



United States Department of Agriculture

Office of the Secretary
Washington, D. C. 20250

March 20, 2003

Mr. Stephan C. Volker
436 14th Street, Suite 1300
Oakland, California 94612

Dear Mr. Volker:

You have filed a timely notice of appeal on behalf of your clients; Save Medicine Lake Coalition, Medicine Lake Citizens for Quality Environment, Fall River Wild Trout Foundation, Klamath Forest Alliance, California Wilderness Coalition and the Sierra Club. The appeal was filed pursuant to 36 CFR 215, protesting the Chief of the Forest Service's Record of Decision (ROD) approving the Proposed Action as modified, of the Telephone Flat Geothermal Development Project Final Environmental Impact Statement (FEIS).

I have reviewed the administrative record, including the Appellants' written notice of appeal, the ROD, FEIS, and supporting documentation. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is attached. This letter constitutes my decision on the appeal and on the specific relief requested.

APPEAL DECISION SUMMARY

I affirm the Chief's decision to implement the Proposed Action as modified (proposed power plant site with the modification of selecting Alternative Transmission Line Route 2, segment D-2 and B-2 instead of Alternative Transmission Line Route 1). Implementation of the decision may proceed fifteen days following the date of the decision on this notice of appeal.

FOREST ACTION BEING APPEALED

In May 2000, the Bureau of Land Management (BLM) and the Forest Service (FS) signed a joint Record of Decision denying the Telephone Flat Geothermal Development Project. In October, the project proponent filed a lawsuit against the Bureau of Land Management and the Forest Service in the U.S. Court of Federal Claims for the denial of the project alleging breach of contract and takings claims. As part of a settlement agreement of this litigation, the Department of Justice agreed the two agencies would reconsider the decision by November 2002. On November 26, 2002, the Chief, USDA Forest Service and the Assistant Secretary issued a new Record of Decision, Lands and Minerals Management, U.S. Department of the Interior. The new decision was the culmination of that reconsideration process replacing and superceding the

previous Record of Decision. Notice of this decision was published in the Modoc County Record on December 19, 2002.

The 2002 Record of Decision is also a joint U.S. Department of Interior and the U.S. Department of Agriculture document. However, each agency is making decisions that pertain to separate activities identified in the Plan of Operation. The part of the decision made by the Chief of the Forest Service is described in the attached Appeal Reviewing Officer's recommendation letter. In summary, the portion approved by the Forest Service includes a transmission line, a road easement, temporary water well use and waterline placement and maintenance. In addition, a forest order is approved prohibiting discharge of firearms within the vicinity of the power plant. Only the Forest Service's portion of the decision is subject to appeal in accordance with the regulations at 36 CFR 215. Approval of the project constitutes the final administrative action for the BLM.

APPEAL SUMMARY

The subject appeal was timely. The appellants request a decision granting their appeal and setting aside the Forest Service's approval of the Telephone Flat Geothermal Project. Additionally, the appellants request a stay of the Forest Service's implementation of the Telephone Flat Geothermal Project during the appeal and any ensuing court review. An informal resolution meeting by telephone was conducted on March 19, 2003 between the Forest Service, appellants, and interested parties but no issues were resolved.

One expression of interested parties was received. Robert Maynard, Attorney for CPN, Telephone Flat, Inc. and Calpine Corporation wrote a letter, dated February 18, 2003, requesting a final decision denying the appeal in its entirety by no later than March 20, 2003, in accordance with 36 CFR 215.17. Mr. Maynard concludes the allegations presented by the appellants have already been considered and rejected. In addition, they offer no new or different basis for denial or further delay of the Telephone Flat Project approval.

ISSUES AND RESPONSES

ISSUE 1: Whether the Telephone Flat geothermal project violates the Clean Air Act.

RESPONSE: Issues related to the cooling tower drift plume, well venting and cooling tower H₂S emissions are matters within the jurisdiction of the BLM. Potential impacts from these sources are analyzed in Chapter 3.4 of the FEIS. Assessment of the impacts assumes the implementation of those measures incorporated into the Project design or required by regulation that avoid or reduce potentially significant impacts. The impacts were found to be either less than significant or potentially significant, but would be reduced to less than significant by requiring the identified mitigation measures.

The FEIS did recognize the potential for the generation of fugitive dust generated by travel on unpaved roads, mobile combustion emissions from construction activities and dust lofted by earthmoving activities during construction, operation and decommissioning activities. For transmission line segment D2 the impact is considered less than significant and other measures are provided (FEIS 3.4-36). For line segment B2 impacts are considered to be less than significant with the exception of a short-term significant PM₁₀ impact possibly occurring in close proximity to construction activities (FEIS 3.4- 1, 37).

