



United States
Department of
Agriculture

Forest
Service

National Forests
In North Carolina

160A Zillicoa Street
P.O. Box 2750
Asheville, N.C. 28802

File Code: 1950/2730-1

Date: May 22, 2001

Dear Interested Citizen:

I have signed the Decision Notice and Finding of No Significant Impact (DN/FONSI) for the proposal submitted by WLOS Television to replace the Mount Pisgah transmission tower, located on National Forest System lands in Buncombe and Haywood Counties, North Carolina. Enclosed you will find a copy of the DN/FONSI and Appendix F of the Environmental Assessment. The DN/FONSI discusses in detail my decision and rationale for the selection of Alternative 2 and its mitigation measures.

This decision is subject to appeal pursuant to 36 CFR 215.7. A written notice of appeal must be postmarked or received within 45 days after the date the legal notice of this decision is published in the Asheville Citizen Times newspaper. The Notice of appeal should be sent to: USDA Forest Service, Appeals Deciding Officer, 1720 Peachtree Road, N.W., Suite 876 S, Atlanta, GA 30367-9102.

Appeals must meet the content requirements of 36 CFR 215.14. For additional information on this decision or the appeals process, contact Ray Johns, USDA Forest Service, 160A Zillicoa Street, Asheville, North Carolina 28802, or phone (828) 257-4859.

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of the appeal disposition.

Sincerely,

/s/ John F. Ramey

JOHN F. RAMEY
Forest Supervisor

Enclosures (2)



**DECISION NOTICE
AND
FINDING OF NO SIGNIFICANT IMPACT**

For the Proposal Submitted by the
WLOS Television
to
Replace the Transmission Tower on Mount Pisgah

USDA Forest Service
Pisgah National Forest - Pisgah Ranger District
Buncombe and Haywood Counties, North Carolina

Decision and Reasons for the Decision

The Environmental Assessment (EA) documents the analysis of the proposal submitted by WLOS Television to replace the Mount Pisgah transmission tower, located on National Forest System lands in Buncombe and Haywood Counties, North Carolina. Based on the results of the analysis documented in the EA, it is my decision to implement Alternative 2 with associated mitigation measures.

Alternative 2 provides for the construction of an un-guyed replacement tower immediately adjacent to the existing tower where the observation platform is currently located, construction of a 1,872 square foot addition to the transmission building immediately adjacent to the existing transmission building, construction of two new observation platforms according to Forest Service specifications, and the relocation of the hiking trail to access the new platform.

Alternative 2, with its associated mitigation measures, was selected because it will:

1. Reduce avian mortality due to collisions with the tower and initiate a monitoring program to examine tower-induced mortality,
2. Improve the visual quality in the area by changing the color and marking configuration of the tower and allow for the regulation of new equipment placed on the tower,
3. Allows for the consolidation of facilities on the peak to improve visual quality and maximize efficient use of the site.

Public Involvement

A scoping letter was mailed on April 26, 2000, to individuals, organizations, State and Federal agencies, and local news media requesting issues or concerns about the proposal that should be addressed by the environmental study. The proposal appeared in the Schedule of Proposed Actions for the National Forests in North Carolina and was posted on the National Forests in North Carolina's Internet site. The Transylvania Times also printed an article on the proposal on May 1, 2000.

During the scoping period, eleven responses were received from the public. Issues were then identified based on public responses, internal concerns, and contact with government agencies. They include: continuation of television service, visual quality, avian injury and mortality due to tower strikes, potential habitat for and presence of the Northern Flying Squirrel and the Saw-Whet Owl, unique plant species and heritage resources. A complete synopsis of the issues considered and responses to other comments received are contained in the EA on page 6.

The EA was mailed to all who had indicated an interest in the project and notice of the availability of the EA for comment was published in the Asheville Citizen-Times on March 8, 2001 along with an article being published on March 13. Sixteen additional comments were received and are addressed in Appendix H; no new issues surfaced. The comments received throughout the process were used to shape the selected alternative.

Other Alternatives Considered

A no action alternative was considered in the analysis. This alternative is described and compared to Alternative 2 on pages 9 thru 11 of the EA.

Alternative 2 was developed by an interdisciplinary team in response to site specific issues identified during the scoping process. Review of the EA has failed to raise any additional issues and concerns regarding the proposed action; no extraordinary circumstances were identified, and no additional alternatives were developed.

