Mountain Seed Orchard, Pal Moore Meadows Seed Orchard, Teepee Seed Orchard, Cedar Creek Seed Orchard, and Flowery Trail Seed Orchard. The lands have been and will remain open to such forms of disposition as may by law be made of National Forest System lands and to mineral leasing.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–280–7171.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the investment in five Forest Service seed orchards:

Willamette Meridian

Colville National Forest

Brown Mountain Seed Orchard

T. 35 N., R. 33 E.,
Sec. 16, NW¼NW¼ and N½SW¼NW¼;
Sec. 17, E½E½NE¼NE¼ and E½NE¼SE¼NE¼.

Pal Moore Meadows Seed Orchard

T. 33 N., R. 41 E.,
Sec. 1, W½E½ and W½ of lot 4 and W½SW¼NW¼;
Sec. 2, S½S½ of lot 1, S½SE¼ of lot 2, and S½NE¼.

Teepee Seed Orchard

T. 37 N., R. 42 E.,
Sec. 34, S½SE¼NW¼NE¼, E½SW¼NE¼, W½SE¼NE¼, N½NW¼NE¼SE¼, and N½NE¼NW¼SE¼.

Cedar Creek Seed Orchard

T. 40 N., R. 42 E.,
Sec. 10, SE¼NE¼SW¼, W½E½SW¼, W½SW¼, and NE¼SE¼SW¼.

Kaniksu National Forest

Flowery Trail Seed Orchard

T. 32 N., R. 43 E.,
Sec. 5, S½NE¼SW¼, E½SW¼SW¼, and SE¼SW¼.

The areas described aggregate 496.22 acres in Ferry, Stevens, and Pend Oreille Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: April 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–9099 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–33–P

43 CFR Public Land Order 7137

[CO–930–1920–00–4357; COC–52206]

Transfer of Public Land for the Maybell Disposal Site; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order permanently transfers 140.49 acres of public land to the Department of Energy in accordance with the terms of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7916 (1988)), as amended.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7916 (1988)), as amended, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby permanently transferred to the Department of Energy, and as a result of this transfer, the land is no longer subject to the operation of the general land laws, including the mining and the mineral leasing laws, for the Maybell Disposal Site:

Sixth Principal Meridian

T. 7 N., R. 94 W.,
Sec. 19, lots 10, 12, 14, and 16, W½E½SW¼NE¼, W½E½NE¼SW¼NE¼, W½SW¼NE¼, SE¼NW¼, W½W½NE¼NW¼SE¼, and W½NW¼SE¼.

The area described contains 140.49 acres of public land in Moffat County.

2. The transfer of the above-described land to the Department of Energy vests in that Department full management, jurisdiction, responsibility, and liability for such land and all activities conducted therein, except as provided in paragraph 3.

3. The Secretary of the Interior shall retain the authority to administer any existing claims, rights, and interests in this land established before the effective date of the transfer.

Dated: April 7, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–9048 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–JB–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 92–28; FCC 95–71]

Mobile-Satellite Service at 1610–1626.5 and 2483.5–2500 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Second Report and Order denies five pioneer's preference requests submitted by Constellation Communications, Inc. (Constellation), Ellipsat Corporation (Ellipsat), Loral Qualcomm Satellite Services, Inc. (LQSS), Motorola Satellite Communications, Inc. (Motorola), and TRW Inc. (TRW). These parties requested a pioneer's preference for their proposals with regard to non-geostationary (low-Earth orbit, or LEO) mobile-satellite service (MSS) systems. In denying the requests, the Commission has determined that none of these LEO MSS proponents pioneered an innovative new service or technology.

EFFECTIVE DATE: May 15, 1995.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, Office of Engineering and Technology, telephone (202) 739–0598.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in ET Docket No. 92–28, adopted February 24, 1995 and released March 30, 1995. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Public Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this Memorandum Opinion and Order also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20036, (202) 857–3800.

Summary of Second Report and Order

1. In the Notice of Proposed Rule Making and Tentative Decision, ET Docket No. 92–28, 7 FCC Rcd 6414, 57 FR 43434 (September 21, 1992), in this proceeding, we decided not to award a pioneer's preference to any of the five applicants proposing to establish LEO MSS systems. We were unable to discern a significant innovation in any of the five proposals that would warrant a preference grant. In each case, the technology relied upon to show innovation appeared to have already been used on existing satellite systems. Further, we found that none of the five applicants demonstrated, at the time of filing of their applications for a pioneer's preference, the technical feasibility of their respective systems. As noted, the Second Report and Order affirmed the Tentative Decision with respect to each of the five applicants. The Commission reason for not awarding preferences to these applicants were as follows.

