

FINDING OF NO SIGNIFICANT IMPACT
Bureau of Land Management
Kemmerer Field Office

Project Title: *Fossil Butte Communication Site, access road and fiber optic cable*

Lease/Serial/Case File No.:

Communication Use Lease: WYW-171448/Right-of-Way Grant: WYW-171457

EA Number: *DOI-BLM-WY-D090-2014-0105-EA*

Location of Proposed Action: *6th Principal Meridian, T. 21 N., R. 118 W., Sections 9, 11, 14, 15; Lincoln County, WY*

Applicant: Silver Star Telephone Company

BACKGROUND

The BLM is considering the application for a Communications Use Lease (CUL) WYW-171457 and Right-of-Way (ROW) WYW-171457, for a cellular communications site, buried fiber optic line and access road. The project is located on federal surface.

The Proposed Action is to construct a new cellular communication tower, 120 feet tall, on a 30ft x 30ft concrete pad. Additional equipment will consist of a 10ft x 12ft equipment building and a 10ft x 12ft generator building, both constructed on concrete pads, total disturbance for the tower site is approximately .1 acre. A propane tank could be installed in the future, depending upon customer needs, within the .1 acre area. The proposed cellular communication tower will be co-located on the Union Telephone Company site, approved on June 22, 2006. The proposed tower will be located to the southeast, behind the Union Tower site. An existing access road, currently being used by Union Telephone Company, will also serve as the access road for Silver Star. The fiber optic cable will be ripped in immediately adjacent to the access road. The existing road is 3.35 miles by 16 feet wide. No improvements are authorized for the access road. The fiber optic cable will be 10-foot wide and 3.35 miles long, located on the south side of the road.

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Based upon the information contained in the Fossil Butte Communication Site, access road and fiber optic cable Environmental Assessment (*DOI-BLM-WY-D090-2014-0105-EA*) and all other information available to me, it is my determination that: (1) the implementation of the Proposed Action will not have significant environmental impacts beyond those already addressed in Kemmerer Resource Management Plan (RMP) EIS; (2) the Proposed Action is in conformance with the Approved RMP; and (3) the Proposed Action does not constitute a major federal action having a significant effect on the human environment. Therefore, an environmental impact statement or a supplement to the existing environmental impact statement is not necessary and will not be prepared.

The Proposed Action has been designed to avoid or minimize environmental impacts to the extent feasible. The following mitigation measures have been identified for the Proposed Action:

A detailed plan of development has been written to be incorporated into the right-of-way grant. Because authorization of the Proposed Action may result in exposure of cultural resources not detected on the ground surface by previous inventories, the standard stipulation regarding the discovery of unanticipated cultural resources would be included in the authorization as a condition of approval, as follows:

Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

The holder shall construct, operate, and maintain the facilities, improvements, and structures within this right-of-way in strict conformity with the plan of development (Appendix A). Above ground equipment and/or facilities would be required to be painted to blend with the surrounding landscape using BLM color Shale Green. The exception to this requirement would be equipment, which if painted, would cause a safety issue. Any fencing material shall be neutral medium gray or color blended to match the building and surrounding environment. Metallic fencing shall be vinyl clad and grounded to prevent electrical interference.

Silver Star would be responsible for development and implementation of a weedcontrol/management plan per the Kemmerer Field Office weed stipulations on the disturbed areas within the limits of the ROW to prevent the spread of weeds on public lands, including halogeton (*Halogeton glomeratus*) and Cheatgrass (*Bromus tectorum*).

All construction, operation, and termination activities shall be contained within the authorized limits of the right-of-way.

In the event that the public land underlying the ROW encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed/ and/or the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800 or 2880, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW holder.

The Holder shall comply with all applicable federal, state and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazmat, as defined in this paragraph, that will be used, produced, transported or stored on or within the ROW or any of the ROW facilities, or used in the construction, operation, maintenance, or termination of the ROW or any of its facilities.

'Hazardous material' means any substance, pollutant or contaminant that is listed as hazardous under the CERCLA of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any 'Hazardous waste' as defined in the RCRA of 1976, as amended, 42 U.S.C. 6901 et seq. and its regulations. The term hazardous materials, also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended. 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

The Holder of Communications Use Lease WYW-171448 and Right-of-Way no. WYW-171457 agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the ROW (unless the release or threatened release is wholly unrelated to the ROW Holder's activity on the ROW). This agreement applies without regard to whether a release is caused by the Holder, its agent, or unrelated third parties.

No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of three inches deep, the soil shall be deemed too wet to adequately support construction equipment.

Authorized construction, routine maintenance, or surface disturbance is not allowed during the following periods for protection of these special status species:

- From November 15 through April 30 for the protection of crucial big game winter range;
- From November 15 through March 14 for sage grouse winter range habitat;
- From March 15 through July 15 for sage grouse nesting and brood rearing habitat;
- Motor vehicle travel is seasonally limited and is closed from January 1 to April 30.

The Holder may request an exception in writing to the above stipulation. Any exceptions to the stipulation must be approved in writing by the Authorized Officer prior to conducting any surface disturbing or prior to conducting activities disruptive to wildlife. The exception request must explain the reason(s) for the exception, why the proposed activities will not impact the species or their habitat, and the dates for which the exception is requested. Data supporting the exception must accompany the written request.

A performance bond is required for this authorization. The amount of the bond shall be determined as follows: the holder shall furnish a report within 90 days estimating all costs for the BLM to fulfill the terms and conditions of the grant in the event that the holder was not able to do so. This estimate shall be prepared by an independent State certified engineer who is approved in advance by the BLM authorized officer, and shall include such information including but not limited to administrative costs and Davis Bacon wages potentially incurred by the BLM. The report shall detail the estimated costs and shall be accompanied by the engineer's seal. All costs of preparing and submitting this report shall be borne solely by the holder. This report along with inflationary estimates shall be the basis of the bond, and shall remain in effect until such time that the authorized officer determines that conditions warrant a review of the bond. This bond may be periodically adjusted by the authorized officer in the method described above when, in his/her sole determination, conditions warrant a review of the bond. Surface disturbing activities shall not commence until the BLM authorized officer has accepted the bond and issued a notice to proceed.

The holder shall seed all disturbed areas, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the second growing season. Seed mixes would include two native forbs and two native grasses with at least one bunchgrass species. All seed would be required to be certified weed-free seed for rehabilitation projects.

Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

For the purpose of determining joint maintenance responsibilities, the holder shall make road use plans known to all other authorized users of the road. Failure of the holder to share proportionate maintenance costs on the common use access road in dollars, equipment, materials, or manpower with other authorized users may be adequate grounds to terminate the use agreement. The determination as to whether this has occurred and the decision to terminate shall rest with the authorized officer. Upon request, the authorized officer shall be provided with copies of any maintenance agreement entered into.

Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

Authorized Official:

for 
William A. Mier
Field Manager
BLM Kemmerer Field Office

Date

2/24/15