



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Anchorage Field Office
4700 BLM Road
Anchorage, Alaska 99507-2591
<http://www.blm.gov/ak>

**Communication Site Lease to ACS Wireless, National Guard Headquarters Building,
Joint Base Elmendorf-Richardson
DOI-BLM-AK-A010-2013-0013-DNA**

Case File, AA-093530

DECISION RECORD

Background

The BLM Anchorage Field Office has received an application from ACS to operate and maintain an existing communication system (cellphone) year-round on BLM-managed lands at the National Guard Headquarters Building (Building 49000) on Joint Base Elmendorf-Richardson (JBER).

This site was originally located on the northeast corner of the National Guard Building. The communication facility was previously authorized by the Department of Army, but has not been authorized by the BLM. Due to recent renovations of the National Guard Building, ACS was required by the Department of Army to relocate the facility to the northwest side of the National Guard Building.

ACS is requesting a 20-year land use authorization from the BLM for the existing communication facility consisting of a 10- by 20-foot equipment shelter, six antennas, and supporting coaxial lines mounted on a 120-foot AGL Tower. The tower and ancillary facilities have been constructed; no additional construction is necessary. The site is accessible by existing roads.

Decision

It is my decision to implement the Proposed Action as described in the attached Determination of NEPA Adequacy (DNA) Worksheet, DOI-BLM-AK-A010-2013-0013-DNA, with the, "Required Operating Procedures, Environmental Protection Measures, and Other Conditions of the Proposed Action Alternative," identified in Section 2.3 of the *Joint Base Elmendorf – Richardson Communication Site Authorizations, Environmental Assessment, DOI-BLM-AK-A010-2012-0013-EA, August 2012* (2012 EA; attached).

Specifically, it is my decision to authorize a 20-year communication site lease to ACS for the operation and maintenance of the existing communication facility at the National Guard Headquarters Building on JBER.

The selected action is essentially similar to, but not specifically a feature of, the previously selected alternative (Alternative 2) analyzed in the 2012 EA. Therefore, a new Finding of No Significant Impact (FONSI) was necessary for this action (p. 25, BLM 2008). I have determined that this action would not result in significant environmental impacts. The FONSI for this action is attached; no further environmental review is necessary.

Rationale for the Decision

A No Action Alternative – or removal of the existing communication site - was not selected because it would not meet the BLM’s right-of-way authorization objectives identified at 43 CFR § 2801.2.

ACS’ Proposed Action was selected because it fulfills the objectives of the BLM’s right-of-way program (43 CFR § 2801.2). The 2012 EA and 2013 DNA demonstrate that the right-of-way authorization can be granted and the communication site can be operated and maintained in a manner that protects the natural resources, prevents unnecessary and undue degradation of the public lands, and effectively consolidates new facilities with existing equipment and facilities on JBER (43 CFR § 2801.2).

The Proposed Action has been reviewed by Anchorage Field Office staff and appropriate project Design Features, as specified in the Section 2.3 2012 EA (attached), will be incorporated into the project’s implementation.

Laws, Authorities, and Land Use Plan Conformance

The Proposed Action is in conformance with the Ring of Fire Approved Resource Management Plan and Record of Decision (March 2008).

I-2n: Rights-of-Way

The BLM may issue rights-of-way for a variety of uses including but not limited to: roads, water pipelines, electric lines and communication sites under the authority of Title V of FLPMA.

Public Involvement, Consultation, and Coordination

Anchorage Field Office staff coordinated with JBER Real Property personnel in the development of the DNA.

As described in the DNA, the public involvement associated with the 2012 EA is adequate for the current Proposed Action at JBER. The 2012 EA was circulated for public review prior to a decision on the requested authorizations. No public comments were received. Given that no new information or circumstances have been identified and the fact that the current Proposed Action is identical to the 2012 EA Proposed Action, no additional public involvement is necessary for the current Proposed Action.