The project applicant shall be required to design and implement measures to control the generation of dust during transmission line construction. Mitigation measures such as application of water or dust palliative, construction vehicle speed limitations and haul truck covers could be included.

ISSUE 2: Whether the Telephone Flat geothermal project violates the National Environmental Policy Act (NEPA).

RESPONSE: In November 2002, a contracted, review report [Update Assessment for the Telephone Flat Geothermal Development Project Final Environmental Impact Statement/Environmental Impact Report, (FEIS/FEIR) hereby referred to as the “Update Assessment”] was completed. The purpose of the report was to determine whether or not the agencies needed to prepare and circulate a supplement to the FEIS. It did not identify any new significant impacts resulting from the proposed action or project nor did it identify new mitigation measures or substantial increases in the anticipated severity of environmental impacts. In accordance with Forest Service NEPA Revised Policy and Procedures, the deciding officer’s review documents that a supplemental EIS was not necessary (Worksheet, Documentation of NEPA Adequacy).

SUB-ISSUE 2a: Lease validity.

RESPONSE: The BLM is the agency responsible for issuing geothermal leases on Federal land. When the land involves surface resources managed by the Forest Service, the BLM must obtain consent from that forest. The appellants are challenging BLM’s decision from the 1980’s to issue geothermal leases. In 1981 the FS issued an environmental assessment entitled, “Environmental Assessment for Geothermal Leasing”. This document was prepared to address the potential issuance of geothermal leases in and around the Glass Mountain Known Geothermal Resource Area (KGRA) and provide a basis for Forest Service decisions on consenting to lease issuance and stipulations.

Any objections to consent to the issuance of the subject leases should have been directed to the FS within the time provided by the then applicable FS administrative appeal procedures. Objections to the issuance of the leases themselves should have subsequently, also been directed to the BLM, the agency who is ultimately responsible for geothermal lease issuance. In the present case, the appellants and other members of the public had notice of the intent to issue leases when the 1981 Environmental Assessment was completed and the decision notice signed. Notice was sent to members of the public who had expressed previous interest and the decision was published in several newspapers of the area. However, no such appeal or objection was filed with the Forest Service or the BLM. The time for objecting to the issuance of the subject leases has passed.

In a related appeal of the Fourmile Hill geothermal project, Save Medicine Lake Coalition challenged BLM’s decision to issue the underlying leases. In this matter the Interior Board of Land Appeals found the appellants had notice of lease issuance and that the time for objecting was passed (156 IBLA 219, 227-228 [2002]). This decision also addresses the issue of BLM’s extension of the leases and found the matter was also not timely raised.

SUB-ISSUE 2b: “No action” alternative ignored.

RESPONSE: The “no action” alternative is one of the alternatives considered in the FEIS and was the selected alternative in the 2000-ROD. In reconsideration of the decision, including consultation with tribes and weighing the overall needs of the public; the proposed action (modified) was selected (2002 ROD). Nothing indicates that consideration of the “no action” alternative not undertaken in good faith during reconsideration of the 2000 Record of Decision.

Socioeconomic impacts are considered in the FEIS (3.12) and impacts associated with the transmission line locations are displayed in FEIS table 3.12 (ES-119). The Update Assessment did not identify new mitigation measures or alternatives as a result of the consultation process and acknowledges the identified, significant socioeconomic impacts cannot be mitigated to an acceptable level. Selection of an action alternative is not necessarily an indication of a flawed environmental analysis.

SUB-ISSUE 2c: Omitted impacts and mitigation.

RESPONSE: Mitigation associated with the cooling towers, turbine building, drill rigs, drill pads and other facilities not including the transmission line and temporary water line are outside of the scope of this appeal. They fall under the jurisdiction of the BLM whose decision is not subject to administrative appeal.

Impacts associated with these facilities are necessarily considered along with those associated with the transmission line and road access as part of the cumulative effects analysis in Chapter 4 of the FEIS. A summary of the significant cumulative effects is included in Table ES.8 (Executive Summary of the FEIS, page ES-123-125). Some impacts are recognized as cumulatively significant and unavoidable or inmitigable. Where possible, mitigation is identified to reduce adverse effects. Impacts and mitigation associated with the transmission line alternative routes are addressed in the FEIS and summarized in table ES 6 (ES-95-123). Section 102(2) (C) of NEPA does not prohibit action where environmental degradation will result; it merely mandates full consideration of the environmental impact of the proposed action.

