

September 1994 and was completed in January 1995.

Following the demolition of the former battery facility, it was discovered that a cadmium nitrate tank located on a pedestal immediately adjacent to the plant had leaked onto the underlying soil prior to the closing of the plant in 1979. In an attempt to remove this cadmium-contaminated soil, a twenty-by-sixty-foot area was excavated to a depth of approximately twenty feet (approximately two feet above the ground-water table). While post-excavation sampling of this area showed that some cadmium contamination remained in the saturated soils at levels above the 20 mg/kg action level, and low levels of cadmium were present in the ground water, it was determined that excavating an additional four feet of contaminated soil (two feet below the water table), placing two feet of limestone at the bottom of the excavation (to keep the cadmium insoluble), and backfilling the excavation with clean fill would be protective of public health and the environment.

At the completion of the marsh remediation and restoration activities in April 1995, the marsh was planted with cattails, bull rush, arrow arum, and upland shrubs in specified areas.

The plant grounds were regraded and reseeded in July 1995. Fourteen monitoring wells remain in place on the plant grounds for the long-term monitoring of the ground water for VOCs and cadmium.

In all, 189,265 tons of treated soils and sediments were transported off-site (via 1,979 railcars) to City Management Landfill in Michigan. Chemical Waste Management's hazardous waste landfill in Model City, New York received 906 tons of hazardous materials.

A Remedial Action Report associated with the remediation of the adjacent properties was approved on September 28, 1993. A Remedial Action Report associated with the East Foundry Cove, East Foundry Cove Marsh, Hudson River in the vicinity of the Cold Spring pier, the former battery facility, and plant grounds portions of the site was approved on September 18, 1995. A Superfund Site Close-Out Report was approved on September 28, 1995.

Summary of Operation and Maintenance and Five-Year Review Requirements

The cattails, bull rush, and arrow arum, as well as the upland shrubs, are being monitored on a regular basis by the warden of the adjacent National Audubon sanctuary, Constitution Marsh.

The Settling Defendants have agreed to monitor the site for up to thirty years, commencing with the first inspection/monitoring event that occurred on October 27, 1995.

The long-term monitoring program consists of monitoring the groundwater, East and West Foundry Cove sediments and surface water and biological sampling and analysis quarterly the first year, semi-annually during years two through five, and annually thereafter for a total of thirty years.

Site inspections are to be coincident with the monitoring events. The inspections will include visual observations of the marsh soil cover and erosion controls, groundwater monitoring wells, and general site conditions. Maintenance, if required, will consist of correcting observed deficiencies (e.g., repairing ground water monitoring wells). The fourteen groundwater monitoring wells that comprise the groundwater monitoring program will be inspected to ensure their integrity. They will be repaired should they become damaged, or replaced should they become non-functional.

So that EPA can evaluate the remedy's effectiveness, following each inspection/sampling event, Gould Inc. is to submit to EPA a monitoring and inspection program report, summarizing the inspection and sampling results, and describing any corrective maintenance actions that were taken. In addition, a review of the long-term monitoring and inspection program reports will be performed five years after the completion of the RA to assure that the remedy remains effective in protecting human health and the environment.

There are no operational requirements related to the implemented remedy.

Summary of How the Deletion Criteria Has Been Met

Based upon the results of RA sample analyses, survey results, and site inspections, the site meets the requirements set forth in the RODs. All contaminated soils and sediments above the specific action levels set for each operable unit were excavated and/or dredged from those areas, treated and disposed of off-site. East Foundry Cove Marsh and the plant grounds have been regraded with clean fill and restored. An Explanation of Significant Differences, dated May 1995, was issued by EPA to address the pedestal area on the plant grounds which exceeds the action level at a depth of 20 feet. However, EPA believes the placement of two feet of limestone at the bottom of the excavation to keep the cadmium insoluble, and the backfilling of the

excavation with clean fill is protective of public health and the environment.

EPA and the State have determined that the response actions undertaken at the Marathon Battery Company site are protective of human health and the environment.

In accordance with 40 CFR § 300.425 (e), sites may be deleted from the NPL where no further response is appropriate. EPA, in consultation with the State, has determined that all appropriate responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Having met the deletion criteria, EPA proposes to delete the Marathon Battery Company site from the NPL.

The State has advised EPA that, upon deletion of the Marathon Battery Company site from the NPL, it proposes to change the classification of the site on its Registry of Inactive Hazardous Waste Sites from a Class 2 (a site where the disposal of a consequential quantity of hazardous waste has been confirmed and presents a significant threat to the environment or health) to a Class 4 (a site that has been properly closed, but requires continued operation, maintenance, and/or monitoring).

