

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

Twin Falls District
Burley Field Office
15 East 200 South
Burley, ID 83318

DECISION RECORD

for the

**MKR, LLC Communication Site Lease Amendment/Renewal
NEPA No. DOI-BLM-ID-2020-2014-0001-CX**

I. Decision

I have decided to implement the amendment within the lease area for MKR, LLC on Cotterel Communication Site as described in the categorical exclusion DOI-BLM-ID-2020-2014-0001-CX. Based on my review of the categorical exclusion and consideration of extraordinary circumstances, I have concluded that the proposed action was analyzed in sufficient detail to allow me to make an informed decision. I have decided to implement the MKR, LLC Cotterel Communication site amendment to perform upgrades by installing Ethernet to Cell Site (ETTCS) within the existing communication site. The proposed activities will provide high speed wireless signal to its customers for voice as well as data. The fiber/copper path will follow the existing access/utilities right-of-way. In addition, any disturbance to the ground utility/access right-of-way area as a result of the upgrades will be corrected and the area brought back to its condition prior to the site upgrades.

II. Appeals

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Any appeal must be filed within 30 days of this decision. Any notice of appeal must be filed with me, the Michael Courtney, Field Manager at the Burley field Office, 15 East 200 South Burley ID 83318. The appellant shall serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs on each adverse party named in the decision, not later than 15 days after filing such document (see 43 CFR 4.413(a)). Failure to serve within the time required will subject the appeal to summary dismissal (see 43 CFR 4.413(b)). If a statement of reasons for the appeal is not included with the notice, it must be filed with the IBLA, Office of Hearings and Appeals, U. S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Michael Courtney, Field Manager.

Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal under 43

CFR Part 4 does not automatically suspend the effect of the decision. If you wish to file a petition for a stay 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 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.

In the event a request for stay or an appeal is filed, the person/party requesting the stay or filing the appeal must serve a copy of the appeal on the Office of the Field Solicitor, 960 Broadway Ave., Suite 400, Boise ID, 83706.

III. Contact Person

For additional information concerning this project, contact: Jennifer Sonner, Realty Specialist (208)677-6640 or email jsonner@blm.gov.


Michael C. Courtney
Field Manager

3/5/2014
Date

cc:
MKR LLC
1112 Oakley Ave
Burley ID 83318

1 Enclosure:
1-Terms, Conditions, and Stipulations (4 pp)

Terms, Conditions, and Stipulations
MKR, LLC Communication Site
Amendment Lease IDI-032796

1. All Development, operation and maintenance of the authorized facility, improvements, and equipment located on the property must be in accordance with stipulations in the communications site plan approved by the Authorized Officer. If required by the improvements on the property as well as revisions of such plans must be prepared by a licensed engineer, architect. Such plans must be approved in writing by the Authorized Officer before commencement of any work. After Completion, as-built plans, maps, surveys, or other similar information will be provided to the Authorized Offer and appended to the communication site plan.
2. The Lessee must comply with applicable Federal, State, county, and municipal laws, regulations and standards for public health and safety, environment protection, siting, construction, operation, and maintenance in exercising the rights granted by this lease. The obligations of the Lessee under this lease are not contingent upon any duty of the Authorized Officer, or other agent of the United States, to inspect the premises. A failure by the United States, or other governmental officials, to inspect is not a defense to noncompliance with any of the terms or conditions of this lease. Lessee waives all defenses of laches or estoppels against the United States. The Lessee must at all times keep the title of the United States to the property free and clear of all liens and encumbrances.
3. Use of communications equipment is contingent upon the possession of a valid Federal Communications Commission (FCC) or Director of Telecommunications Management/Interdepartmental Radio Advisory Committee (DTM/IRAC) authorization (if required), and the operation of the equipment is in strict compliance with applicable requirements of FCC or IRAC. A copy of each applicable license or authorization must at all times be maintained by the Lessee for each transmitter being operated. The Lessee must provide the Authorized Officer, when requested, with current copies of all licenses for equipment in or on facilities covered by this lease.
4. The Lessee must ensure that equipment within his or her facility (including tenant and customer equipment) operates in a manner which will not cause harmful interference with the operation of existing equipment on or adjacent to the communications site. If the Authorized Officer or authorized official of the Federal Communications Commission (FCC) determines that the Lessee's use interferes with existing equipment, the Lessee must promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the Authorized Officer or FCC official.
5. When requested by the Authorized Officer, the Lessee must furnish technical information concerning the equipment located on the property.