The adequacy of the analysis is dependant upon consideration of relevant matters of environmental concern. The Court stated in County of Suffolk v. Secretary of the Interior, 562 F.2d 1368, 1375 (2d Cir. 1977), cert. denied, 434 U.S. 1064 (1978):

[A]n EIS need not be exhaustive to the point of discussing all possible details bearing on the proposed action but will be upheld as adequate if it has been complied in good faith and sets forth sufficient information to enable the decision maker to consider fully the environmental factors involved and to make a reasoned decision after balancing the risks of harm to the environment against the benefits to be derived from the proposed action, as well as to make a reasoned choice between alternatives.

The appellants have not submitted additional evidence or objective proof of environmental impacts relevant to the proposed action that were not considered during the NEPA and reconsideration processes.

SUB-ISSUE 2d: Reasonable range of alternatives not provided.

RESPONSE: Section 102 (2) (C) of NEPA requires investigation and evaluation of reasonable alternatives to the proposed action that will accomplish the intended purpose. Note the appeal cites 40 CFR 1502.14 that requires the Federal agency to explore and evaluate all reasonable alternatives. It does not require consideration of a “reasonable range” of alternatives. Alternatives should be technically and economically feasible while minimizing or lessening impacts. In addition to the various transmission line alternative routes considered in detail, the FEIS also considered but eliminated from detailed consideration, additional routes (ES-16-19). Consideration was given to burying the line, however because it was found to be excessively costly and resulted in greater environmental impacts, it was dismissed from further detailed consideration.

SUB-ISSUE 2e: Cumulative impacts not disclosed.

RESPONSE: The FEIS acknowledges the Fourmile Hill geothermal development project and the Reduced Glass Mountain exploration project as reasonably foreseeable and evaluates them with the Telephone Flat geothermal development project in the Cumulative effects section (FEIS 4-1-28). The fact that the transmission line and other facilities authorized under the current Project can be utilized to facilitate future development does not, by itself, establish that such development is reasonably foreseeable, Headwaters, Inc. v. BLM, 914 F.2d 1174, 1181-82 (9th Cir. 1990), 156 IBLA 219, 243 (2002). Absent any additional information, there are no other projects or proposals to be considered as reasonably foreseeable.

ISSUE 2f: Supplemental EIS needed.

RESPONSE: In order to address the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the previously discussed Update Assessment was prepared to determine if significant new circumstances or information relevant to the environmental concerns and bearing on the project were identified since the FEIS was released in 1999. It was determined through this analysis there was no change in the condition of the environment and no significant change in the impacts associated with the project. Therefore, a supplemental EIS is not required.

ISSUE 3: Whether the Telephone Flat Geothermal Project violates the National Forest Management Act.

RESPONSE: The alternative transmission line route selected in the November 2002 ROD is Alternative Transmission Line Route 2 (segment D-2 and B-2), which was fully analyzed in the FEIS. Potential impacts from timber cutting and other activity associated with the transmission line along the alternative routes are considered in the FEIS (FEIS at 3.1-5, 6, 9, 10, 3.1-13-17, 3.3-70-73). Mitigation measures for the associated impacts are also identified. A summary of potential impacts of the transmission line on soils, vegetation and wildlife and the associated mitigation measures is listed in table ES 7 (ES-95-106). Examples of the mitigation requirements related to completing surveys include preconstruction surveys along the transmission line corridor to identify the presence of wildlife species their potential habitats and areas to be avoided during construction activities, as well as detailed surveys of special status plants to mark populations for preservation.

The geothermal leases are examples of existing contracts that are specifically not modified by the National Forest Management Act. Direction in the Modoc National Forest Land and Resource Management Plan (LRMP) for the Medicine Lake Management Area does not preclude geothermal development. Approval of the plan of operation is consistent with the LRMP (ROD, III.A.1).

ISSUE 4: Whether the Telephone Flat Geothermal Project violates the Endangered Species Act.

RESPONSE: In November 2002, an updated Biological Assessment/ Biological Evaluation (BA/BE) for Telephone Flat Geothermal Development Project was completed. The memo dated 11/26/2002 (from Forest Biologist Radcliff) determined the BE sufficiently addresses the issue of sensitive wildlife species and Management Indicator Species. On November 26, 2002, a Biological Opinion (BO) was transmitted to the Forest Service in response to its request for formal consultation for the project. The BO and the associated documents, on which it is based, conclude formal consultation and satisfy the requirements of the Endangered Species Act, as amended (Biological Opinion and transmittal letter, November 26, 2002 from USDI, Fish and Wildlife Service).