Mitigation Measures

The following mitigation measures will be incorporated into this project:

The daytime marking of the tower will consist of a medium intensity white strobe on top and a non-reflective, pale blue-gray paint over the entire tower. A suitable paint color is *Argent, SW4052* -- which is shown in *Sherwin-Williams Industrial and Marine Coatings* chip sample pamphlet titled *Protective Coatings Color Spectrum*, April 1999, publication number 655-2103. The paint will be mixed "flat" or "non-reflective".

Night and twilight marking will consist of a red strobe and one set of constant-on red obstruction lights at mid-height. The intensity or brightness of the red strobe will use the minimum intensity of lighting, and number of flashes required by the Federal Aviation Administration.

Placement of large microwave antennas or other similar structures will be limited to the lower 30 feet of new tower. Any new equipment will require the prior approval of the Forest Service with the landscape architect and special use permit administrator being consulted in the final arrangement to minimize visibility from critical viewpoints

The inactive tower will be dismantled within six months of bringing the new tower in-service, with total construction time not to exceed one year from the date authorized to begin construction.

Security lighting for all on-ground facilities to include the tram will be minimized, point downwards or be down-shielded.

The 15 individuals of *Bromus ciliatus* not within the proposed activity will be protected from all direct effects by exclusion of all activity. The Forest Service botanist will review and approve the final construction plan to determine the exclusion area before implementation. This area is to maintained throughout the implementation of the proposal.

To reduce potential impacts to exposed individuals of *Bromus ciliatus*, the Forest Service botanist will review and approve the final construction plans to determine the extent of disturbance near these individuals and if additional mitigation is necessary. If it appears that these individuals are in severe risk of destruction, the botanist may choose to transplant the individuals to a safe area in similar habitat within the summit of Mt Pisgah.

Construct two new observation decks. The first is on the east side of Mt. Pisgah, northeast of existing tower -- with views toward Asheville. Relocate Mt. Pisgah Trail to access new deck location. Final location should minimize views of existing and proposed WLOS building. The second is located south of the new tower location adjacent to the trail and will capture views to the south and west. Both locations shall be reviewed and approved prior to construction by the forest botanist.

The Forest Service will work with WLOS to develop a plan to relocate tenant communication equipment located on the peak of Mt. Pisgah into the main transmission building and tower. Upon relocation, all tenant buildings will be removed and the site and restored to its natural condition. No new communication facilities, antenna or other appurtenances will allowed on the peak other than those approved by the Forest Service to reside on the tower.

Finding of No Significant Impact

The EA contains sufficient information to verify that implementation of this project will not have a significant effect. I have determined that these actions are not a major federal action, individually or cumulatively, and will not significantly affect the quality of the human environment. Therefore, an Environmental Impact Statement is not needed. This determination is based on the following factors (40 CFR 1508.27) concerning the context and intensity of the expected impacts:

1. Considering both beneficial and adverse impacts, there will be no significant effects as a result of the project.
2. Public health and safety are minimally affected by the proposed actions.
3. Wetlands and floodplains near the planned actions are not significantly affected.
4. Based on public participation, the effects on the quality of the human environment are not likely to be highly controversial. This refers to controversy over the effects as presented in the EA, rather than to the existence of opposition to the project itself.
5. The possible effects on the human environment are not highly uncertain and do not involve unique or unknown risks.
6. These actions do not set a precedent for other projects that may be implemented to meet the goals and objectives of the Nantahala/Pisgah Land and Resource Management Plan (Forest Plan), as amended.
7. There are no known significant cumulative effects between this project and other projects implemented or planned on areas separated from the affected area of this project beyond those evaluated in Chapter IV in the FEIS for the Forest Plan.
8. There will be no effects to any heritage resources listed in or eligible for inclusion in the National Register of Historic Places.
9. Proposed, Endangered, Threatened, or Sensitive Species will not be significantly affected.
10. The actions do not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR 1508.27 (b) (10)).
11. For water quality management, Forest Plan standards will be used for this project. These standards are used to meet the performance standards of the North Carolina Forest Practice Guidelines Related to Water Quality. The project will be monitored to ensure these standards are met. If implementation on a specific site results in effects that are significantly higher than anticipated, because of unforeseen site factors or events, appropriate corrective measures will be considered and implemented. This project will fully comply with approved Forest Plan standards and the Clean Water Act.

Findings Required by Other Laws and Regulations

1. The actions of the project are consistent with management objectives described in Chapter III of the Forest Plan for Management Area 13; and
2. The actions in Alternative 2 are consistent with the Forest Plan because mitigation measures incorporate Forest Plan standards along with site-specific mitigation measures. The project is feasible and reasonable, and it results in applying management practices that meet the Forest Plan's overall direction of protecting the environment while producing goods and services.

