the Colorado Natural Heritage Database and District and Forest records (documents and GIS files), in addition to other information sources, when developing the list of species to be addressed in the BE. TPC will prepare a biological evaluation (BE) for selected species, including Sensitive Species, per Region 2 guidelines and the Forest Service Manual (FSM) 2600, Chapter 2670 – Threatened, Endangered and Sensitive Plants and Animals – for all alternatives. Two separate BEs will be prepared, one each for wildlife and botany. Disclosure of effects to affected species must be made in the BEs.

Biological Report (BR)

The BR includes the BA, both BEs, plus determinations about the viability across the Forest of any Arapaho-Roosevelt National Forest Management Indicator Species (MIS) which may be impacted by the alternatives, other rare species or communities of concern, and any impacted species protected under the Migratory Bird Treaty Act (MBTA). The BR should include analysis and statement of viability across the Forest for all impacted MIS under all alternatives.

The BR (including the BA, both BEs, MIS, other rare species and/or communities of concern, and impacted MBTA species) will be incorporated into the EIS by reference and attached to the EIS as an appendix.

V. FINAL EIS PREPARATION

TPC will collect all public comments on the DEIS, conduct the comment analysis, and provide a Comment Report to the Forest Service. That Report will summarize the comments and provide the results of the comment analysis.

TPC will work closely with the Forest Service to:

- a) respond to the comments and incorporate necessary changes into the alternatives including the proposed action per 40 CFR 1503.4;
- b) develop and evaluate alternatives not previously considered in detail by the Forest Service;
- c) supplement, improve, or modify its analyses and related appendices and additional reports;
- d) make factual corrections;
- e) cite the sources, authorities, and/or reasons why further response is not warranted, if that is the case;
- f) incorporate the responses to the DEIS comments in an appendix to the Final EIS (FEIS);
- g) if the the Deciding Official will sign and date the ROD on the date that it is transmitted with the Final EIS to the Environmental Protection Agency and is made available to the public, an explanation of this timing and of the public's right to appeal must be included in the FEIS.

TPC will prepare the FEIS in accordance with CEQ regulations [40 CFR 1502.9] and the U.S. Government Printing Office Style Manual, providing administrative and preliminary review copies to the Forest Service for review, comment, and approval prior to release of the FEIS to the public. An explanation of the timing and public's right to appeal and timelines must be included in the FEIS. A suggested outline of the FEIS:

- 1) Cover page, a single page listing:
 - a) the lead agency
 - b) the responsible official
 - c) whom to contact for additional information
 - d) an abstract of the project description, proposed action, alternatives to the proposed action, and any other notable information deemed necessary. In coordination with TPC, the Forest Service may decide on an Executive Summary in lieu of the abstract.
- 2) Table of Contents, including, as applicable:
 - a) List of Figures
 - b) List of Tables

- c) List of Illustrations
- d) List of Appendices
- 3) List of Abbreviations and Acronyms
- 4) Executive Summary if applicable
- 5) Chapter 1, The Proposed Action, briefly describing:
 - a) Purpose of and Need for the Proposed Action;
 - b) Proposed Action, described in context, including any design criteria added as mitigation, and including a description of the proposed facilities and proposed construction procedures;
 - c) Public Review and Comment, with both a brief summary of the Scoping process and comments, including a list of the Key Issues, and a summary of the DEIS commenting process and comments;
 - d) Consistency with the Forest Plan, a brief discussion; and
 - e) Permits, Approvals, and Regulatory Requirements, a list or brief description of those necessary if the Proposed Action were implemented.
- 6) Chapter 2, Alternatives Considered in Detail, briefly describing:
 - a) Alternatives to the Proposed Action, including the No Action and any design criteria added to those alternatives as mitigation;
 - b) Design Criteria Common to All Alternatives, if applicable;
 - c) Alternatives Considered but Eliminated from Detailed Study, a brief description of those alternatives and the rationale for dismissing each;
 - d) List of past, present, and reasonably foreseeable future actions;
 - e) Comparison of Alternatives Table from the DEIS, updated/modified per public comments and changes between the DEIS and FEIS.
- 7) Chapter 3, Affected Environment: summarizing these in the same organizational format (resources or issues) as the DEIS.
- 8) Chapter 4, Environmental Consequences: summarizing these in the same organizational format as the DEIS. If Chapters 3 and 4 were combined in the DEIS, they will be combined in the FEIS, as well.
- 9) Chapter 5, List of Preparers.
- 10) Chapter 6, Consultation and Coordination, a list.
- 11) Chapter 7, List of Agencies, Organizations, and Persons to Whom Copies of the Final EIS was sent. Response to Public Comments, a summary of the comments on the DEIS. The comments and specific responses will be included in an Appendix to the FEIS.
- 12) Chapter 8, Response to Public Comments, a summary of the comments on the DEIS. The comments and specific responses will be included in an Appendix to the FEIS.
- 13) References
- 14) Appendices

