Appellant Statement #1: Appellant states that there has been no application submitted by a proponent, no purpose and need identified and no reasonable alternatives considered for this project. Appeal at 1.

Response: I find that an application from the proponent does exist, a purpose and need has been identified, and reasonable alternatives were considered.

The Code of Federal Regulations (CFRs) at 36 CFR 220.7(b)(1) direct the agency to briefly state the need for action in an environmental assessment (EA). The CFRs at 40 CFR 1508.9(b) require the agency to include a brief discussion of alternatives in an EA, while the Forest Service Handbook (FSH) 1909.15, 14.4 describes how alternatives not considered in detail are to be documented.

The appeal record documents that a detailed proposal was submitted to the Crescent Ranger District by AT&T on February 3, 2009. Appeal Record at Tab L. The record further documents that all users of Walker Mountain received a detailed proposal from AT&T on October 22, 2010. Appeal Record at Tab K.

The purpose and need for action is articulated in the EA. EA at 6-8. The EA indicates that the purpose of the project is to evaluate the Forest Service’s issuance of a communication lease to authorize AT&T Mobility to redevelop an existing communications facility. The EA states that the action is needed because AT&T does not have the coverage it desires for serving its customers in and around Walker Mountain. EA at 6. An additional need for Walker Range Patrol Association (WRPA) to have a reliable communication system for themselves and their tenants was also identified. EA at 7. Thus, I find that the need for action was stated, as required by regulation.

The EA identifies alternatives considered in detail, which included the proposed action and the no action alternative. EA at 14-22. The EA also documents alternatives considered, but eliminated from detailed study, including alternatives suggested by the appellant. EA at 12-14. The National Environmental Policy Act (NEPA) implementing regulations require consideration of ‘reasonable’ alternatives, which the Council on Environmental Quality (CEQ) defines as those that are “practical or feasible from the technical and economic standpoint and using common sense.” 40 CFR 1502.14(a). A review of the alternatives that were not considered in detail shows that they were eliminated from detailed study because they would not meet the purpose and need, were infeasible, or because the existing towers were already at capacity. Thus, the consideration of alternatives complied with NEPA regulations. EA at 12-14.

Appellant Statement #2: Appellant states that the only scoping comments submitted on the project were by himself. Appeal at 1.

Response: I find that the appellant is correct in that no other agency or individual submitted scoping comments.
Scoping, a process to surface concerns regarding the effects of the proposed project, is required for all Forest Service actions and for this project, scoping started in October of 2010. 36 CFR 220.4(e)(1). A review of the record shows that the scoping letter from the Forest Service was sent to potentially interested and affected publics. Appeal Record, Tab K. The project was also posted on the Forest schedule of proposed actions (SOPA) in April of 2011, which is available via the World Wide Web. In general, only those persons interested in or affected by a project submit scoping comments. Thus, I find that the Forest conducted appropriate scoping for this project, which resulted in one scoping comment letter submitted by the appellant, indicating that no other persons or groups were interested in or affected by this project.

**Appellant Statement #3:** Appellant asserts that based on the fact that there has been no application, no purpose and need, no alternatives and no comments, the whole EA, with the exception of the wildlife report, was fabricated by Forest Service employees. Appeal at 1.

**Response:** I find that the appellant is correct in that Forest Service employees wrote the EA, as documented on page 48. In reviewing the EA, I find that there are citations of law, regulation, and policy, along with personal communications, photos, and other evidence of on-the-ground analysis that are based on factual information. Thus, I find that the document was prepared following applicable rules and regulations.

**Appellant Statement #4:** Appellant states that past decisions have reduced his enjoyment of public lands and that this decision is retaliation against him and his companies because of past challenges he has raised. Appeal at 1.

**Response:** I find that the EA considered impacts to recreational opportunities in the area.

The CFRs at 36 CFR 220.7(b)(3)(iv) direct the agency to discuss the impacts of the proposed action and any alternatives. The Recreation Opportunity Spectrum (ROS) of the area was addressed in the EA at 36. The ROS for this project is roaded modified, and that would not be changed with this project. EA at 36. The EA documents consideration of other ongoing and reasonably foreseeable actions and discloses that no measureable cumulative effects to recreation would occur as a result of these activities. EA at 36. Therefore, I find that the EA adequately addressed potential impacts to all users who may recreate in the area.

I do not find evidence that this decision 'retaliates' against the appellant. Appellant’s comments were solicited during scoping as documented by the letter sent to him (and other potentially interested and affected publics) on October 22, 2010 by the proponent and by the scoping letter sent to him on December 15, 2010 by the Forest. Appeal Record at Tab K. On March 18, 2011, the Forest sent the appellant a letter informing him that the preliminary environmental assessment (EA) was available for comment. Appeal Record at Tab J. Appellant’s comments on the preliminary EA were responded to in detail, as documented in Appendix A of the EA. Appeal Record at Tab D. The decision notice (DN) and finding of no significant impact (FONSI) also documented consideration of appellant’s comments. DN/FONSI at 2. Therefore, I find no evidence that this decision retaliates against the appellant, as it fully incorporates concerns and comments raised by appellant.

**Appellant Statement #5:** Appellant states none of the proposed changes to Walker Mountain have been disclosed to the public. Appellant states that the forest’s SOPA announced the project after the 30-day comment period had started and that the public did not have an opportunity to comment on the undisclosed details of the project. Appeal at 1.
**Response:** I find that the proposed changes to Walker Mountain associated with this project were fully disclosed to the public and that the public had adequate time to comment on the details of the project.