ISSUE 5: Whether the Telephone Flat Geothermal Project violates the National Historic Preservation Act.

RESPONSE: As part of the reconsideration of the Record of Decision denying the project, consultation under Section 106 of the National Historic Preservation Act (NHPA) was re-initiated. Additionally, the Advisory Council on Historic Preservation (ACHP or the Council) held a public meeting and solicited input on the reconsideration. A record of various tribal, agency and public contacts made during the reconsideration process is included in the 2003 ROD. Documentation of consultation termination was duly provided to the ACHP. The Council acknowledged this to be in accordance with Section 800.7 of the regulations implementing Section 106 of the National Historic Preservation Act (16 USC 470f), (ACHP letter of September 5, 2002). Consideration of the Advisory Council's response is included in the 2003 ROD and formally documented in a November 26, 2002 letter from the deciding officials to the ACHP.

In accordance with NHPA, the agency made a reasonable effort in consultation with the ACHP, the State Historic Preservation Officer (SHPO) and the Klamath and Pit River Tribes to identify, evaluate and mitigate potential impacts to historic properties. As a result, an alternate transmission line location was chosen and the project was also amended by incorporating additional Conditions of Approval and Agency Commitments to further reduce impacts to traditional values and uses (ROD, Sec. VIII). There is no requirement in law or regulation for the Forest Service to obtain tribal concurrences prior to engaging in a Federal undertaking.

ISSUE 6: Whether the Telephone Flat Geothermal Project violates the Federal Land Policy and Management Act.

RESPONSE: The new decision acknowledges that traditional, cultural values associated with the Medicine Lake Highlands have remained the same since the original ROD denied this project. However, the demand for electrical energy in the surrounding area has continued to accelerate with an increasing focus on California's requirement for renewable energy resources. Reconsideration of the 1999 decision on the Telephone Flat

project included weighing the increasing demand for renewable energy with the need to protect traditional cultural values. These considerations and the issue of what is in the public interest are clearly and logically articulated in the 2003-ROD (section III Reasons for the Decision, A.4).

ISSUE 7. Whether the Forest Service stymied public participation in violation of the Freedom of Information Act.

RESPONSE: Public participation, comments and response to comments are included in the FEIS. The issue of the Forest Service's response to a Freedom Of Information Act (FOIA) request is not addressed in this ROD and is beyond the scope of the decision.

REVIEWING OFFICER'S FINDINGS

The Reviewing Officer found the EIS/EIR was well documented, referenced numerous applicable information sources, analyzed the project in depth and considered all significant public input. Additionally, it was noted that a review of the document to determine the need for a supplement had been completed and resulted in the appropriate determination. The Reviewing Officer recommended I affirm the Chief's decision and deny the relief requested.

DECISION

I have considered all the appeal issues raised in making my decision. I have determined all issues have been adequately addressed by the Forest Supervisor in the EIS, by the Chief in the ROD, and in the record.

I affirm the Chief's decision to implement the Proposed Action as amended.

My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ Mark Rey
Under Secretary
Natural Resources and Environment



United States Department of Agriculture

Office of the Secretary
Washington, D. C. 20250

March 19, 2003

MEMORANDUM FOR THE APPEAL DECIDING OFFICER

SUBJECT: Telephone Flat Geothermal Development Project Appeal

I am the designated Appeal Reviewing Officer (ARO) for this appeal. This is my recommendation on disposition of the appeal filed by Stephan C. Volker on behalf of Save Medicine Lake Coalition, Medicine Lake Citizens for Quality Environment, Fall River Wild Trout Foundation, Klamath Forest Alliance, California Wilderness Coalition, and Sierra Club.