Following Forest Service approval of the FEIS for release to the public, TPC will be responsible for hard copy and electronic media printing, submission of the completed FEIS to the Environmental Protection Agency, and all FEIS mailings and notifications. TPC shall concurrently prepare a Notice of Availability (NOA) for Forest Service review and approval, and submit the NOA to the Forest Service official publication (The Denver Post) on schedule (see Section VIII, Deliverables and Timetable).

VI. RECORD OF DECISION PREPARATION

Per 40 CFR 1505.2, the ROD will be a concise public record of the Forest Service Deciding Officer's decision. It shall state the decision in full and identify all alternatives considered by the Forest Service in reaching its decision. The ROD will specify which alternative(s) were considered to be environmentally preferable, and may discuss preferences among alternatives based on relevant factors including economic and technical considerations, as well as environmental considerations and Forest Service statutory missions. The ROD will identify and discuss all such factors, including any essential considerations of national policy, which were balanced by the Forest Service in making its decision, and will state how those considerations entered into its decision. The ROD will also state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been

adopted, and if not, why not, as well as specify any monitoring or enforcement programs to be implemented for any mitigation(s).

With guidance from the Forest Service, TPC will prepare a Record of Decision (ROD) according to CEQ regulations (40 CFR Parts 1500-1508) and Forest Service guidelines. Administrative and preliminary versions of the ROD will be provided to the Forest Service for review and approval. Based on internal review comments, and working closely with the Project Manager, TPC will finalize the ROD. TPC will be responsible for all hard copy and electronic media printing, submission of the completed ROD to the Environmental Protection Agency, and all ROD mailings and notifications.

ROD format will generally conform to the following:

- 1) Cover Page
 - a. the lead agency
 - b. type of decision document;
 - c. title of the proposed action; and
 - d. location of the proposed action, including the administrative unit, county, and state

- 2) Decision and Reasons for the Decision
 - a. provide a contextual background for the decision;
 - b. provide a concise statement of what the decision is;
 - c. concisely explain the reasons or rationale for the Decision, including how the decision/selected alternative best meets the Purpose of and Need for the project and how issues, particularly the Key Issues, were considered and addressed; discuss what economic, technical, and environmental consequences and any other factors were considered in making the decision, including the Forest Service mission;
 - d. identify any design criteria, mitigation, and monitoring program(s) related to the decision;
 - e. identify any other environmental documents considered in making the decision;
 - f. identify the permits, licenses, grants, or other authorizations needed to implement the decision;
 - g. identify the specific location(s) of the alternative selected, including the legal description; vicinity and project maps or photos/diagrams should be included;
 - h. discuss the decision's Consistency with the Forest Plan and Consistency other Federal, State, and Local Laws and Policies

- 3) Public involvement conducted
 - a. Identify the issues which determined the scope of the analysis.
 - b. Provide a brief summary of the public participation that relates to the decision.
 - c. Coordinate closely with the Project Manager to determine whether or not this discussion should include opposing viewpoints or positions by the agencies, organizations, or persons raising those issues or asserting opposing viewpoints.

