

**DECISION**  
**DOI-BLM-NV-W010-2014-0007-DNA**  
**SHAMROCK COMMUNICATIONS TOWER AND RIGHTS-OF-WAY**  
**STIPULATION MODIFICATION DETERMINATION OF NEPA ADEQUACY**

**Introduction**

The Shamrock Communications, Inc. project is a communications tower and power line totaling 67 acres, located in Churchill County, Nevada, approximately 28 miles east of Fernley, Nevada. The service area for the tower is a 75-mile radius, providing communication services to the communities of Fallon, Fernley, and Lovelock and residents in the unincorporated areas of Churchill, Lyon, Washoe and Pershing Counties with three FM radio stations. BLM issued the right-of-way (ROW) on May 8, 2012.

The tower, radio building, and power poles have been constructed and broadcasting has been taking place for approximately six months. While Shamrock awaits the placement of the power transformers and power lines, the tower is being operated with propane and generators. Road access to the site and ancillary power poles cross through BLM managed public lands and private property.

On March 28, 2013, Shamrock brought forward to BLM concerns regarding the implementation of stipulations for wildlife mitigation and monitoring and enhanced reclamation requirements. Shamrock requested BLM to re-visit the goal of these stipulations and determine whether there might be a more effective and less costly method to meet the goal. The BLM discussed the issues with Shamrock and revisited the March 2012, Environmental Assessment, Finding of No Significant Impact, and Decision. In addition, the BLM Winnemucca staff visited the site with Shamrock on September 5, 2013, to gain an understanding of the project's status and the concerns voiced by Shamrock.

**Land Use Plan Conformance**

I have reviewed the Shamrock Communications Tower and Rights-of-Way Stipulation Modification Determination of National Environmental Policy Act Adequacy (DNA) and have determined that the proposed action is in conformance with the Sonoma-Gerlach Management Framework Plan, 1982. Details regarding the initial project's conformance with the land use plan were provided in the EA at Section 2.3.3.

**DECISION**

On the basis of the information contained in the Shamrock Communications Tower and Rights-of-Way Stipulation Modification Determination of NEPA Adequacy, (DOI-BLM-NV-W010-2014-0007-DNA), it is my determination that implementation of the proposed action will not have environmental impacts beyond those already addressed in the Shamrock Communications Tower and Rights-of-Way EA (DOI-BLM-NV-W010-2011-0006-EA) and that the FONSI, dated March 6, 2012, remains valid.

The modified special stipulation read as follows:

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Decision Record  
Shamrock Communications Tower and Rights-of-Way N-86647 Stipulation Modification  
Determination of NEPA Adequacy

1. For the period of one year starting in May 2013, when the avian and bat surveys began, bi-monthly surveys for avian and bat mortality will continue to be required. After one year, based on what the data depicts regarding mortality, the frequency, duration, and necessity of studies will be reassessed. This reassessment will occur with BLM, Shamrock Communications, and the contracted consultant.
2. The BLM will delineate the actual disturbance footprint including, but not be limited to, anchor sites, pads, parking/staging areas, access roads no longer necessary, and other construction related disturbance. Maps and shape files of the disturbed area will be provided to you so reclamation can progress. The delineated area will be the area that will require reseeding and reclamation work. Reseeding of vegetated areas outside the construction disturbance, also known as the “enhanced reclamation” will not be required.

### **Native American Consultation**

Native American Consultation was conducted for the EA. The tribes consulted expressed no concerns with the project. The modification of stipulations to provide for more effective mitigation for this project did not trigger a need to conduct further Native American Consultation.

### **Consultation and Coordination**

In addition to the previous coordination on the Shamrock Communications Tower and Rights-of-Way EA (DOI-BLM-NV-W010-2011-0006-EA), the BLM Winnemucca staff visited the site with Shamrock on September 5, 2013, to gain a better understanding of the project and the concerns voiced by them.

In addition to internal scoping, a 30-day public scoping period beginning November 10, 2010, and ending December 10, 2010, yielded comments from a member of the public, two State of Nevada agencies, and the Mojave Great Basin Resource Advisory Council (RAC). The issues identified during this scoping were incorporated into the planning effort, along with discussions provided by other agencies, and the professional awareness of BLM staff.

A preliminary EA was posted on the BLM’s Winnemucca District Office web page for a 30-day public review on January 6, 2012. Letters were also mailed to interested parties, notifying them of the Preliminary EA’s availability. During this review period, a total of one comment letter was received. The letter expressed a viewpoint regarding the service that would be provided. No changes were necessary based on the comment letter.

In finalizing the EA, the sections on Native American Religious Concerns and Public Involvement were updated; clarifications were made to the recommended mitigations throughout Chapter 4; and general edits of a minor nature were made. These modifications did not result in any substantial change to the analysis or conclusions made based on the analysis, but rather provided further and more accurate information for the reader.

The goal of the mitigation and monitoring has not changed, therefore for these reasons public outreach beyond what was conducted for the EA was determined as not necessary to further inform the decision to be made.

### **Authority**

The authority for this decision is contained under the Federal Land Policy and Management Act of 1976 (FLPMA) and ROW procedures at 43 CFR 2805.12 (a), to process subsequently issued Federal laws and regulations applicable to authorized use.

### **Appeal**

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Victor W. Lozano, Field Manager (Acting), Humboldt River Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 (attached) provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Officer of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.47I(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;

- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

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\s\ Victor W. Lozano  
Victor W. Lozano  
Field Manager (Acting)  
Humboldt River Field Office

01/23/14  
Date

Attachments:  
Worksheet - DNA  
Form 1842