Scoping, a process to surface concerns regarding the effects of the proposed project, is required for all Forest Service actions. 36 CFR 220.4(e)(1). Additionally, the Forest Service is required to publish a legal notice soliciting comments for actions documented in an EA. 36 CFR 215.3(a).

Potentially interested and affected publics were notified of the project starting in October of 2010 and were provided with details of the project in a scoping letter sent by the Forest Service in December of 2010. Appeal Record at Tab K. A letter was sent to potentially interested and affected publics on March 18, 2011 announcing the availability of the EA for comment, while the legal notice announcing that the EA was available for comment was published in the newspaper of record, The Bulletin, on March 23, 2011. Appeal Record at Tab J. While the publication of the SOPA did occur after the EA comment period started, the SOPA is not to be used as the sole method of announcing Forest Service projects. In addition, the SOPA is only updated on a quarterly basis, with April 1, 2011 as the SOPA publication date for the spring of 2011. A SOPA published in January of 2011 would not have been able to list accurate comment dates. In addition to publication in the SOPA, all documents were posted on the Forest’s world wide website for public use. Thus, I find that the public had adequate information and time to comment on the proposed project, as reflected by the fact that appellant submitted timely comments that were reviewed and addressed by the Forest Service.

**Appellant Statement #6:** Appellant states that the 2009 site plan amendment reversed a 1995 amendment that prohibits tree cutting for construction. Appeal at 1.

**Response:** I find that the 2009 site plan amendment clarified conditions for which manipulation of vegetation was allowed.

The EA at 6 describes the evolution of site plans for Walker Mountain. The 2009 site plan amendment clarified that removal of vegetation was allowed for construction activities, thus the current EA complies with all relevant Forest Plan standards and guidelines for vegetation removal. Appeal Record, Tab N. In addition, the 2009 site plan went through the notice, comment, and appeal process and is no longer subject to appeal, nor are appellant’s challenges to that document allowed in the context of this decision.

**Appellant Statement #7:** Appellant states the proposed towers, which would extend 75 feet above the 20-foot trees that are currently on site, will violate the visual quality objective (VQO) of partial retention. Appeal at 1. Appellant also states that there has been no visual analysis prepared by a Forest landscape architect for this project. Appeal at 2.

**Response:** I find that a visual analysis was conducted and reviewed by a landscape architect and that the VQO of partial retention will not be violated by this project.

The CFRs at 36 CFR 220.7(b)(3)(iv) direct the agency to discuss the impacts of the proposed action and any alternatives. The EA at 23-35 details how the project will comply with the VQO of partial retention, as seen from key viewpoints along Highways 58 and 97. The EA at 24 documents the methodology used for the analysis. Numerous photos of the current condition are displayed, followed by photos that predict how the mountain would look if the proposed action were implemented. The EA documents how the proposed towers would remain visually subordinate from key viewpoints, thus complying with the partial retention VQO. Finally, the EA at 60 documents that the Forest Landscape Architect...
reviewed the analysis and verified that the project would comply with the Forest Plan standard and guideline for the viewpoint’s VQO of partial retention.

**Appellant Statement #8:** Appellant states that there is no need for additional towers, as the current towers can adequately accommodate collocation of other users. Appeal at 2.

**Response:** I find that the Forest determined that the current towers could not adequately accommodate collocation of other users.

The CFRs at 36 CFR 220.7(b)(1) direct the agency to briefly state the need for action in an EA. The CFRs at 40 CFR 1508.9(b) require the agency to include a brief discussion of alternatives in an EA, while the Forest Service Handbook (FSH) 1909.15, 14.4 describes how alternatives not considered in detail are to be documented.

As stated in the response to Appellant’s Statement #1, the purpose and need for action is articulated in the EA. EA at 6-8. The EA indicates that the purpose of the project is to evaluate the Forest Service’s issuance of a communication lease to authorize AT&T Mobility to redevelop an existing communications facility, an action that is needed because AT&T does not have the coverage it desires for serving its customers in and around Walker Mountain. EA at 6. An additional need for Walker Range Patrol Association (WRPA) to have a reliable communication system for themselves and their tenants was also identified. EA at 7.

The response to Appellant’s Statement #1 describes how the EA identified alternatives considered, but eliminated from detailed study, including alternatives suggested by the appellant. EA at 12-14. A review of the alternatives that were not considered in detail shows that they were eliminated from detailed study because they would not meet the purpose and need, were infeasible, or because the existing towers were already at capacity. EA at 12-14. The EA at 14 and the response to comments in Appendix A at 65 and 68 also addressed this appeal point by stating that the Verizon/RCC tower is at capacity, while the BPA tower use by private entities is discouraged because of security concerns.

**Appellant Statement #9:** Appellants states that no roads analysis had been prepared for the 120 feet of new road proposed to loop around the proposed new facility, in violation of forest policy. Appeal at 2.

**Response:** I find that a roads analysis was not required for this project.

The EA at 2 describes the proposed action and states that no new access is needed. The EA at 8 describes the construction of a 120-foot gravel apron surrounding the facility that would provide a surface for accessing the building; I find that this was appropriately described and does not constitute building a road. The EA at 60 documents that the project has no road construction or changes to current access proposed and as such, no roads analysis is required. This is consistent with Forest Service Road Management policy.

**Appellant Statement #10:** Appellant states that the decision to collocate AT&T and the State equipment was made in the 2009 EA. Appeal at 2.

**Response:** I find that there was no decision in the 2009 site amendment EA to collocate AT&T with State equipment.

A review of the record documents no reference to AT&T in the 2009 EA or in the DN/FONSI, thus I find that this appeal point does not have merit. Appeal Record, Tab N.