- 4) Alternatives considered

Briefly discuss all alternatives considered in detail, including the No Action. Include specific references to the EIS. Mitigation measures, management requirements, and monitoring provisions that are pertinent to environmental concerns should be discussed, with specific citations to pages of the EIS.

- 5) Findings required by other laws

Include findings of consistency with the Forest Plan, suitability, and vegetation management, as required by the National Forest Management Act.

- 6) Identify the Environmentally Preferable Alternative

Briefly explain the reasons why this alternative was selected as environmentally preferable.

- 7) Avoiding environmental harm

State whether all practicable means to avoid or minimize environmental harm from the alternative

selected have been adopted; if not, explain why not. Include any monitoring or enforcement programs that will be implemented for any mitigation(s).

- 8) Implementation date
Identify the date the responsible official intends to implement the decision.
- 9) Administrative review or appeal opportunities
Clearly state whether the decision is subject to review or appeal, citing the applicable regulations, and identify when and where to file a request for review or appeal.
- 10) Contact person
The name, address, and phone number of a Forest Service person who can supply further information.
- 11) Signature and Date
Because the Forest Service has formally-established appeal processes which allow other agencies or the public to appeal a decision after publication of the final EIS, the Deciding Official may sign and date the ROD on the date that it is transmitted with the Final EIS to the Environmental Protection Agency and is made available to the public. An explanation of this timing and of the public's right to appeal must have been included in the FEIS.

The above-specified formatting of the DEIS, FEIS, and ROD is intended as a guideline; formats may be adjusted in consultation with and approval from the Forest Service.

VII. APPEALS AND LITIGATION

TPC will provide the indexed Project Record (files) to the Forest Service within two months of the Record of Decision being issued. TPC will deliver the indexed Appeals Record and Administrative Record as necessary. Should appeals or litigation be filed, TPC will assist the Forest Service in developing responses and gathering appropriate supporting materials for those responses, until the appeal or litigation is resolved.

VIII. TPC DELIVERABLES*

****This list of deliverables is not exhaustive. At any time, upon consultation among the Applicant, the Forest Service, and TPC, once a contract is signed, if revision of the list of TPC deliverables is necessary, based on data review, scoping, subsequent analysis, or other developments, revisions will be prepared and attached to this Exhibit as amendments.***

- Meet with Forest Service (FS) District Ranger (DR) and Program Manager (PM), County for organizational meeting
- Participation in project kick-off meeting with Review Team (RT), in District Office, Fort Collins, CO
These two meetings could be held sequentially on the same day with adequate notice
- FS-approved descriptions of Proposed Action and Purpose of and Need for Project
- FS-approved Notice of Intent, related FS-approved press releases and legal notices, etc.
- Submit NOI to *Federal Register*, press releases and legal notices, letters and emails to mailing lists, etc.
- Organize and conduct public Open House during public scoping period; develop FS-approved display materials, handouts, etc.
- Scoping Report
- Issues List for FS approval by signature
- Alternatives List for FS approval by signature
- FS-approved Affected Environment narrative and Resource Reports

- Participation in RT meeting in District Office, Fort Collins, CO to coordinate resource report and DEIS information and processes
- DEIS chapters as they're completed, for FS review/comment/approval
- FS-approved, finalized DEIS chapters
- Preliminary DEIS for review/comment
- Edited administrative DEIS and NOA for review/comment
- Final DEIS and NOA – printed hard copies, disks, mass mailing, submission to Environmental Protection Agency (EPA), press releases and legal notices, etc
- FS-approved, finalized BA, BEs, BR
- FS-approved, finalized USACE and USFWS consultation materials
- FS-approved, finalized SHPO consultation materials
- FS-approved, finalized DEIS comment responses
- Preliminary FEIS for review/comment
- Edited administrative FEIS for review/comment
- Preliminary ROD for FS review/comment
- Final FEIS and ROD – printed hard copies, disks, mass mailing, submission to EPA, press releases and legal notices, etc.
- Indexed Appeals Record, if necessary – electronic and paper copies
- Indexed Administrative Record, if necessary – electronic and paper copies
- Indexed Project Record (project files) – electronic and paper copies
- Assistance responding to appeal, if necessary
- Assistance responding to litigation, if necessary