This decision is subject to appeal pursuant to 36 CFR 215. A written notice of appeal must be postmarked or received within 45 days after the date the legal notice of this decision is published in The Asheville Citizen Times newspaper. The notice of appeal should be sent to: USDA, Forest Service, Southern Region, ATTN: Appeals Deciding Officer, 1720 Peachtree Road, N.W., Suite 876 S, Atlanta, GA 30367-9102.

Appeals must meet the content requirements of 36 CFR 215.14. For further information on this decision, please contact Ray Johns at (828) 257-4859 or 160A Zillicoa Street, Asheville NC 28802.

If no appeal is received, implementation of this decision may occur on, but not before 5 business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.

/s/ John F. Ramey

JOHN F. RAMEY
Forest Supervisor
National Forests in North Carolina

5/22/2001

DATE

Appendix H

Response to Public Comments

On March 8, 2001 the Environmental Assessment (EA) for the Replacement of WLOS Television Transmission Tower located on Mt. Pisgah in Buncombe and Haywood Counties on the Pisgah Ranger District was released for public comment. During the comment period, the Forest Service received 17 letters from various parties. Although several comments were received that supported construction of the new tower, this appendix only addresses the issues and concerns raised during the period.

Concerns were raised that removal of the existing tower from Mt. Pisgah should be considered

As discussed in the EA in Section 1.4 (page 5), and in Section 2.3 (Page 11), removal of the existing tower is outside the scope of the decision to be made and does not meet the purpose and need for the proposal (page 5). WLOS currently holds a valid Communication Site Lease from the Forest Service that permits the operation and maintenance of the existing communication site on Mt. Pisgah. The decision to allow the permit was made on September 18, 1954, and under the terms and conditions of the current permit, WLOS can operate the existing tower until December 31, 2005.

With this, WLOS submitted a request to replace the existing tower in accordance with the procedure outlined in 36 CFR 251.61 for the purpose of meeting the Federal Communication Commission's mandate that they convert to digital television before May 1, 2002. Under this criteria, Forest Service has a "limited" decision space consisting of approval or disapproval of their request. The introduction of a new alternative outside of this scope, would be considered a forest planning decision as discussed below.

If removal of the tower is outside the scope of the decision to be made, when would removal or relocation be considered?

Under our regulations contained in Forest Service Handbook 2709.11, Sections 48.1(3) and 48.6, designation of a site for communication purposes is considered an allocation under Forest Plans. The appropriate time to consider removal of the communication facility would be during the next Nantahala/Pisgah Land and Resource Management Plan revision. During this process, the Forest Service would consider any "specific and compelling reasons in the public interest" to change the current designation. If this decision is made to change the designation, WLOS would be required to remove the facility. If this should occur, under the terms and conditions of WLOS's current permit, the Federal Government would be obligated to compensate WLOS based on the initial cost of the of the improvements, less depreciation. In conversations with the permit holder, the value of the facility is estimated at \$10,000,000.00 (this does not include site restoration or relocation costs).

Concerns were raised that if WLOS were allowed to invest a large sum of money to build a new tower that it would provide a basis for continuing operations in 2005 when the permit comes up for renewal.

On December 31, 2005 WLOS' current permit expires. Should they wish to continue this use, they will be required to notify the Forest Service at least one year prior to the expiration date. At this time the authorized officer will consider all information related to the issuance of a new permit and determine if the use should continue or if a Forest Plan amendment should be initiated as discussed above.

If the authorized officer issues a new permit, is considered an administrative decision that is not subject to public review or environmental documentation as no new ground disturbing activities occur. Under 36 CFR 215.8(c), this decision is not subject to appeal as it solely affects the business relationship between the Forest Service and the holder of written instruments regarding the occupancy and use of National Forest System lands. Concurrent with this, 36 CFR 251.83(o) considers this a reaffirmation of a prior decision and also not subject to appeal.

The intent of Management Area 13 is to ‘foster public use and enjoyment of unique scenic, geological, botanical ...attributes’ The direction for special uses is to ‘issue permits for new special uses only when the character of the area can be protected’. From this intent, it is clear that the tower is an incompatible use in this management area, permitted only through existence prior to the current Forest Management Plan. Further discussion of this rationale is requested.