Appeal Opportunities

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 § 4. To appeal you must file a notice of appeal at the BLM Anchorage Field Office, 4700 BLM Road, Anchorage, Alaska 99507, within 30 days from receipt of this decision. The appeal must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the Anchorage Field Office as noted above. *The BLM does not accept appeals by facsimile or email.* The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR § 4.21 (58 FR 4939, January 19, 1993) 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. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards: (a) The relative harm to the parties if the stay is granted or denied, (b) The likelihood of the appellant's success on the merits, (c) The likelihood of immediate and irreparable harm if the stay is not granted, and (d) Whether the public interest favors granting the stay.

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); Office of the Regional Solicitor, Alaska Region, U.S. Department of the Interior, 4230 University Drive, Suite 300, Anchorage, Alaska 99508; 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.

/s/ Teresa McPherson, Acting for

04/15/2013

Alan Bittner
Anchorage Field Manager

Date

References

BLM 2008. National Environmental Policy Act Handbook, H-1790-1. January 2008.

Attachments

Section 2.3 from *Joint Base Elmendorf – Richardson Communication Site Authorizations, Environmental Assessment, DOI-BLM-AK-A010-2012-0013-EA, August 2012* (2012 EA)

Determination of NEPA Adequacy Worksheet, DOI-BLM-AK-A010-2013-0013-DNA

Finding of No Significant Impact, April 15, 2013

Department of the Air Force Concurrence Letter, April 5, 2013

General Permit Terms and Conditions (AA-093530)

2.3 Required Operating Procedures, Environmental Protection Measures, and Other Conditions of the Proposed Action Alternative

The following best management practices and design features will be used to limit the effects associated with the current proposed action.

Cultural Resources

- In the event of inadvertent discovery of cultural resources or human remains, all construction activities must cease and the BLM Archaeologist must be notified immediately.

Hazardous Materials

- Spill response kits and properly trained response personnel will be available on site during all installation activities
- The use of drip pans under parked equipment is encouraged to mitigate damage caused by spills.

Recreation Resources

- Avoid development near hiking trails or trailhead/parking access.
- Avoid development near popular hunting and fishing parking and access areas.
- Avoid construction during moose draw tag hunts in unit 14C from September 6 – January 15 (per 2012 regulations, subject to change).
- Avoid development in or near Hillberg Ski Area on old Elmendorf or Arctic Valley Ski Area on old Fort Richardson.
- Avoid proximity to stream corridors that support local fisheries.

Vegetation Resources

- Effectively integrate invasive species prevention, control and management activities into the existing communication tower sites as well as proposed new tower site(s).
- Integrate invasive species prevention, detection and control activities into all on-the-ground activities on and near the proposed communication site towers.
- Use best management practices to avoid the introduction of new and spread of known existing non-native invasive species as described in the BLM Alaska Invasive Species Management Policy (BLM 2010).
- All vehicles, transport equipment used in access, construction, maintenance and operations of project must be thoroughly cleaned prior to moving equipment and gear from point of origin to project site.
- Only certified weed free products, including gravel, top soil, seed mixes, mulch and sedimentation control devices are allowed.
- Integrated pest management activities including early detection rapid response, prompt revegetation of disturbed sites, ongoing monitoring and weed treatment should be employed to maintain the natural diversity and ecological site health.

Visual Resources

- Avoid ridgetop placement or “skylining” of communications towers.