BACKGROUND

In 1997, CalEnergy Corporation submitted a Plan of Operation and Special Use Application for the development of geothermal resources on and off Federal leases located within the Glass Mountain Known Geothermal Resource Area (KGRA). In February 1999, the Bureau of Land Management (BLM) and the Forest Service (FS), in cooperation and partnership with Bonneville Power Administration (BPA), and Siskiyou County Air Pollution Control District, released the "Telephone Flat Geothermal Development Project Final Environmental Impact Statement/Final Environmental Impact Report" (FEIS/FEIR). The Preferred Alternative disclosed in the FEIS/FEIR was to approve the project. In May 2000, the BLM and FS signed a Record of Decision (ROD) denying the project. Subsequently, the project proponent filed a lawsuit in U.S. Court of Federal Claims against the two agencies alleging breach of contract and takings. Calpine Corporation acquired CalEnergy in November 2001. In April 2002, Calpine and the United States entered into an agreement to stay litigation and allow the agencies to reconsider the 2000 decision. On November 26, 2002, a new decision approving the proposal (as amended) was signed by the Chief of the Forest Service and the Assistant Secretary of the Department of Interior. Notification of the decision was published in the Modoc County Record on December 19, 2002.

Decision - The 2002-ROD is a joint BLM and FS document. However, each agency is making decisions that pertain to separate activities identified in the Plan of Operation. The Forest Service's decision includes:

- Permitting construction, operation and maintenance of a 230-kV, overhead transmission line,
- Issuance of a road use permit for access to the power plant,
- Permitting temporary water well use and water line placement and maintenance,
- Issuance of a Forest Order prohibiting firearm discharge within the vicinity of the Telephone Flat power plant.

Only the Forest Service's portion of the decision is subject to appeal in accordance with the regulations at 36 CFR 215. Approval of the project constitutes the final administrative action for the BLM.

The Chief of the Forest Service, U.S. Department of Agriculture and the Assistant Secretary, Land and Minerals Management, U.S. Department of the Interior jointly decided to reverse the earlier decision and select the Proposed Action (proposed power plant site) with the modification of selecting Alternative Transmission Line Route 2 (segment D-2 and B-2) instead of Alternative Transmission Line Route 1. This Proposed Action, as modified, is now the Telephone Flat Geothermal Development Project, as Amended (the Project). As part of the 2002 ROD for Telephone Flat, the Project is further amended by incorporation of additional conditions of approval and agency commitments based on the principles within the Memorandum of Agreement (MOA) for the approved Fourmile Hill Geothermal Development Project (which is located in the Medicine Lake Highlands, approximately six miles northwest of the Telephone Flat project area).

Scoping – Although there was no requirement for public involvement during the reconsideration (as part of the Settlement Agreement), in completing the Section 106 process under the National Historic Preservation Act, numerous meetings were held with various tribes, interested parties and the public. A summary table of these meetings is included in the Record of Decision.

APPEAL SUMMARY

The subject appeal was timely. . The appellants request a decision granting their appeal and setting aside the Forest Service's approval of the Telephone Flat Geothermal Project. Additionally, the appellants request a stay of the Forest Service's implementation of the Telephone Flat Geothermal Project during the appeal and any ensuing court review. On March 19, 2003, representing the Chief of the Forest Service, Abigail Kimbell, Associate Deputy Chief, National Forest System Lands, conducted a informal resolution meeting by telephone with Mr. Volker, several members of the appellant organizations, and interested parties pursuant to 36 CFR 215.16. No appeal issues were resolved

One expression of interested parties was received. Robert Maynard, Attorney for CPN, Telephone Flat, Inc. and Calpine Corporation wrote a letter, dated February 18, 2003, requesting a final decision denying the appeal in its entirety by no later than March 20,

2003, in accordance with 36 CFR 215.17. Mr. Maynard states Calpine Corporation adamantly opposes the Department of Agriculture rendering a decision or granting relief that would cause further delays of the project unless the United States fully compensates CPN for damage or loss. He further concludes the allegations presented by the appellants have already been considered and rejected and that they offer no new or different basis for denial or further delay of the Telephone Flat Project approval.

Issues – Allegations included: Project would emit pollutants in excess of thresholds, inadequate consideration of cumulative effects and other alternatives including the “no action” alternative, Project fails to protect biological diversity, does not comply with the Modoc National Forest Land and Resource Management Plan, inadequate Biological Assessments and plant and wildlife surveys, failure to adequately consider impacts to traditional/cultural sites and values, failure to consult with the State Historic Preservation Officer and the Advisory Council on Historic Preservation, failure to provide a supplement to the Environmental Impact Statement and no determination of public interest prior to approval of the transmission and water lines rights-of-way.

Purported Violations: Clean Air Act, National Environmental Policy Act, National Forest Management Act, Endangered Species Act, National Historic Preservation Act, Federal Land Policy and Management Policy Act and Freedom of Information Act.

