



**PROGRAM CONSULTATION & COORDINATION/CX CHECKLIST  
BUREAU OF LAND MANAGEMENT  
TUCSON FIELD OFFICE**

**PART II: CATEGORICAL EXCLUSION REVIEW**

NEPA #: DOI-BLM-AZ-G020-2013-0003-CX

**ASSIGNMENT AND REVIEW**

Subactivity: L14920000 ER0000  
Case/Project No.: AZA 17441

Location (legal description): NE¼NE¼, sec.22, T. 8 S., R. 9 E E, G&SRM, AZ  
Project Name: Renewal of Right-Of-Way Communication Use Lease  
NLCS Unit: N/A  
Quad Name: Newman Peak 7.5 topo map  
Project Lead Linda L. Dunlavey

Technical Review:

<b>Applies? Yes or No</b>	<b>NAME</b>	<b>EXCEPTION</b>	<b>SIGNATURE</b>	<b>DATE</b>
NO		(1) Have Significant adverse effects on public health or safety?  <i>The Newman Peak communication site was established in 1982 and no significant environmental effects have resulted.</i>	NEPA TEAM	12/17/2012
NO		(2) Have adverse effects on such unique geographic characteristics as historic or cultural resources, parks, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains or ecologically significant or critical areas including those listed on the Department's National Register of Natural Landmarks.  <i>No such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988) national monuments;; and other ecologically significant or critical areas exist in the affected environment nor would any of these resources be impacted. There are no occurrences of BLM sensitive or State listed species within the project area.</i>	NEPA TEAM	12/17/2012
NO		(3) Have highly controversial environmental effects  <i>The proposed action is not controversial nor are there any unresolved conflicts concerning alternative uses of available resources.</i>	NEPA TEAM	12/17/2012
NO		(4) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.  <i>The Newman Peak communication site was established in 1982 and no significant environmental effects have resulted.</i>	NEPA TEAM	12/17/2012
NO		(5) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.  <i>Any additional proposals would be analyzed and a separate decision would be arrived at based on the analysis.</i>	NEPA TEAM	12/17/2012
NO		(6) Individually Insignificant, but cumulatively significant effects.  <i>The effects of the proposed grant would be limited to the existing grant..</i>	NEPA TEAM	12/17/2012
NO		(7) Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.	NEPA	12/17/2012



The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9: E(9) Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. It has been reviewed to determine if any of the exceptions described in 516 DM 2, Appendix 2, apply.

The action does not have significant adverse effects on public health and safety nor does the action adversely affect such unique geographic characteristics as historic or cultural resources, parks, recreation, or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks. The action does not have highly controversial environmental effects nor have highly uncertain environmental effects or involve unique or unknown environmental risk nor does it adversely affect a species listed or proposed to be listed on the list of endangered or threatened species. It does not establish a precedent for future action or represent a decision in principle about a future consideration with significant environmental effects or related to other actions with individually insignificant but cumulatively significant environmental effects. The proposed action does not adversely affect properties listed or eligible for listing in the National Register of Historic Places or threaten to violate a Federal, State, local or tribal law or requirements imposed for the protection of the environment or which require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands) or the Fish and Wildlife Coordination Act.

**Mitigation Measures/Stipulations:**

See attached stipulations.

**Part III: DECISION.** I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed action does not conflict with major land-use-plans and will not have any major adverse impacts on other resources. Therefore, it does not represent an exception, and is categorically excluded from further environmental review. It is my decision to implement the project, as described, with the mitigation measures attached.

Authorized Official: /S/ (Karen Simms for Brian Bellew)

Brian B. Bellew  
Tucson Field Manager

Date: 12/18/2012

## STIPULATIONS

### AZA-17441 Mitigations for Communication Use Lease for WAPA

1. The holder will comply with all terms and conditions to the BLM approved Newman Peak Communication Site Plan dated September 10, 2004.
2. All applicable regulations found in 43 Code of Federal Regulations 2800 and regulations to be promulgated by the Secretary of the Interior pursuant to Public Law 94-579.
3. The right-of-way reserves to the Secretary of the Interior, or lawful delegates, the right to grant additional rights-of-way, leases, or easements for compatible uses over, under, within or adjacent to the lands involved in this grant.
4. The lease herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Bureau of Land Management's (BLM) authorized officer to be necessary, without liability or expense to the United States, so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the United States.
5. Use of pesticides shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use..
6. The lessee will gain access to the site either by helicopter or on foot.
7. The holder shall notify the authorized officer prior to commencement of emergency maintenance outside the right-of-way to discuss repair and construction activities. If it is found any other improvements are need the holder will need to request and get approval for an amendment to the lease.
8. Should any archaeological resource or vertebrate fossils be discovered during implementation of the right-of-way, all surface disturbing activities in the area of discovery shall cease. The archaeologist will evaluate the discovery and provide recommendations to the Authorized Officer. Surface disturbing activities shall not resume until permission is obtained from the Authorized Officer.
9. If in connection with operations under this authorization, any human remains or funerary objects, scared objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (NAGPRA) (P.L. 101-601; Stat. 3048; 25 U.S.. 3001) are discovered, the permittee shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the Authorized Officer of the discovery. The permittee shall continue to protect the immediate area of the discovery until notified by the Authorized Officer that operations may resume.
10. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et.seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized

under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

11. The United States Coast Guard, in the manner and to the extent provided by the Federal Tort Claims Act, as amended (28 United States Code (USC) Sections 2671-2680) shall be liable for, and shall hold the Department of Interior harmless from, claims for damage or loss of property, personal injury or death caused by the acts or omissions of the United States Coast Guard, its officers, employees and agents in the use of the leased premises.

The holder of right-of-way Communication Use Lease 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 right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third party.

12. Any modification to the right-of-way initiated by the holder may require the submission of an environmental assessment, cultural resource survey and biological evaluation and any other required studies to the BLM's authorized officer

13. All activities directly or indirectly associated with maintenance shall be conducted within the limits of the approved lease. This lease does not allow for any surface disturbing activities outside of the lease area.

14. The lessee shall promptly remove and dispose of all waste caused by his activities. The term "waste" as used herein means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, petroleum products, ashes and equipment. Wastes shall be disposed of in an approved landfill or in a site and manner approved by the authorized officer.