- Exhaust all possible co-location options before proposing new facilities.
- Avoid hauling excess earth cut or fill, utilize curvilinear or topographical sloping, retain existing rock and vegetation formations whenever possible, irregular rock cut techniques, and prohibit dumping or sloughing of material downslope.
- Retain as much existing vegetation as possible, use vegetation to screen development from view, scalloped and irregular edging versus straight lines, and feather and thin edges of cleared areas.
- Repeat line, form, color, and texture. Minimize the number of structures, use earth-tone colors, use self-weathering materials, use natural stone, bury all or part of the structure, use paint finishes with low reflectivity, employ native building materials, and use naturally-appearing forms to complement landscape character.
- Avoid colors that cause the most contrast, choose colors two to three shades darker than background colors, achieve best blending with surrounding landscape in all seasons, galvanized steel on utility structures should be darkened to prevent glare, and color (hue) is most effective within 1,000 feet. Grey is usually the best choice for lattice and/or monopole towers where the background may be a view of the sky.
- For new roads, trails, and utility corridors, identify all possible alternative alignments first, select the most feasible for the proposed project, use topography to hide manmade changes, analyze soil stability, determine revegetation plan, evaluate hydrologic condition and erosion potential, use curvilinear landscape route selection, avoid fall-line cuts and bisection ridge tops, avoid valley bottoms, and hug vegetation lines
- Reclamation and restoration will be required as part of all proposed action design packages. Restore all areas of disturbance as closely as possible to previous conditions, mulch cleared areas, furrow slopes, use planting holes on cut/fill slopes to retain water, choose native plant species; fertilize, mulch, and water vegetation; replace soil, brush, rocks, forest debris, etc. over the disturbed area. Require the contractor to water vegetation for specified timeframe.

3.0 AFFECTED ENVIRONMENT

3.1 Cultural Resources

AA-093057 and AA-093089

The Alaska Heritage Resources Survey (AHRS) was consulted for cultural resources that could be affected by this undertaking. Because this tower is located in an older part of Fort Richardson, and within the Fort Richardson Historic District, there are over two dozen cultural resources within one mile of the APE. Almost all of these are buildings located within the boundaries of the Fort Richardson Historic District, ANC-1338.

The BLM AFO archaeologist visited the project site on 5/7/2012 and conducted a reconnaissance of the area. No previously unknown cultural resources were found; the proposed APE is located on a graded lawn area that has been previously disturbed.

AA-093090

The AHRS was consulted for cultural resources that could be affected by this undertaking. There are six cultural resources listed in the AHRS within approximately 0.5 miles of the Area of Potential Effect (APE), including three sites that are less than 0.25 miles from the proposed APE.



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DETERMINATION OF NEPA ADEQUACY (DNA) WORKSHEET

Proposed Action Title/Type: Communication Site Lease to ACS Wireless for the National Guard Headquarters Building, JBER

NEPA Register Number: DOI-BLM-AK-A010-2013-0013-DNA

Case File Number: AA-093530

Location / Legal Description: Seward Meridian, Municipality of Anchorage, Alaska
T. 14 N., R. 2 W., sec. 28(within).

Applicant (if any): ACS Wireless (ACS)

A. DESCRIPTION OF THE PROPOSED ACTION

The BLM Anchorage Field Office has received an application from ACS to operate and maintain an existing communication system (cellphone) year-round on BLM-managed lands at the National Guard Headquarters Building (Building 49000) on Joint Base Elmendorf-Richardson (JBER).

This site was originally located on the northeast corner of the National Guard Building. The communication facility was previously authorized by the Department of Army, but has not been authorized by the BLM. Due to recent renovations of the National Guard Building, ACS was required by the Department of Army to relocate the facility to the northwest side of the National Guard Building.

ACS is requesting a 20-year land use authorization from the BLM for the existing communication facility consisting of a 10- by 20-foot equipment shelter, six antennas, and supporting coaxial lines mounted on a 120-foot AGL Tower. The tower and ancillary facilities have been constructed; no additional construction is necessary. The site is accessible by existing roads.

The BLM Anchorage Field Office is proposing to authorize the requested 20-year communication site lease to ACS so that they may maintain and operate an existing communication system (cellphone) on the northwest side of the National Guard Headquarters Building.

B. LAND USE PLAN CONFORMANCE

The proposed action is in conformance with the Ring of Fire Record of Decision and Approved Resource Management Plan (March 2008) because it is specifically provided for in the following land use plan decision(s):

I. Lands and Realty

I-2: Management Action

I-2n: Rights-of-Way

The BLM may issue rights-of-way for a variety of uses including but not limited to: roads, water pipelines, electric lines and communication sites under the authority of Title V of FLPMA. Oil and Gas pipelines are issued using the Mineral Leasing Act (1920).