2. First, Constellation requests a pioneer's preference for its proposed LEO MSS system, stating that its proposal is innovative because it would use: (1) Micro-satellites that are designed as an outgrowth of other satellites that Constellation had pioneered for the U.S. military; (2) dynamic receivers; and (3) a new launch vehicle that enables satellites to be launched into orbit in a more cost-efficient and reliable manner. Constellation proposes a nationwide satellite service that would, *inter alia*, serve areas and people who do not currently have access to any telecommunications service.

3. In the Tentative Decision, we concluded that Constellation's proposal merely combined existing technologies and did not constitute innovative achievements. We also noted that Constellation had neither demonstrated that its micro-satellite and dynamic receiver are unique, nor provided a technical showing to demonstrate that its design surpassed the state-of-art in satellite communications technology. Thus, we concluded that Constellation did not warrant a preference. No commenting party addressed the tentative denial of Constellation's request. Accordingly, in the Second R&O, we find no basis in the record to indicate that an award of a pioneer's preference is warranted and therefore, deny Constellation's pioneer's preference request.

4. Second, Ellipsat asserts that it was the first applicant for a LEO system in these bands. Specifically, Ellipsat proposes to operate a nationwide mobile voice and position determination service via small low-Earth orbit satellites. Ellipsat requests a pioneer's preference for its alleged pioneering proposal for a voice and position determination LEO MSS system that: (1) Would be the first commercial use of elliptical orbits that optimize coverage over the U.S.; (2) would provide efficient spectrum use and facilitate sharing and multiple entry by other licensees by using code division multiple access (CDMA) spread spectrum technology; and (3) would utilize ''transparent interconnections'' between ground and satellite stations resulting in a seamless communications network which will provide low-cost, high-quality voice service. In addition, Ellipsat asserts that it was the first to apply for a LEO MSS system in the 1.6 and 2.4 GHz bands.

5. In the Tentative Decision, we concluded that Ellipsat failed to meet its burden of demonstrating that its proposal is new and innovative. We found that the techniques Ellipsat proposed to use already exist in the satellite community and thus do not demonstrate an innovative contribution. We stated that the elliptical orbits relied upon by Ellipsat to demonstrate innovation have been used by U.S. military satellites and the Russian Molnyia satellite system. Further, we found that Ellipsat had not demonstrated that it had pioneered the use of ''transparent interconnections'' between ground and satellite components or CDMA technology. Also, we found that Ellipsat did not have a significant lead over the other preference applicants in concept design nor had it performed relevant verifiable experiments. Thus, we stated that it would be inappropriate to single out Ellipsat for a preference based on the timing of its submissions.

6. In comments to the Tentative Decision, Ellipsat supports our decision not to award any pioneer's preferences in this proceeding. Ellipsat states that if any preferences are awarded, it warrants a grant since it was the first to propose a LEO satellite system above 1 GHz. Ellipsat did not submit additional information related to its own proposed system, and no other party commented on the tentative denial of Ellipsat's request. Accordingly, in the Second R&O, we find no basis in the record to indicate that an award of a pioneer's preference is warranted and, therefore, deny Ellipsat's pioneer's preference request.

7. Third, LQSS requests a pioneer's preference for its proposed enhanced satellite system that it states can provide data and voice transmission to hand-held portable transceivers and also provide position determination services. LQSS argues that its proposed system reflects substantial development of new system architecture and provides for multiple users and interoperability with the existing public telephone switched network. Further, it claims that its satellite system design using eight satellites per circular orbital plane, spot beams, smooth call hand-off, and a pilot channel for synchronization with gateway stations is innovative. Further, LQSS claims that is high system capacity accommodates thousands of voice and data users simultaneously. LQSS proposes to use CDMA spread spectrum technology that its Qualcomm subsidiary developed and patented. LQSS submits that all of these developments constitute innovations that satisfy the criteria for a pioneer's preference.

8. In the Tentative Decision, we found that LQSS's proposal offers no contribution to communications technology that is significantly innovative. No party commented on the tentative denial of LQSS's request. Accordingly, in the Second R&O, we find no basis in the record to indicate that an award of a pioneer's preference is warranted and, therefore, deny LQSS's pioneer's preference request.

9. Fourth, Motorola requests a pioneer's preference for its proposed LEO MSS system that it contends uses an innovative cellular design and spot beam technology. Motorola states that in the case of conventional cellular telephones, a static set of cells serves a large number of mobile units, whereas in its proposed system, cells would, in effect, move rapidly over the Earth while mobile units remain relatively stationary. Motorola claims that the unique elements of its system are its spectral efficiency and innovative design that includes the use of intersatellite links, a combination of frequency division multiple access and time division multiple access techniques, and bi-directional capabilities.