Dated: April 12, 1996.

William J. Muszynski,

Acting Regional Administrator.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-103; RM-8794]

Radio Broadcasting Services; Smith, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Donegal Enterprises, Inc., seeking the allotment of Channel 271C3 to Smith, Nevada, as the community's first local aural service. Channel 271C3 can be allotted to Smith in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.9 kilometers (2.4 miles) east, at coordinates 38-47-53 NL; 119-16-55 WL, to avoid a short-spacing to Station KSSJ, Channel 270B, Shingle Springs, CA.

DATES: Comments must be filed on or before June 27, 1996, and reply comments on or before July 12, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Patrick A. Mulreany, President, Donegal Enterprises, Inc., P.O. Box 123, Smith, Nevada 89430 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96-103, adopted April 22, 1996, and released May 6, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AD20

Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed special rule; additional information.

SUMMARY: On February 23, 1996, the Service issued a Draft Environmental Alternatives Analysis (EAA) for the proposed special section 4(d) rule for the conservation of the northern spotted owl on non-Federal lands in California and Washington. The proposed special rule was published in the Federal Register on February 17, 1995 (60 FR 9484). The comment period for the draft EAA and the proposed rule was recently extended, (61 FR 15452, April 8, 1996) and is scheduled to end for both documents on June 3, 1996.

The comment period was extended, in part, to allow the public the opportunity to review a proposal by the State of Washington Forest Practices Board that would address impacts of forest practices to the northern spotted owl. The state has asked the Service to consider their proposed state rule as a possible alternative to the current special rule proposed by the Service. The Service seeks additional comments from the interested public, agencies, and interest groups on the Draft EAA, the proposed special rule, and on the State of Washington's proposed state rule as a possible alternative to the rule currently proposed by the Fish and Wildlife. The purpose of this document is to provide a summary of Washington's proposed rule, and a comparison of that rule with the Service's proposed special rule.

DATES: The comment period for written comments closes June 3, 1996.

ADDRESSES: Comments and materials concerning the Draft Environmental Alternatives Analysis, the proposed rule and the potential use of the Washington Forest Practices Board proposed rule as an additional alternative should be sent to Mr. Michael J. Spear, Regional Director, Region 1, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181. The complete file for this proposed rule will be available for public inspection, by appointment during normal business hours, at the U.S. Fish and Wildlife

Service, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, 4th Floor, Portland, Oregon 97204, (503/326-6218).

FOR FURTHER INFORMATION CONTACT: Mr. Curt Smitch, Assistant Regional Director, Region 1, U.S. Fish and Wildlife Service, 3704 Griffin Lane S.E., Suite 102, Olympia, Washington 98501, (206/534-9330); or Ron Crete, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, Portland, Oregon 97232-4181, (503/326-6218).

SUPPLEMENTARY INFORMATION: The Service published its proposed rule under section 4(d) of the Endangered Species Act on February 17, 1995 (60 FR 9484), followed by the release of the draft Environmental Alternatives Analysis (EAA) which describes and analyzes the potential environmental effects of the proposed special rule and six alternatives for the conservation of the northern spotted owl on non-Federal lands in Washington and California.

The State of Washington's Forest Practices Board (Board) began work in 1993 to develop a rule to address the impacts of forest practices on northern spotted owls in that state. Following the publication of the Service's proposed rule, the Board accelerated work on the current version of the proposed state rule. The northern spotted owl is listed as endangered by the Washington Fish and Wildlife Commission. The state's proposed rule is similar in many ways to the Service's proposed 4(d) rule, although there are some differences. The state has asked the Service to consider the state's proposed rule as an alternative to the Service's current proposed rule.

The rule proposed by the Washington Forest Practices Board would classify forest practices in spotted owl habitat as "Class IV-Special". Class IV-Special designation includes forest practices within critical wildlife habitats (state) of species listed as threatened or endangered under either the Federal Endangered Species Act or state law, and requires that certain forest practices proposed to occur in these habitat areas be evaluated relative to their potential to have substantial impacts to the environment. Such forest practices may include timber harvesting, road construction and aerial spraying of pesticides, and are subject to environmental review under the State Environmental Policy Act (SEPA).

A review under SEPA involves a detailed analysis of a proposed action to determine if it will have a significant impact on the environment. Should a finding of significance be made, then an Environmental Impact Statement (EIS)