Stipulations developed during the proposal's evaluation will include:

- Restoration, revegetation and curtailment of erosion along the right-of-way route;
- Compliance with air and water quality standards;
- Control or prevention of damage to the environment, public and private property and hazards to public health and safety;
- Protection of subsistence resources and the user's access to those resources.
- Protection of the natural resources associated with public lands.
- Utilization of right-of-ways in common with respect to engineering and technological compatibility will be promoted.
- Coordination with the State and Local governments, tribal entities and interested groups and individuals takes place to the fullest extent possible.
- The Mountain Goat Monitoring and Control Area is identified as a Right-of-Way Avoidance area.

C. IDENTIFY APPLICABLE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) DOCUMENTS AND OTHER RELATED DOCUMENTS THAT COVER THE PROPOSED ACTION.

Joint Base Elmendorf – Richardson Communication Site Authorizations, Environmental Assessment, DOI-BLM-AK-A010-2012-0013-EA, August 2012 (2012 EA)

This document is on file at the BLM Anchorage Field Office.

D. NEPA ADEQUACY CRITERIA

1. *Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?*

Yes - the current proposed action - a new authorization for an existing ACS communication system at the National Guard Headquarters Building - is essentially similar to Alternative 2 in the 2012 EA. Specifically, the current proposed action is essentially similar to the, "fourth pending application [AA-092901]...for authorization of an existing tower in a developed area that has been authorized by the military, but not by the BLM," (p. 7, 2012 EA). Although the National Guard Headquarters building was not specifically analyzed in the 2012 EA, it is located within a developed area on JBER and is therefore consistent with the 2012 analysis of similar actions in other developed areas on JBER.

2. *Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?*

Yes – the range of alternatives presented in the 2012 EA is appropriate and sufficient with respect to the current proposed action. There are no new issues and/or concerns that would prompt development or consideration of additional alternatives identified in the EA. The issues identified in the 2012 EA for developed areas on JBER (opportunities for co-locating communication site facilities, direct or indirect impacts to cultural resources, potential visual resource impacts, and risk of spills from heavy equipment) remain unchanged (p. 6, 2012 EA). There are no new issues around which to develop additional alternatives for the current proposed action. The current proposed action successfully addresses the issue of co-locating facilities.

3. *Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?*

Yes – the existing analysis is still valid and no new information or circumstances pertaining to the activity have been identified since the 2012 EA was prepared that would affect the applicability of the past analysis.

4. *Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?*

Yes – the anticipated direct, indirect, and cumulative effects of the current proposed action are similar both quantitatively and qualitatively to those effects analyzed in the 2012 EA. The 2012 EA analysis of AA-092901 evaluated the effect of a similar system that is existing on the ground, but not yet authorized by the BLM. Therefore, the direct, indirect, and cumulative effects of the

current proposed action – authorization of an existing system at the National Guard Headquarters Building – is adequately covered by the analysis in the 2012 EA (pp. 15-19, 2012 EA).

5. *Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?*

Yes – the public involvement and interagency reviews associated with the 2012 EA are adequate for the current proposed action for JBER. The 2012 EA was circulated for public review prior to a decision on the requested authorizations. No public comments were received. Given that no new information or circumstances have been identified and the fact that the current proposed action is identical to the 2012 EA proposed action, no additional public involvement or interagency review is necessary for the current proposed action.

E. PERSONS, AGENCIES, AND BLM STAFF CONSULTED

Note: Refer to the EA/EIS for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

This EA was prepared by an interdisciplinary team consisting of the following staff:

Jenny Blanchard	BLM, Archaeologist
Brian Bourdon	BLM, Lands and Realty Specialist
Molly Cobbs	BLM, Planning and Environmental Coordinator
Jorjena Daly	BLM, Outdoor Recreation Planner
Bruce Seppi	BLM, Wildlife Biologist
Laurie Thorpe	BLM, Natural Resources Specialist

F. CONCLUSION

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation identified in Part C of this DNA Worksheet fully covers the proposed action and constitutes BLM’s compliance with the requirements of the NEPA.

/s/ Teresa McPherson, Acting for Anchorage Field Manager 04/15/2013

Signature of the Responsible Official

Date

Note: The signed Conclusion on this worksheet is part of an interim step in the BLM’s internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR § 4 and the program-specific regulations.