The tower was constructed in 1954, prior to the Nantahala/Pisgah Land and Resource Management Plan. With this, the use is not considered "new" but as a modification to an existing use that requires environmental documentation and prior approval from the Forest Service as required under 36 CFR 251.61. It should be noted that on August 6, 1987 Mt. Pisgah was accepted and listed in the North Carolina Registry of Natural Heritage Areas based on having fine examples of high elevation bald and forest plant communities along with outstanding views of the surrounding mountains. During the inventory and review process, it was documented that the area was disturbed from the TV/Radio Station perched on the top of the summit. This existing use did not influence the Natural Heritage nomination process nor did it affect the quality of plant communities on the site.

The expansion of the structural footprint of the new tower and building needs to be better defined, explaining the form and square footage of these structures as they relate to the site, and in reference to the existing building’s footprint.

The expansion of the structural footprint of the new tower and buildings is discussed in the EA in the following areas: Executive Summary (page 2), notes that the new tower is ‘located immediately adjacent to the existing tower’ and the addition of a 1,872 square foot building addition; Proposed Action, Section 1.2 (page 5); Alternative 2, Section 2.2.2 (page 9); Visual Analysis, Section 3.4, (page 15); and in Appendix G, Scenery and Recreation Impact Analysis (page 53). Each section provides an adequate discussion of the proposed structural footprint and location of both the antenna and building addition.

The visual impacts of the existing tower and the addition of any equipment should be considered in the EA.

The decision to issue the permit with the current visual configuration of the tower was made on September 18, 1954. Under the terms and conditions of the current permit, WLOS can operate the existing tower under the FAA approved visual configuration until December 31, 2005. Under 36 CFR 215.8(b) this would be considered a subsequent implementing action to the initial decision and not subject to appeal.

In regards to the addition of new equipment, WLOS' current permit allows them to place additional equipment on the tower without the consent of the Forest Service. If there request is approved, the amendment to the permit will provide new terms that would allow the Forest Service the opportunity to regulate the visual configuration of new equipment placed on the new tower based on the mitigation requirements for visual impacts (36 CFR 251.61(a)(1)).

Consideration of the visual impact of the existing tower is not outside the scope of this action as it may continue to – or further degrade the scenic quality, a primary resource of the Blue Ridge Parkway and must be discussed as it is eligible for listing on the National Register of Historic Places.

The decision to allow the permit was made on September 18, 1954, at this time the Blue Ridge Parkway was not eligible for listing on the National Register of Historic Places. As the tower was in place prior to becoming eligible for listing, there are no changes to the character of the property's use, or of physical features, within the property's setting that contribute to its historic significance. The North Carolina Department of Cultural Resources, State Historic Preservation Office was consulted regarding this proposal. On April 24, they reviewed the project and found that no sites were listed or in the process of nomination were located in the project area. It was also noted they were aware of no properties of architectural, historic or archaeological significance that would be affected by the project.

Please identify that "absorbing the Blue Ridge Parkway communications equipment into the new structure" as a U.S. Forest Service recommendation in the analysis.

The visual analysis conducted by the Forest Service (Appendix G, page 57) noted that the Blue Ridge Parkway communication building is seen from several viewpoints along the parkway and recommended that the Blue Ridge Parkway's building be removed and the equipment be placed on the new tower/building. This recommendation is also consistent with Forest Service objectives to facilitate the orderly development and maximize efficient use of communication sites (FSH 2709.11, Section 48.1(2)).

The Scenery Analysis notes that the Blue Ridge Parkway Communications Building is visible from several locations. Please specify which ones and to what degree.

From mileposts 405.9 to 406.5 there are locations where the communications building is visible. The building is also visible from milepost 407.1 as seen in the photograph/simulation accompanying the Scenery Analysis. There are no overlooks at these locations; views are from a moving vehicle. To assess the greatest potential impact, the Scenery analysis was conducted during leaf-off season – which is when these viewpoints were noted.

The discussion of the lack of visual quality objectives (VQO) for this site does not tell us what happens without them.

General direction, guides and standards for Management Area 13 dictate how the area is to be managed – for visual resource management and other resource areas. Page III-144 of the *Land and Resource Management Plan Amendment 5* (LRMP) states, “...resource management activities are modified to be compatible with the special attributes of each area”. General direction stated on page III-145 of the LRMP is, “Manage area to emphasize special characteristics”. Significance of the area is described in the LRMP on page III-202, and includes unique botanicals and views. In absence of an assigned VQO, general direction, guides and standards are used as resource management objectives. Mitigation for day and night marking of the tower modifies the proposal to be more compatible with the special characteristics of the area.

What are the construction and demolition processes and specific timeframe for the proposed towers?

