

**United States Department of the Interior  
Bureau of Land Management**

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**DOI-BLM-MT-020-2016-0097-CX  
May 11, 2016**

**Custer County Fire  
ROW MTM 108770**

*Location:* **Prairie County, MT  
T. 15 N., R. 47 E., Section 24: SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,**

U.S. Department of the Interior  
Bureau of Land Management  
Miles City Field Office  
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UNITED STATES DEPARTMENT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
*Miles City Field Office*  
*111 Garryowen Road*  
*Miles City, Montana 59301*

**CATEGORICAL EXCLUSION REVIEW AND APPROVAL**

**A. Background**

BLM Office: Miles City Field Office

Serial Numbers: MTM-108770

NEPA Number (if applicable): DOI-BLM-MT-020-2016-0097-CX

Proposed Action Title/Type:

Custer County Right-of-way MTM-108770 on BLM Sheep Mountain Site

Location of Proposed Action (include county):

T. 15 N., R. 47 E., Section 24: SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Prairie County, Montana, PMM

**B. Description of Proposed Action:**

On May 11, 2016, Custer County submitted a completed application to apply for a right-of-way to use the Sheep Mountain Communication Site. Custer County is making an application to be house equipment in the building that is owned by the Bureau of Land Management under MTM-91598. They propose to install radio communications equipment at the Sheep Mountain Site. Equipment would consist of a mobile relay, antenna, transmission line with lightning protection and grounding systems. Radio coverage is limited on the north side of Custer County. This equipment would allow local fire crews better coverage. This would also allow law enforcement better coverage when emergency incidents call them to the northern part of Custer County. Tony Harbaugh, Custer County Sheriff, believes this would benefit several agencies. It would be used by Custer County fire personnel and law enforcement personnel in the area on a year-around basis. They are requesting a term of 30 years and be renewable. They are required to have their own right-of-way instead of being a customer or tenant of the BLM. The Sheep Mountain Site has a communications use plan that was signed on December 15, 2005. Custer County would be required to follow this communication site plan. The right-of-way would be authorized pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to all applicable provisions of the regulations at 43 CFR 2800.

**C. Conformance with Applicable Land Use Plan:**

This proposed action is in conformance with the BLM 2015 Miles City Approved Resource Management Plan (ARMP) which was approved in September, 2015. On page 3-8 of the ARMP, it states; “On the remaining surface acres in the planning area, Major ROWs are allowed on 445,170 surface acres (16%) and Minor ROWs are allowed on 1,809,798 surface acres (66%).” The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5.

**D. Compliance with NEPA:**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9E (12) for grants of rights-of-way wholly within the boundaries of other compatibly developed rights-of-way.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and, as documented below, none of the extraordinary circumstances described in 516 DM2 apply.

<b>Extraordinary Circumstances</b>		
<b>The project would:</b>		
1. Have significant impacts on public health or safety.		
<b>Yes</b>	<b>No</b>  <b>X</b>	<b>Rationale:</b> <i>The project would not have significant impacts on public health and safety as it is for issuance of a right-of-way within the existing BLM Sheep Mountain communication site. DDL 5/11/2016</i>
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.		
<b>Yes</b>	<b>No</b>  <b>X</b>	<b>Rationale:</b> <i>Impacts would not be significant as the proposed action is to issue a right-of-way to Custer County for radio communications equipment which has been housed within the building and located on the tower owned by the BLM. DDL 5/11/2016</i>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		
<b>Yes</b>	<b>No</b>  <b>X</b>	<b>Rationale:</b> <i>No controversial environmental effects or unresolved conflicts. DDL 5/11/2016</i>

4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	No X	<b>Rationale:</b> <i>No highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. DDL 5/11/2016</i>
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	No X	<b>Rationale:</b> <i>This action is not connected to another action that would require further environmental analysis nor will it set a precedent for future actions that would normally require environmental analysis. DDL 5/11/2016</i>
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	No X	<b>Rationale:</b> <i>There would be no cumulative impacts from this project in addition to those identified in the Miles City Approved RMP. See CFR 1508.7. DDL 5/11/2016</i>
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.		
Yes	No X	<b>Rationale:</b> <i>Confirm that cultural surveys have been completed; the appropriate data bases have been reviewed; and appropriate concurrence from SHPO and tribes have been received indicating that significant impacts are not expected.</i>  The Sheep Mountain Communications Site and surrounding area was inventoried for cultural resources in 2003. One small prehistoric site was recorded during the project. The site was determined not eligible for listing on the National Register (See BLM Cultural Resources Report MT-020-09-171 for details). The proposed lease would have no effect on historic properties. DMT 5/13/2016
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.		
Yes	No X	<b>Rationale:</b> <i>No listed species/designated critical habitat occur in project area. 5/16/16 KU</i>
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	No X	<b>Rationale:</b> <i>No laws are being violated by this action. DDL 5/11/2016</i>
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	No X	<b>Rationale:</b> <i>Does not have a disproportionately high and adverse effect on low income or minority populations. DDL 5/11/2016</i>

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).		
<b>Yes</b>	<b>No</b>  <b>X</b>	<b>Rationale:</b> <i>Consultation with tribes regarding Indian sacred sites must take place</i>  The proposed action is a lease within an existing structure. The lease would not limit access to Federal lands nor would it affect the physical integrity of sacred sites. DM 5/13/2016
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).		
<b>Yes</b>	<b>No</b>  <b>X</b>	<b>Rationale:</b> <i>The proposed action will not contribute to the introduction or spread of noxious weeds as this is the issuance of a new right-of-way within the boundary of an existing BLM right-of-way.</i> <i>DDL 5/11/2016</i>

\_\_\_\_\_  
Signature of Environmental Coordinator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Supervisory Land Use Specialist