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**Communication Site Lease to ACS Wireless, National Guard Headquarters Building,
Joint Base Elmendorf-Richardson
DOI-BLM-AK-A010-2013-0013-DNA**

Case File, AA-093530

FINDING OF NO SIGNIFICANT IMPACT

Background

Joint Base Elmendorf-Richardson (JBER) is a joint U.S. Army and U.S. Air Force military base located on the northwest edge of Anchorage, Alaska. JBER is a former parcel of Federal land which was withdrawn from the public domain for administrative use by the Department of Defense by Executive Order (EO) 8102 on April 29, 1939.

At JBER, the Bureau of Land Management (BLM) manages all surface natural resources for non-military uses and has responsibility for reviewing and authorizing all activities proposed for non-military purposes with concurrence from the military.

The BLM proposes to approve a pending communication site application request to Alaska Communication Systems (ACS) at JBER.

The BLM has prepared a Determination of NEPA Adequacy worksheet for ACS' current proposed action (attached). The conclusions in this worksheet indicate that the *Joint Base Elmendorf – Richardson Communication Site Authorizations, Environmental Assessment, DOI-BLM-AK-A010-2012-0013-EA, August 2012* (2012 EA) adequately addresses the current proposed action, including potential effects. (The 2012 EA is on file at the Anchorage Field Office.) The current proposed action, authorization of an existing communication site at the National Guard Headquarters Building, is essentially similar to, but not specifically a feature of, of the selected alternative (Alternative 2) analyzed in the 2012 EA. Therefore, a new Finding of No Significant Impact (FONSI) is necessary for this action (p. 25, BLM 2008).

Finding of No Significant Impact

This action and its effects have been evaluated consistent with the Council on Environmental Quality regulations for determining *significance*. Per 40 CFR § 1508.27, a determination of *significance* requires consideration of both context and intensity. The former refers to the relative context in which the action would occur such as society as a whole, affected region, affected interests, etc. The latter refers to the severity of the impact.

Context

The Proposed Action would occur in existing developed areas on an active military base. The scope of the action, authorization of an existing communication site adjacent to a building, is therefore limited in context.

Intensity

1. Impacts that may be both beneficial and adverse.

The 2012 EA considered and disclosed both potential beneficial and adverse effects of the alternatives analyzed. Overall, the ability to co-locate facilities, including location of communication sites in developed areas, limits adverse impacts.

2. The degree to which the proposed action affects public health and safety.

Public health and safety was not identified as an issue for consideration (EA, p. 6). The proposed authorization is consistent with or identical to existing communication sites currently present on JBER.

3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

No park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas are present at the ACS National Guard communication site. The proposed authorization would not create adverse visual impacts on the Fort Richardson Historic District (EA, pp. 11-12). The Proposed Action would not have direct impacts on cultural resources (EA, pp. 15-16).

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The EA was made available for public review prior to this Finding of No Significant Impact and the Decision Record. No public comments were received. No known controversy exists concerning the proposed ACS National Guard Headquarters communication site.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The installation and/or construction of this communication site is a common practice at JBER, across the State of Alaska, as well as nationally (EA, p. 2). There is no uncertainty or unknown risks associated with communication sites at this scale, i.e., individual communication sites co-located on existing facilities in developed areas. Additionally, similar to the response for intensity factor #4, no public comments were received concerning uncertain, unique, or unknown risks.

- 6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

Per the Ring of Fire Resource Management Plan (RMP) and Record of Decision (ROD), the project area is open to the requested use. This authorization is consistent with the RMP/ROD. This proposed action neither establishes a precedent nor represents a decision in principle about future actions. Furthermore, the proposed action is consistent with other right-of-way authorizations on JBER.

- 7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

Overall, the potential cumulative effects resulting from the Proposed Action are limited. The total disturbance footprint is less than a half-acre (0.005-acre). At this scale, and with the implementation of best management practices, the Proposed Action would not contribute any measurable increment to cumulative effects resources at JBER (EA, pp. 15-19).

