

Decision Record

Environmental Assessment Telecommunications Cable Right-of-Way WYW-165184

February 2011

BLM

Worldland Field Office, Wind River/Bighorn Basin District, Wyoming



The BLM's multiple-use mission is to sustain the health and productivity of the public lands for the use and enjoyment of present and future generations. The Bureau accomplishes this by managing such activities as outdoor recreation, livestock grazing, mineral development, and energy production, and by conserving natural, historical, cultural, and other resources on public lands.

DOI-BLM-WY-010-2010-069-EA

DECISION RECORD
Environmental Assessment
WY-010-2010-069-EA
TCT West Inc. Telecommunications Cable
Right-of-Way WYW-165184/WYW-165184-01

I. DECISION

It is my decision to grant rights-of-way described as Alternative 2 of Environmental Assessment WY-010-2010-069-EA to include those measures proposed by the applicant subject to the terms and conditions attached.

II. ALTERNATIVES CONSIDERED

The Environmental Assessment (EA) for the proposal considered three alternatives.

Alternative 1, the Proposed Action alternative, assessed and disclosed the projected effects of the proposal as detailed in the Proposed Action portion of the environmental assessment.

Alternative 2, the Proposed Action with Terms and Conditions alternative, assessed the proposed action and BLM resource staff input. Terms and Conditions were determined to be necessary and proper to provide adequate protection for surface and subsurface resources. The terms and conditions are considered part of this alternative for the purpose of analysis.

Alternative 3, the No Action alternative, assessed the effects of not implementing any portion of the proposal. Under the no action alternative the WFO analyzed the effects of denial of any further development associated with this project. This alternative provides a benchmark to compare the magnitude of the environmental effects of the alternatives.

III. RATIONALE

Implementation of the proposed right-of-way would not result in unnecessary or undue degradation of the Public Lands.

The proposed action is in conformance with the Washakie Resource Management Plan and the Grass Creek Planning Area Resource Management Plan.

IV. APPEALS

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (BLM, Worland Field Office, P.O. Box 119, 101 South 23rd Street, Worland, WY

82401) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

Barry Peterman for DON KRUMP
Authorized Officer

25 FEB 2011
Date

Attachments:
Terms and Conditions

Terms and Conditions
WYW-165184

1. The operator is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are uncovered during construction, the operator is to immediately stop work that might further disturb such materials, and contact the authorized officer (AO). Within five working days the AO will inform the operator as to:

-whether the material appears eligible for the National Register of Historic Places;

-the mitigation measures the operator will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,

-a timeframe for the AO to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate.

If the operator wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the AO will assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the operator will be responsible for mitigation costs. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume construction.

2. The holder shall permit free and unrestricted public access to and upon the right-of-way for all lawful purposes except for those specific areas designated as restricted by the authorized officer to protect the public, wildlife, livestock, or facilities constructed within the right-of-way.

3. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods.

4. In consultation with the authorized officer, above ground structures will be painted to blend in with the natural color of the landscape. The paint used will be a color which simulates "Standard Environmental Colors". The color acceptable for this facility shall match Carlsbad Canyon (2.5 Y 6/2), or be an acceptable substitute pre-approved by the authorized officer. Standard environmental color charts are available from the local BLM office.

5. The holder will inspect the construction area for the presence of utility facilities both surface and subsurface, and notify the Wyoming One Call System 1-800-849-2476 before construction activities begin. The holder will use extra safety precautions when

working near or around pipelines, power lines, power poles, underground cables, or other utility installations.

6. 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, re-contouring, top soiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

7. The authorized officer may suspend or terminate, in whole or in part, any notice to proceed which has been issued when, in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.

8. 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 as modified by supplemental material filed, including maps, approved and made part of the right-of-way on its effective date. Any relocation, additional construction, or use that is not in accord with the approved plan of development, shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way, including all stipulations and approved plan of development, shall be made available on the right-of-way during construction, operation, and termination to the authorized officer. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.

Terms and Conditions
WYW-165184-01

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