IX. ESTIMATED PROJECT SCHEDULE**

- TPC responsibilities
- Milestone dates

Middle Bald Communication Site – Estimated Project Schedule				
edited 1-Dec-2011, CK			# of WEEKS from START DATE	DATE COMPLETED
CLRD/SO also	ACTIVITY			
	1	Proposal received from County		28 Oct 2011
✓	2	251 Screening		2 Nov 2011
✓	3	Letter notifying County of acceptance as application		14 Nov 2011
✓	4	Cost Recovery Agreement submitted to County		
✓	5	Cost Recovery Agreement signed by County, then signed by FS		
✓	6	Cost Recovery Agreement sent to ASC		
	7	ASC issues Cost Recovery invoice to County		
	8	Cost Recovery payment received by ASC from County		
	9	ASC notifies FS of payment received and fund established, provides fund code		
✓	10	Identify the FS Review Team (RT), PIL drafted and approved		
✓	11	FS selects NEPA contractor and notifies County		
✓	12	NEPA contractor (TPC) hired by County; initial meeting w/ DR, FS Project Manager, and County	START	
✓	13	PIL issued, with date of kick-off RT meeting w/ TPC	1	
✓	14	Kick-off RT meeting with TPC	2	

✓	15	Prepare Proposed Action and Purpose of and Need for Project, submit to FS for review, finalize per comments, re-submit to FS for review/ approval	3	
✓	16	Prepare Notice of Intent (NOI), submit to FS for review/approval; finalize per comments; prepare notice for local paper (Coloradoan) and Newspaper of Record (Denver Post)	4	
	17	NOI submitted to <i>Federal Register</i> , notices submitted to Coloradoan and Denver Post	4	
	18	Public Scoping Period (30 calendar days)	5-11	
✓	19	Develop FS-approved public open house materials	5-9	
✓	20	Organize and conduct a Public Open House	9	
	21	Data collection, delineations, finalized; begin drafting Affected Environment chapter	5-24	
	22	Scoping comments analyzed	9-13	
	23	Scoping Report developed and submitted to FS	14	
✓	24	Develop and submit Issue lists to FS for review & approval by signature; PM briefs DR and FSup	14	
✓	25	Develop alternatives, incorporating RT input	14-17	
✓	26	Develop and submit Alternatives list to FS for review & approval by signature; PM briefs DR and FSup	17	
✓	27	Begin writing resource reports	14-20	
✓	28	FS-approved Affected Environment narrative, w/ assistance from RT specialists	14-20	
✓	29	Analyze effects of alternatives, in close communication with RT specialists throughout	18-24	
✓	30	Complete and submit resource reports for FS review and approval	25	
✓	31	Meet w/ RT to review effects analysis, discuss mitigation/design criteria, etc; PM briefs DR & FSup	26	
✓	32	Write preliminary Draft EIS and submit to FS for review and comment	26-32	
✓	33	Incorporate FS comments, develop administrative DEIS for FS review, comment	34	
✓	34	Finalize DEIS, submit to FS for approval; write Notice of Availability (NOA) for FS approval and signature; write notices for Coloradoan & Denver Post	35	
	35	Print DEIS (+ appendices) hard copies and disks	36	
✓	36	Submit DEIS and NOA to Environmental Protection Agency (EPA), prepare notification letter for distribution to mailing and email lists, mail hard copies/disks per requests; submit notices to Coloradoan & Denver Post; prepare press releases	36	
	37	DEIS public comment period (45 days)	38-45	
✓	38	Write BA for FS review and approval	39-41	
✓	39	Finalize BA +letter, give to FS to submit to USFWS	41	
	40	USFWS REVIEW, CONCURRENCE OR BO	42-66	
✓	41	Write Sect. 106 consultation letter for FS review/approval	42-43	
✓	42	Finalize Sect. 106 letter, FS submits to Colo SHPO	43	
	43	SHPO REVIEW, CONCURRENCE OR CONSULTATION	44-49	