- 8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.*

As stated for intensity factor #3, the proposed authorization would not create adverse visual impacts on the Fort Richardson Historic District (EA, pp. 12-12). The Proposed Action would not have direct impacts on cultural resources (EA, pp. 15-16).

- 9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*

Based on current information, the proposed action would not affect any Federally threatened or endangered species within the project area (EA, p. 6).

- 10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

Based on the environmental analysis, the Proposed Action does not threaten to violate Federal, State, or local law or requirements.

Conclusion

Therefore, on the basis of the information contained in the EA (DOI-BLM-AK-A010-2012-0013-EA), and all other information available to me, it is my determination that:

1. None of the environmental effects identified meet the definition of significance as defined by context and intensity considerations at 40 CFR § 1508.27;
2. The alternatives are in conformance with the ROD for the Ring of Fire Approved RMP (2008); and

3. The Proposed Action and alternatives do not constitute a major federal action having a significant effect on the human environment.

Therefore, neither an Environmental Impact Statement nor a supplement to the 2012 EA is necessary and neither will be prepared.

/s/ Teresa McPherson, Acting for

04/15/2013

Alan Bittner
Anchorage Field Manager

Date

Attachments

Determination of NEPA Adequacy Worksheet, 20-year Communication Site Lease to ACS Wireless for the National Guard Headquarters Building, JBER, DOI-BLM-AK-A010-2013-0013-DNA



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 673D AIR BASE WING
JOINT BASE ELMENDORF-RICHARDSON, ALASKA

05 APR 2013

MEMORANDUM FOR BUREAU OF LAND MANAGEMENT
ATTN: District Manager
4700 BLM Road
Anchorage AK 99507

RECEIVED

APR 11 2013

Anchorage Field Office

FROM: 673 CEG/CD
6346 Arctic Warrior Drive
Joint Base Elmendorf - Richardson, AK 99506-3221

SUBJECT: AA-093530 Alaska Communication Systems (ACS) Communication Facility, Near National Guard Headquarters/Building 49000, Joint Base Elmendorf-Richardson (JBER)

1. We concur with the request to authorize a grant for an existing communications facility on JBER property, consisting of a ten foot by twenty foot equipment shelter, six antennas and supporting coax lines mounted on an existing communications tower. The ACS equipment and shelter is located in T14N R 2W, Sec 28.
2. This concurrence is furnished in lieu of a formal outgrant instrument in that the subject area was withdrawn for military purposes by EO 8102, as amended PLO 2676, which specifically reserves the right to the Bureau of Land Management to grant non-military use of withdrawn land to others, subject to military concurrence and conditions.
 - a. The term of the agreement is twenty years.
 - b. The operation and maintenance of the equipment and shelter facility shall be without cost or expense to the government.
 - c. The use and occupation of the land, incident to the exercise of the privileges granted, shall be subject to such rules and regulations regarding ingress, egress, safety, sanitation, fire, and security, whereas the 673d Air Base Wing (ABW) may from time to time prescribe.
 - d. Any property of the United States damaged or destroyed by ACS, incident to the use and occupation of the premises shall be promptly repaired by the grantee to the satisfaction of the installation commander.
3. Our point of contact is Ms. Anita J. Rosett, Realty Specialist, 673 CES/CEAOR, phone 384-1744, or email anita.rosett@us.af.mil if you have any questions or concerns.

ALLAN D. LUCHT
Real Property Accountable Officer

Exhibit A**Terms and Stipulations for Right of Way Lease AA-93530**
Alaska Communication Systems (ACS)