\_\_\_\_\_  
Date

Decision Record for Categorical Exclusion  
Right-of-way MTM-108770  
For the Custer County Communications  
At the Sheep Mountain Site MTM-91598  
DOI-BLM-MT-020-2016-0097-CX

Decision: I have made the decision to issue a right-of-way MTM-108770 to the Custer County on the Sheep Mountain Site MTM-92598 located on the following Federal land:

T. 15 N., R. 47 E., Section 24: SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, Prairie County, Montana, PMM.

The right-of-way will be authorized pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to all applicable provisions of the regulations at 43 CFR 2800 and the Sheep Mountain Communication Site Plan. It will be issued for a term of 30 years and be renewable. In accordance with 43 CFR 2804.16 and 43 CFR 2806.14, DNRC would be exempt from paying cost recovery and rent, respectively, because they are a state government or its agent or instrumentality.

Rationale for Decision: The proposed action meets the criteria for a categorical exclusion under 516 DM 11.9E (12) and none of the exceptions in 516 DM 2 apply. Further the action is in conformance with the Big Dry Resource Area RMP/EIS ROD, which was approved in April of 1996.

Based on a review of the project described above and field office staff recommendations, It is my decision to approve the action subject to the stipulations of each grant. There is no potential for significant impacts. Use of this CX is appropriate and I have decided to implement this action.

**D: Signature**

\_\_\_\_\_  
Signature of Authorizing Official

\_\_\_\_\_  
Date

Name: Todd D. Yeager

Title: Field Manager

**Contact Person**

For additional information concerning this CX review and decision, contact:

Dalice Landers, Realty Specialist (406-233-2836)  
BLM – Miles City Field Office  
111 Garryowen Road  
Miles City, Montana 59301

## Stipulations

1. The holder shall conduct all activities associated with the construction, operation, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way.
2. 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.
3. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
4. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.
5. In the event that the public land underlying the right-of-way (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 ROW is not within a ROW corridor being reserved to the United States in the patent/deed, 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, 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.
6. The holder and the holder's subgrantees shall operate within the parameters of the Sheep Mountain Communications Site Management Plan.

7. The United States will not be held liable for any damage to the communication facility caused by the general public or as a result of fire, wind, or other natural disasters or as a result of silvicultural practices, timber harvesting operations, or other actions stemming from the normal land management activities of the Bureau of Land Management.

8. The right-of-way herein granted is conditioned upon the submission to the authorized officer a copy of an approved license and/or renewal license granted by the Federal Communications Commission (FCC) or Interdepartmental Radio Advisory Committee (IRAC) for each electronic station installation authorized by this grant or future amendment to this grant. A copy of the FCC or the IRAC authorization shall be submitted within 90 days of issuance of this grant or within 90 days following approval of an amendment to this grant. Failure to submit the FCC or IRAC authorization copy within the time specified shall be grounds for termination of this grant or cancellation of an amendment to this grant. The authorized officer may grant an extension of up to 90 days if requested in writing by the holder.

9. The holder shall not allow the operation of any electronic equipment in the building or on the site unless and until the user has obtained a license from the Federal Communications Commission or the Interdepartmental Radio Advisory Committee.

10. Each electronic type station installation authorized by this grant shall be operated in conformity with the requirements of the Federal Communications Commission or, in the case of Federal Government installation operations, in accordance with the Interdepartmental Radio Advisory Committee agreements.

11. The holder agrees not to install or allow the installation of any other radio electronic type equipment not specified in this grant or amendment to this grant on or within the structure or on the premises authorized and covered by this grant, without advance notification and written approval of the authorized officer.

12. The holder shall not install nor allow the installation of any other organization's electronic equipment in the holder's building, or attachment to the holder's antenna support structures, without the new organization obtaining a separate right-of-way grant from the Bureau of Land Management for the joint occupancy of the said facility.

13. The holder may place no restriction on what brand of equipment is installed on the site so long as it conforms to industry standards, as determined by the authorized officer.

14. The holder shall place no unreasonable restriction on persons who service units belonging to users of the building, providing the servicing personnel are qualified and licensed to service the type units involved.

15. The Bureau of Land Management reserves the right to authorize joint use by other electronic communication users of the site, together with the roads and the power, telephone and other auxiliary utility service lines installed and operated by the holder, upon payment by such users to the holder of a just and equitable portion of the costs of installation, maintenance and operation; provided that such joint use will conform to sound engineering practices.

16. The holder shall at all times operate its radio-electronic equipment in such a manner so as not to cause interference with radio-electronic operations of existing users in the vicinity. If such interference results from holder's operations, holder will promptly, at its own expense, modify the equipment and operations, or shut down if necessary to eliminate or reduce the interference to the satisfaction of the Federal Communications Commission and/or the authorized officer.

17. It will be the responsibility of the holder to ascertain whether existing facilities on the same or adjoining sites will adversely affect the proposed operations. Holder will accept operations, i.e., frequencies, emissions, power output, radiation fields, antenna arrays, etc., of existing facilities on the same or adjoining sites, provided such operations are consistent with the regulations of the Federal Communications Commission, if a non-Federal Government use, and the Standards of the Interdepartmental Radio Advisory Committee, if a Federal Government use.

18. The holder shall take measures necessary to eliminate interference to other site users caused by holder's sublessee(s). If the holder does not eliminate such interference within 10 days of the receipt of notice from the authorized officer, the operations of the sublessee causing the interference, as determined by the authorized officer, shall be terminated by the holder.

19. This right-of-way shall terminate 60 days after expiration or cancellation of the Federal Communications Commission license or Interdepartmental Radio Advisory Committee radio frequency assignment, unless renewal is obtained within this period and a copy of such renewal is furnished to the authorized officer.