6. The Lessee assumes all risk of loss to the authorized improvements.
7. The Lessee must comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S.C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation, and maintenance of any facility, improvements, or equipment on the property.
8. The Lessee must indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the Lessee's use or occupancy of the property. The Lessee's indemnification of the United States must include any loss by personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of this lease. Indemnification must include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs. This paragraph survives the termination or revocation of this lease, regardless of cause.
9. The United States has no duty, either before or during the lease term, to inspect the property or to warn of hazards and, if the United States inspects the property, it will incur no additional duty nor any liability for hazards not identified or discovered through such inspections, This paragraph survives the termination or revocation of this lease, regardless of cause.
10. The Lessee has an affirmative duty to protect from damage to the land, property, and interests of the United States.
11. In the event of any breach of the lease by the Lessee, the Authorized Officer may, on reasonable notice, cure the breach at the expense of the Lessee. If the Bureau of Land Management (BLM) at any time pays any sum of money or does any act which requires payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages will, at the election of the BLM, be deemed to be additional rental hereunder and will be due from the Lessee to the BLM on the first day of the month following such election.
12. The Lessee must at all times operate the described property and its appurtenant areas and its buildings and facilities, whether or not on the property, in full compliance with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations issued thereunder by the Department of

the Interior and in effect on the date this lease is granted to the end that no person in the United States will, on the grounds of race, sex, color, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any of the programs or activities provide thereon.

13. This lease may be suspended or terminated upon breach of any of the terms or conditions herein or upon nonuse, or when in the public interest. Nonuse refers to a failure to operate consistently the facilities on the property for any period during the term in excess of 180 days. When suspended or terminated in the public interest, the Lessee will be compensated subject to the availability of appropriated funds. Compensation will be based upon the initial cost of improvements located in the lease, less depreciation as allocated over the life of the improvements as evidenced by the Lessee's Federal tax amortization schedules.
14. Except in emergencies, or in case of nonuse, the Authorized Officer will give the Lessee written notice of the grounds for termination or suspension and a reasonable time, not to exceed 90 days, to complete the corrective action. After the prescribed period, the BLM is entitled to such remedies as are provided herein.
15. Any discretionary decisions or determinations by the Authorized Officer on termination or suspension are subject to appeal in accordance with the regulations in Title 43, Code of Federal Regulations.
16. In the event the Authorized Officer decides not to issue a new lease, or the Lessee does not desire a new lease, the Lessee must, prior to the termination of this lease, restore and stabilize the site to the satisfaction to the Authorized Officer.
17. In the event this lease is revoked for noncompliance, the Lessee must remove all structures and improvements within a reasonable period as determined by the Authorized Officer, except those owned by the United States, and must restore the site as nearly as reasonably possible to its original condition unless this requirement is otherwise waived in writing by the Authorized Officer.
18. If the Lessee fails to remove all structures or improvements within the prescribed period, they will become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States.
19. No member of Delegate to Congress or Resident Commissioner may benefit from this lease either directly or indirectly, except when the lease provides a general benefit to a corporation.
20. This lease is granted subject to the following reservations by the United States:
 - a. The right to all natural resource products now or hereafter located on the property unless stated otherwise herein, and the right to obtain, utilize, or

dispose of such resources insofar as the rights and possession of the Lessee are not unreasonably affected.

- b. The right to modify the communication site plan as deemed necessary.
 - c. The right to enter upon the lease and inspect all facilities to assure compliance with the conditions of this lease.
 - d. The right of the United States to use or to authorize the use of the property for compatible uses, including the subsurface and air space.
21. The Lessee shall be responsible for weed control on disturbed areas within the limits of the lease area. The Lessee is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods.
 22. The Lessee shall visibly post the Bureau serial number assigned the lease within the lease area.
 23. If required by the BLM authorized officer, the Lessee shall contribute reasonable funds to the BLM for maintenance of the Cotterel Mountain Communication Site access road.
 24. Upon reasonable notification, the BLM authorized officer shall have the right to jointly inspect with the Lessee, the Lessee's communication facility to insure compliance with the terms and conditions, and stipulations of the authorized lease.
 25. Excess excavated, unsuitable, or slide materials shall be disposed of as directed by the BLM authorized officer.
 26. Bald and Golden Eagle Protection Act Stipulation: No potentially disruptive activities are to occur from February 1 to July 31 or until nests have successfully fledged and conflicts with post-fledging dependency are not a concern. Stipulation applies within 0.50 miles of the action.
 27. Washing construction vehicles prior to mobilizing at the site may be useful to reduce potential adverse impacts associated with transporting noxious/invasive weeds.