- I. General Terms: During construction, operation, maintenance, and termination of the project you must:**
- (a) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and state laws and regulations applicable to the authorized use;
 - (b) Rebuild and repair roads, fences, and established trails destroyed or damaged by the project;
 - (d) Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area;
 - (e) Not discriminate against any employee or applicant for employment during any phase of the project because of race, creed, color, sex, or national origin. You must also require subcontractors to not discriminate;
 - (f) Pay monitoring fees and rent (if applicable) as described in 43 CFR §2805.16 and 43 CFR 2806 ;
 - (g) If BLM requires, obtain, and/or certify that you have obtained, a surety bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property in connection with your use and occupancy of the right-of-way, including terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. BLM may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant;
 - (h) Assume full liability if third parties are injured or damages occur to property on or near the right-of-way as specified in 43 CFR §2807.12;
 - (i) Comply with project-specific terms, conditions, and stipulations, including requirements to:
 - (1) Restore, revegetate, and curtail erosion or conduct any other rehabilitation measure BLM determines necessary;

- (2) Ensure that activities in connection with the grant comply with air and water quality standards or related facility siting standards contained in applicable Federal or state law or regulations;
- (3) Control or prevent damage to:
- (i) Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat;
 - (ii) Public and private property; and
 - (iii) Public health and safety;
- (4) Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant;
- (5) When the state standards are more stringent than Federal standards, comply with state standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way; and
- (j) Immediately notify all Federal, state, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify BLM at the same time, and send BLM a copy of any written notification you prepared;
- (k) Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant;
- (l) Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 *et seq.*, when you receive, assign, renew, amend, or terminate your grant;
- (m) Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to BLM's satisfaction and to the satisfaction of any other Federal, state, tribal, or local agency having jurisdiction over the land, resource, or hazardous material;
- (n) Comply with all liability and indemnification provisions and stipulations in the lease;

- (o) As BLM directs, provide diagrams or maps showing the location of any constructed facility; and
- (p) Comply with all other stipulations that BLM may require.

II. Stipulations:

- (a) Wastewater must be managed in accordance with Title 18 Alaska Administrative Code, Chapter 72, (18 AAC 72) Wastewater Disposal. Wastewater is defined as Human Waste (sewage), and Gray Water (water which has been used for personal hygiene, washing clothing or equipment, or sanitizing cooking and eating materials). If the standards for Pit Privies found at 18 AAC 72.030 cannot be met, all wastewater must be collected and transported to a state approved disposal facility.
- (b) Non-Hazardous Solid Waste (trash/refuse) will be back hauled from the area and disposed in an approved waste disposal site;
- (c) Fuel Handling and Storage: Refueling operations will not be conducted in riparian areas or within 500 feet of the active floodplain of any fish-bearing waterbody or within 100 feet from non-fish bearing waterbodies. Fuel and other petroleum products and hazardous materials shall be stored in containers designed to hold that product, identified with the owner's name, the contents and date of purchase (e.g. NRCS, Gasoline, 2012). All fuel spills will be cleaned up immediately, taking precedence over all other matters, except the health and safety of personnel. Spills will be cleaned up utilizing absorbent pads or other Alaska State DEC approved methods. Fuel storage in excess of 55 gallons and/or fuel storage containers that are situated where a spill may reach a water body or watercourse requires secondary containment. Secondary containment is defined as a diked, impermeable impoundment capable of containing 110 percent of the volume of the largest independent container. As soon as possible, but not later than 24 hours, notice of any such discharge as defined in Alaska Statute Title 18, Chapter 75, Article 2, will be given to: The Authorized Officer (AO) at 1-800-437-7021. Such other Federal and State officials as are required by law to be given such notice including Alaska Department of Environmental Conservation at (907) 478-9300;
- (d) All operations shall be conducted in such a manner as to avoid damage or disturbance to any prehistoric or historic sites or modern camp sites. The Archaeological Resource Protection Act prohibits the excavation, removal, damage, or disturbance of any archaeological resource located on public lands. Violation of this law could result in the imposition of both civil and criminal penalties of the violator. Should any historic or prehistoric site be located during the course of operations under this right-of-way Grant, the applicant shall immediately cease activities and notify the BLM AO;

- (e) 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 shall be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder shall be responsible for the cost of evaluation and any decision as to proper mitigation measures shall be made by the authorized officer after consulting with the holder.
- (f) If in connection with operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. The holder shall continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.
- (g) 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, pests(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.
- (h) The holder shall protect all survey monuments found within the right of way. 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 right of way 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.