✓	44	Write wetlands delineation report, if necessary, for FS review/approval	44-46	
	45	Finalize 404 consultation materials, if necessary, County submits to USACE	46	
	46	USACE REVIEW, PERMIT DECISION (IF NECESSARY)	47-50	
✓	47	Collect and analyze DEIS comments, draft responses for FS review and approval	42-49	
	48	Incorporate changes into DEIS to generate FEIS, draft ROD	48-52	
✓	49	Preliminary FEIS & ROD to FS for review, comment; draft NOA for FS review, comment	52	
✓	50	Incorporate FS comments, develop administrative FEIS & ROD for FS review, comment	53-55	
✓	51	Finalize FEIS, ROD, NOA; submit to FS for approval	55	
✓	52	ROD signed by FS Deciding Official	55	
	53	Print FEIS (+ appendices) & ROD, hard copies and disks	56	
✓	54	Submit FEIS to EPA, prepare letter for distribution of FEIS & ROD to mailing and email lists; verify mailing lists complete, mail hard copies/disks per requests, submit Notice of Availability (NOA) to <i>Federal Register</i> , Coloradoan, and Denver Post, prepare press release for FS release	57	
	55	Appeal period (45 calendar days)	58-65	
✓	56	Deliver indexed Project Record (files) to the FS (including but not limited to files, maps, shapefiles, raw data sheets, electronic media, planning data, reports, e-mails, computer/audio/ video tapes and disks, etc., including an index), both electronic and hard copies	65	
✓	57	Compile indexed Appeal Record, meet w/ FS to develop and write the appeal(s) Road Map(s); submit approved Record and Road Map(s) to FS for submittal (both electronic and hard copies)	63-68	
✓	58	Forward Appeal Record to Appeal Reviewing Officer	68	
	59	Appeal Reviewing Officer (ARO) decision within 45 calendar days of end of appeal period	75	
✓	60	If Decision approved the site, draft the rental sheet, operations/site management plan, and authorization	68-81	
	61	ARO affirms or reverses Decision in whole or in part	81	
✓	62	If Decision is affirmed – Rental payment received, authorization issued with operation/site management plan	82	
✓	63	If Decision is reversed in part or whole – assist FS in responding to ARO's instructions	82-88	
✓	64	SUDS entries completed	85	
✓	65	If Decision litigated, compile indexed Administrative Record and submit to FS (both electronic and hard copies)	88-95	
		HOLIDAYS and other Federal non-work dates		
		December 26, 2011		

		January 2, 2012		
		January 16, 2012		
		February 20, 2012		
		May 28, 2012		
		July 4, 2012		
		September 3, 2012		
		October 8, 2012		
		November 12, 2012		
		November 22, 2012		
		December 25, 2012		
		January 1, 2013		
		January 21, 2013		
		February 18, 2013		
		May 27, 2013		
		July 4, 2013		
		September 2, 2013		
		October 14, 2013		

**** All timelines are approximate and subject to change** upon consultation among the Applicant, the Forest Service, and TPC, once this project begins (after the cost recovery amount has been paid and ASC has authorized ARNF to spend, and TPC has been contracted). This timeline is meant as an example to help the parties involved understand the step-by-step NEPA and Special Use processes and the time estimated for each step. Any changes to the start date and/or any one task will likely affect the entire time frame.

IX. ASSUMPTIONS

- Start date will begin when Larimer County, Colorado, signs a contract with TPC. The above schedule titled "Estimated Project Schedule" will be utilized and updated throughout the project as needed and agreed upon in writing by all parties.
- Project details and related technical data will be provided by the Forest Service Project Manager to TPC. The Forest Service Project Manager will provide access to Forest Service and other resource inventories, GIS data layers, etc.
- Formal consultation with Fish and Wildlife Service can take up to 120 days; formal consultation with the State Historic Preservation Office can take up to 30 days. Their response time is dependent upon that agency's workload, and is not under the control of the Forest Service.