At this time, specific construction and demolition process have not been formally established. If the decision is made to amend the permit, WLOS would be required to submit a construction, erosion control and site plan prepared by a licensed engineer that complies with the mitigation measures contained in the decision along with meeting all Federal, State and municipal laws. In addition, WLOS would be required to have the proper State and municipal permits in place. Once this information has been submitted and approved by the Forest Service, they would be authorized to begin construction. At this time, WLOS anticipates that it would take approximately one year to complete the construction of the new tower, relocate the equipment, and remove the old tower.

The Blue Ridge Parkway would like to be included in the review process for the placement of additional equipment on the tower.

If the decision is made to amend the permit, we have the opportunity to add conditions that will allow for the review and approval of new equipment on the tower based on the mitigation measures contained in the analysis. Should WLOS request to place additional equipment on the tower that exceeds the standards contained in the analysis (higher than 30' from the base of the tower and visible from a critical viewpoint) the Blue Ridge Parkway along with other interested parties will be consulted for review and comment.

Please discuss the Federal Aviation Administration's (FAA) requirements and comparison to other towers. The goal of lighting should be to minimize it, but there is no discussion as to what the options offer in terms of achieving this or the related impacts.

The goal of the FAA in marking and lighting the towers is to ensure the structure is conspicuous to pilots to ensure aviation safety rather than minimizing it. These standards are contained in FAA's Advisory Circular AC 70/7460-1K (Obstruction Marking and Lighting) and applied nationally to all towers that exceed an overall height of 200 feet above ground level, noted as an obstruction under 14 CFR Part 77, or may present such an extraordinary hazard potential that higher standards may be recommended for increased conspicuity to ensure safety to air navigation. These requirements can be obtained from the FAA's website located at <http://www.faa.gov/ats/ata/ai/index.cft>.

The U.S. Fish and Wildlife Service (USFWS) recommends implementation of a monitoring program to examine site-specific avian migration at the tower site as well as the collection of birds from tower-induced mortality.

If the permit amendment is approved, the Forest Service will require WLOS to implement a monitoring program for a five-year period as a condition to their amendment to their license. The program will be developed with the participation of the USFWS and allow for the sampling during peak bird migration (April and September) and after significant weather events (storms and fog). Access to the site for USFWS staff to monitor avian mortality at random intervals and/or following weather events known to induce avian strikes will be provided.

In addition to the recommended mitigation to minimize avian strikes on the tower, we would like to see that the tower be illuminated during the daytime with white strobes (in addition to the tower top) to further increase the visibility of the tower to birds and thereby decrease the potential for blind strikes.

We are unaware of any research to support that daytime illumination of the tower during for increased visibility decreases the potential for daytime avian mortality. As part of the monitoring plan, we will require daytime monitoring of the site during peak bird migration periods. Should daytime avian strikes on the tower increase mortality during the monitoring period, efforts will be undertaken to determine what options can be implemented to increase visibility.

If two or more users convert to digital, the ambient radiation may exceed federal standards for human proximity.

The Federal Communications Commission (FCC) is the lead federal agency for establishing limits for the exposure to radio-frequency (RF) radiation. These limits are contained under 47 CFR 1.1310. In this situation, WLOS is required to operate within the limits prescribed for maximum permissible exposure and is required to monitor compliance in accordance with FCC's OST/OET Bulletin Number 65, "Evaluation Compliance with FCC-Specified Guidelines for Human Exposure to Radio-frequency Radiation." Should WLOS exceed these safety standards, the FCC will require measures to be developed to ensure compliance with federal standards for human exposure.

Why was reinforcing the existing structure not considered in the analysis?

In conversations with WLOS engineers, reinforcement of the existing tower to support the additional weight of digital equipment would not be practical. They equated the process as trying to sack marbles, the more weight you add to the tower on one place to reinforce it, would cause failure at another. The overall result would lead to removing the existing equipment (users) from the tower to accommodate the additional weight and prevent failure.

Concerns were raised regarding the fees charged under the current permit.

Although outside of the scope of this decision and a condition of the permit, fees charged for all uses of National Forest System lands are based on "fair market value" in accordance with 36 CFR 251.57(a)(1). In this situation, communication site fees are applied through a National Fee Schedule that is based on market data gathered across the United States. Land lease rates are established based on the type of use (television, AM/FM radio, cellular, private mobile radio service, microwave, etc.) and adjusted based on the population strata (ranging from service areas with less than 25,000 residents to those over 5,000,000). These rates are adjusted each year using the Implicit Price Deflator-Gross National Product and to reflect changes in population.