- (i) The public access to the area shall be restricted by a locked fence and signage regarding safety if humans are exposed to potentially unsafe Radio Frequency safety limits as determined by the AO;
- (j) BLM has the authority to inspect exterior and interior of communications facilities on public lands to ensure compliance with terms and condition of the right-of-way Lease;
- (k) For prevention of non-native invasive plant prevention and mitigation, all vehicles, transport equipment used in access, construction, maintenance and operations of project must be thoroughly cleaned prior to moving equipment and gear across or onto BLM managed lands. Washing and/or brushing equipment and gear to remove material that can contain weed seeds or other propagates helps to insure equipment that is being transported across or onto BLM managed lands are weed and weed seed free. High pressure washing is recommended to treat the insides of bumpers, wheel wells, undercarriages, inside belly plates, excavating blades, buckets, tracks, rollers, drills, buckets, shovels, any digging tools, boats, boat motors and trailers, etc., to remove potential weeds, seeds, and soil carrying weed propagules, and vegetative material. All gear, tool bags and accessories must be free of any plant debris, mud, and materials that can be the source of non-native invasive plants and pathogens.
- (l) If operations require working in water, felt-soled waders should only be used if brand new and never been used.
- (m) If any special status plant species are found in the grant area, all operations will cease until measures are taken to protect the populations or individuals through site specific buffers or management prescriptions as authorized by the AO.
- (n) Operations requiring vegetation removal will avoid the migratory bird nesting period of April 15 to July 15, if activities cannot avoid the April 15-July 15 time frame, you must confer with the authorized officer and obtain a written notice to proceed prior to beginning work by developing a plan to mitigate the impacts to nesting birds by contacting: Bruce Seppi 907-267-1282 or by e mail at bseppi@blm.gov.
- (o) Lessee shall maintain the communications use Lease area in a safe, usable condition, as directed by the AO. (A regular maintenance program shall include, but is not limited to, blading, ditching, culvert installation, and surfacing.)
- (p) No less than 45 days prior to 1) a new customer or tenant utilizing the lessee's/ facility, and/or 2) a proposed change by the lessee, customer, or tenant, the lessee shall notify the authorized officer and existing users within a 1 mile radius of the upcoming change. Information that must be included in the notification is:

A. Name, current address, and phone number of the lessee, customer, or

- tenant;
 - B. Expected date of occupancy, changes, or additions;
 - C. Any changes in or additions to the existing operating frequencies, types of emission, bandwidths, radio frequency power outputs, class of service, or types of antenna;
 - D. A photo or sketch illustrating the type of antenna (etc.) to be installed, as well as any other planned physical changes to the exterior facilities operated by the lessee.
- (q) The lessee and the lessee's tenants and/or customers shall operate within the parameters of the applicable Site Management Plan when approved by the AO.
- (r) The lessee shall upon request furnish the AO a current price schedule for all services provided by said lessee to other users, both to such other users using the equipment owned by the lessee and other users using their own equipment.
- (s) Each electronic type station installation authorized by this Lease 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.
- (t) The lessee shall take measures necessary to eliminate interference to other site users caused by lessee's customer(s) and/or tenant(s). If the lessee does not eliminate such interference within 10 days of receipt of notice from the AO, the operations of the sublessee causing the interference, as determined by the AO, shall be terminated by the lessee.
- (u) Protection of Survey Corner and Boundary Line Markers:
Evidence of the Public Land Survey System (PLSS) and related Federal property boundaries will be identified and protected prior to commencement of any ground-disturbing activity. This will be accomplished by contacting Bureau Land Management (BLM) Cadastral Survey to coordinate data research, evidence examination and evaluation, and locating, referencing or protecting monuments of the PLSS and related land boundary markers from destruction. In the event of obliteration or disturbance of the Federal boundary evidence the responsible party shall immediately report the incident, in writing, to the Authorizing Official. BLM Cadastral Survey will determine how the marker is to be restored. The responsible party shall pay for all survey, investigation, penalties, and administrative costs.
- (v) The United States shall retain all rights stated in 43 CFR 2805.15.