CATEGORICAL EXCLUSION

NEPA (CX) NUMBER: DOI-BLM-ID-I020-2013-0036-CX
BLM OFFICE: POCATELLO FIELD OFFICE
Project Name: Data Solutions Inc. Chinese Peak Communication Site Renewal
APPLICANT: Data Solutions Inc.
Project/Case File Number: IDI-4062
Project Lead: Danny Miller, Realty Specialist
Date of Preparation: June 18, 2013

PROPOSED ACTION:

On August 26, 2009, Data Solutions Inc. applied to renew the existing communication use lease that was granted to the Chinese Peak Communication Site, serial number, IDI-4062, located on public land in Bannock County. This authorization expired on August 25, 2007. The proposed action is to renew communication use lease, IDI-4062 for twenty years, expiring on December 31, 2026. The communication site includes a 15' by 23' building, three 50' guyed steel towers, two 60' wood monopoles, antennas, and buried power and telephone line installed to it.

The original authorization, allowing for a communication site lease was originally issued to Dwight Zundel, on August 26, 1982. An amendment to the authorization was approved on September 11, 1984, to expand on the existing building and erect a new tower. The authorization was assigned to Data Solutions Inc. on August 22, 2005. The authorization was amended on July 14, 2011, to conform to a new Chinese Peak Communication Site Management Plan.

The communication site is located on the Chinese Peak Communication Site Facility (Exhibit A, dated April 27, 2011), encumbering approximately 0.23 acres. It is legally described as:

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Other standard stipulations currently used for rights-of-ways would be incorporated into the grant to bring this authorization to current standards.

No additional rights would be granted beyond those of the original grant.

CONSULTATION AND COORDINATION:

On March 4, 2013, this project was brought before an Interdisciplinary Team of BLM Specialists and reviewed. A description of the proposed action was posted to the online NEPA register. This is available to members of the public through the Pocatello Field Office webpage.

LAND USE PLAN CONFORMANCE:

The Pocatello Field Office Resource Management Plan (RMP), approved on July 10, 2012 has been reviewed to determine if the proposed action conforms to the land use plan terms and conditions as required by 43 CFR 1610.5.

A. Land Use Plan (LUP) Conformance:

The proposed action is in conformance with the Pocatello Field Office Resource Management Plan area. This lease land is managed by the Pocatello Field Office. The controlling Land Use Plan for this public land is the Pocatello Resource Management Plan (RMP) (April, 2012) and was approved on July 10, 2012. The RMP states in part under **Action LR-6.1.6.** (pg. ARMP-84) that,

"For rights-of-ways (ROW's) which include energy and non-energy related ROW's and Land Use Authorizations (LUA's), 590,000 acres will be managed as Open Areas; 21,900 acres will be managed as Avoidance Areas and 1,900 acres will be managed as Exclusion Areas these areas are defined as follows:"

"Open Areas – These are areas not identified as avoidance or exclusion areas and are open to ROWs and land use authorization proposals."

The ROW, IDI-4062 is located in an Open Area therefore, authorizations can be renewed for all types of Land Use Authorizations and Leases.

RECOMMENDATION:

The proposed action is categorically excluded as outlined in 516 DM 11.9, Appendix 4 E(9) and none of the extraordinary circumstances described in 516 DM 2, Appendix 2 apply. This exclusion states that renewing and assigning permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations may be excluded from further environmental review.

I recommend that the communication site lease, IDI-4062 be renewed to Data Solutions Inc. for 20 years, retroactive to August 26, 2007, and expiring on December 31, 2026. The grant would be issued with the right to renew, subject to current terms and conditions and the attached stipulations (Exhibit B). The lease would be granted under the authority of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and current Bureau regulations found at 43 CFR 2800. Rent would be collected as required in 43 CFR 2806.10.

DECISION AND RATIONALE FOR THE DECISION:

It is my decision to renew communication use lease IDI-4062, allowing the continued use of an existing communication site, 15’ by 23’ building, three 50’ guyed steel towers, two 60’ wood monopoles, antennas, and buried power and telephone line installed to it, on public land to Data Solutions Inc. The lease encumbers approximately 0.23 acres. The grant would be renewed for twenty years, retroactive to August 26, 2007, expiring on December 31, 2026, with the right to renew, subject to the current terms and conditions found at 43 CFR 2800 and the attached stipulations. Rent would be collected as required in 43 CFR 2806.10.