RECOMMENDATION

My review was conducted pursuant to and in accordance with 36 CFR 215.19 to ensure the analysis and decision is in compliance with applicable laws, regulations, policy and orders. I reviewed the appeal record including the Appellant’s objections and recommended changes.

Based on my review of the Record, I recommend the Chief’s decision be affirmed based on the following Forest Service decision activities:

- Permitting construction, operation and maintenance of a 230-kV, overhead transmission line,
- Issuance of a road use permit for access to the power plant,
- Permitting temporary water well use and water line placement and maintenance,
- Issuance of a Forest Order prohibiting firearm discharge within the vicinity of the Telephone Flat power plant.

I recommend the Appellant’s requested relief be denied on all issues. I also recommend the Appellant’s request for a stay is denied.

FINDINGS

Clarity of the Decision and Rationale - I found the Chief of the Forest Service has provided the necessary rationale and purpose for the decision in the ROD. The project was modified in response to concerns. Selection of the Alternate Transmission Line Route 2 and the incorporation of conditions and commitments of the Fourmile Hill MOA describe and constitute reasonable modifications of the original alternative and to Calpine

Corporation's Plan of Operation. The responsible officials have gone into considerable detail to respond to the concerns expressed by the Appellants of this project.

Comprehension of the Benefits and Purpose of the Proposal – The purpose and need for this action is consistent with the Modoc National Forest Plan and direction. The “no action” alternative is carried throughout the analysis. Explanation included in the ROD, Section B, Renewable Energy Needs, contributes to a better understanding of the selected alternative.

Calpine Corporation obtained geothermal leases issued by the Bureau of Land Management within the Glass Mountain Known Geothermal Resource Area. The leases provide the leaseholder the right to explore, develop and utilize the geothermal resources located within the boundary of the leases. As per stipulations of the leases, Calpine Corporation submitted a Plan of Operation in compliance with the process for exercising their rights as leaseholders.

Consistency of the Decision with Policy, Direction, and Supporting Information – The proposed action, as developed and as amended by the ROD, is consistent with known ecosystem management principles. The proposal appears to be consistent with Agency policy and direction as far back as the 1981 Environmental Assessment for Geothermal Leasing, which allowed for geothermal resource exploration and utilization of lands within the Known Geothermal Resource Area.

The decision to select the Proposed Action as Amended is supported by rationale, information and analysis. A review of the EIS to determine the need for a supplement was completed and resulted in the appropriate determination. The decision is consistent with the Modoc National Forest Land Resource Management Plan. The analysis in both the EIS and the review of the EIS demonstrates compliance with existing management policy and direction. The ROD and EIS make appropriate findings required by law to affirm the project's compliance with the Clean Air Act, National Environmental Policy Act, National Forest Management Act, Endangered Species Act, National Historic Preservation Act, and the Federal Land Policy and Management Act. The analysis utilized detailed resource information related to the project.

Effectiveness of Public Participation Activities and Use of Comments – The public, various government agencies and tribal governments have provided considerable input that has been significant in the design of the alternatives and the selected action. Issues and concerns identified during public meetings, government-to-government consultation and site visits are evident throughout the environmental document, the reconsideration documents and the new Record of Decision. The decision does not appear to have been made without due consideration and appreciation of cultural and social impacts associated with the transmission line and other activities. There is evidence of active public participation and Forest Service responsiveness, including a meeting of the Chief of the Forest Service with the Klamath and Pit River Tribes. Opportunity for public participation and tribal consultation was sufficient.

Requested Changes and Objections of the Appellants – The appeal, for the most part, reflects an understanding of the proposed action, location and information. There does appear, however, to be some confusion between the Fourmile Hill and the Telephone Flat geothermal projects. The appeal contains several references to Alternative 6 and the Klamath National Forest, which are both specific to the approved Fourmile Hill project.

Additionally it is not clear the Appellants understood which of the actions fall outside the jurisdiction of the Forest Service and therefore outside the scope of this appeal.

I recommend the requested relief and stay be denied. The appeal file indicates the Forest Service took an interdisciplinary approach when developing alternatives as well as in the reconsideration process. Issues raised by the Appellants have been addressed in the environmental analysis.

CONCLUSION

I found the Telephone Flat Geothermal Development Project EIS was well documented and contained numerous references to applicable information. The project has been analyzed in depth and appropriate consideration and response have been given to significant public input. The project has been modified as a result of this input. The Proposed Action as Amended by the ROD appears to me to be the preferred alternative best serving the interests of the public.

/s/ David Tenny
Deputy Under Secretary
Natural Resources and the Environment