10. In the Tentative Decision, we concluded that Motorola's approach does not offer any significant improvements or innovations in service or technology. We found that Motorola's use of inter-satellite links and its concept of moving cells and spot beams have been utilized in earlier satellite systems and are thus not innovative. As we stated in the Tentative Decision, the U.S. military established inter-satellite link (crosslink) feasibility in 1976. Further, the technique of moving cells and spot beams has been utilized by the Department of Defense on its satellites

to improve coverage and provide frequency reuse. We also disagree that Motorola was the first to conceive and design a LEO satellite system above 1 GHz. From the record, it appears that all of the pioneer's preference applicants were performing research and developing their proposals in approximately the same time frame. Motorola's comments do not persuade us that the above findings were incorrect.

11. Further, we find that even if Motorola's system were innovative, it still would not meet our pioneer's preference criteria because Motorola did not demonstrate the technical feasibility of its proposed system prior to the Notice of Proposed Rule Making and Tentative Decision in this proceeding. Rather, the information submitted by Motorola at that time related to major spacecraft and ground segment systems and did not relate to the subsystem details necessary to establish technical feasibility.

12. Motorola also argues that we erred when we permitted a group of experts from other federal agencies to advise us on the merits of the requests without opening the results of this review to public comment. Motorola contends that this constituted peer review as contemplated by us when we established the pioneer's preference rules in Docket 90–217 (see Report and Order GEN Docket 90–217, 6 FCC Rcd 3488, 56 FR 24011 (May 28, 1991)) and that we should have released the results of the experts' evaluations to the public for comment. However, we disagree that the review performed by representatives of other government agencies constituted peer review. These representatives are employees from other federal government agencies who have expertise in satellite engineering matters. They were detailed by their agencies to the Commission and performed duties as Commission staff. The Commission brought these employees onboard using normal FCC personnel practices. Further, we follow this course of action routinely when we need additional resources or expertise in various matters. Here, the purpose of the work detail was to provide additional analysis by government experts of the pioneer's preference requests, but not to perform independent peer review as discussed in the Report and Order in Docket 90–217, (see Report and Order GEN Docket 90–217, 6 FCC Rcd 3488, 56 FR 24011 (May 28, 1991)). Therein, we contemplated soliciting assistance from either government or non-government experts who would not be functioning as Commission staff. Thus, there was nothing unfair in the Commission's use of employees on detail from other Government agencies to assist in the review of the various proposals. For all of these reasons, the Second R&O concludes that Motorola is not entitled to a pioneer's preference and that the procedure used to reach that decision was appropriate.

13. Finally, TRW requests a pioneer's preference for developing a LEO MSS system that would use higher orbits to provide position determination, voice communications, and data services to mobile users. It claims that its proposed service is a significant and innovative new use because the provision of co-primary mobile voice and data services is not currently authorized in the 1.6 and 2.4 GHz bands. TRW states that its system combines the advantages of LEO and geostationary orbit (GSO) systems by providing low communications time delay compared to the delay associated with GSO systems, while using higher elevation angles than other LEO proponents to minimize obstruction by trees, buildings, and terrain. Finally, TRW states that its proposed system will provide inexpensive service to underserved segments of society, including emergency service providers, farmers, ranchers, truckers, and automobile, sea, and air travelers.

14. In the Tentative Decision, we concluded that although TRW's LEO system would take advantage of higher orbits, its proposal was not sufficiently innovative to warrant a preference. We found that TRW merely had balanced the relative advantages and disadvantages of LEO versus GSO systems.

15. In comments to the Tentative Decision, TRW states that we pursued the most prudent and reasonable course in declining to award any of the applicants a preference. No other party commented on the proposed denial of TRW's request. Accordingly, in the Second R&O, we find no basis in the record to indicate that an award of a pioneer's preference is warranted and, therefore, deny TRW's pioneer's preference request.

16. Accordingly, it is ordered, That the pioneer's preference requests filed by Constellation Communications, Inc., Ellipsat Corporation, Loral Qualcomm Satellite Services, Inc., Motorola Satellite Communications, Inc., and TRW Inc. are denied. This action is taken pursuant to sections 4(i), 303 (c), (f), (g), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303 (c), (f), (g), and (r).

List of Subjects in 47 CFR Part 2

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–9092 Filed 4–12–95; 8:45 am]

BILLING CODE 6712–01–M