Issuance of the lease would cause no significant environmental disturbance. The subject action qualifies as a Categorical Exclusion and meets the criteria contained in 516 DM 11.9, Appendix 4 E (9). None of the exceptions found in 516 DM 2, Appendix 2 apply.

APPEALS INFORMATION:

43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2801.10

_/s/ Danny Miller___	_6-18-13__
Danny Miller	Date
Realty Specialist	
/s/ Blaine Newman	_6/18/2013_
Blaine Newman	Date
NEPA Reviewer	
_/s/ David A. Pacioretty	_6/18/2013_
David A. Pacioretty	Date
Field Manager	

Extraordinary Circumstances Requiring Preparation of an EA or EIS

The action described in categorical exclusion ID- I020-2013-0036-CX (IDI-4062) has been reviewed to determine if any of the following extraordinary circumstances listed below apply, as listed in the Departmental NEPA regulations (43 CFR 46.215).

	Extraordinary Circumstance
1.	Have significant impacts on public health or safety
2.	Have significant impacts on 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; migratory birds; and other ecologically significant or critical areas.
3.	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].
4.	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
5.	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
6.	Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects
7.	Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.
8.	Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have significant impacts on designated critical habitat for these species.
9.	Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
10.	Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
11.	Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
12.	Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

Exhibit A - Geographic Map

IDI-4062

Exhibit B - Stipulations

IDI-4062

Operation and Maintenance

1. Holder agrees to remove their equipment from the radio facility with 45 days of receipt of a certified letter from BLM stating that BLM has decided to vacate the facility.

2. Holder shall install, maintain, and operate their equipment in accordance with the Motorola R56 standards and/or other applicable recognized industry standards.

3. Holder shall immediately implement corrective actions applicable to their equipment when so directed by the BLM Authorized Officer.

4. The Lessee shall notify the authorized officer of any change of mailing address within 30 days.

5. The Lessee shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

6. The holder shall conduct all activities associated with the construction, operation, and termination of the lease within the authorized limits of the lease.

7. No 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 3 inches deep, the soil shall be deemed too wet to adequately support construction equipment.

8. Lease 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.

9. The holder of lease No. IDI-4062 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 lease (unless the release or threatened release is wholly unrelated to the lease holder's activity on the lease.) This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

10. There is reserved to the Authorized Officer, the right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant.

11. Ninety (90) days prior to termination of the lease, the holder shall contact the authorized officer to arrange a joint inspection of the lease. 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.

12. Holder will be held subject to, and need to comply with, the Chinese Peak Communication Site Plan of July 13, 2011, and any updates made to that plan in the future.

13. Holder agrees to participate in Chinese Peak Road Maintenance fund each year and pay the amount required of each Chinese Peak Communication Site Holder.

Weed Control

14. The holder shall be responsible for weed control on disturbed areas within the limits of the lease. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).

15. Use of all pesticides (including fungicides, herbicides, insecticides, etc.) 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.

16. During surface disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves, seeds, and all other vegetative parts) prior to entering public lands in order to minimize the transport and spread of noxious weeds. During surface disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves, seeds, and all other vegetative parts) prior to leaving public lands in areas that are known by the authorized officer of the BLM to be infested with noxious weeds.

Cadastral

17. The holder shall protect all survey monuments found within the lease. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the

incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management lease monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.

Environmental Protection

18. The holder(s) shall comply with all applicable Federal, State and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any Hazardous Materials (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.

Cultural

19. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land 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.

20. Pursuant to 43 CFR 10.4(g), the holder of this authorization must immediately notify the authorized officer by telephone, with written confirmation, upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the

discovery and protect it for 30 days or until notified to proceed by the authorized officer. The BLM Authorized Officer will determine avoidance, protection or mitigation measures in consultation with the Holder, Idaho SHPO, and affected Tribes. Costs associated with the discovery, evaluation, protection or mitigation of the discovery shall be the responsibility of the holder.

21. The holder shall notify the Authorized Officer at least 90 days prior to any non-emergency activities that would cause surface disturbance in the lease. The Authorized Officer will determine if a cultural resource inventory, treatment or mitigation is required for the activity. The holder will be responsible for the cost of inventory, avoidance, treatment or mitigation; including any maintenance-caused damage. The Authorized Officer will determine avoidance, treatment and mitigation measures that are necessary after consulting with the holder and under Section 106 of the National Historic Preservation Act.

22. Holder must affix to their communication site structure the following identification: IDI-4062 in order to identify that the site is authorized.

23. Holder agrees to allow other applicants to collocate on their tower and within their fenced facility.