

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Application of Horizon Broadcasting Group, LLC)	File Nos.: 0000162340
For Renewal of License FM Station K227DC)	Facility ID: 27170
Prineville, Oregon)	

To: The Commission
Attn: Media Bureau, Audio Division

OPPOSITION TO PETITION TO DENY

Horizon Broadcasting Group, LLC (Horizon), by counsel and pursuant to Section 73.3584(b) of the Commission’s Rules,¹ respectfully submits this Opposition to Petition to Deny (Opposition) responding to the Petition to Deny (Petition) filed in the captioned proceeding by Western Radio Services Co. (Western) and its President Richard L. Oberdorfer (Oberdorfer) on December 28, 2021.

I. Introduction

The Commission should dismiss Western’s Petition because it is procedurally flawed and substantively baseless. As an initial matter, Western and Oberdorfer lack standing. Moreover, the Communications Act of 1934, as amended, (Act) and the Commission’s rules require a petition to deny to “contain specific allegations of fact” showing that grant of an application would not serve the public interest.² Absent specific factual allegations, Horizon is unable to provide a detailed response to the Petition’s claims, and the Commission lacks a basis upon which it can evaluate the Petition. Based on these procedural defects alone, the Commission must dismiss the Petition and should grant K227DC’s (K227DC) renewal application. In addition, the general and

¹ 47 C.F.R. § 73.3584(b).

² 47 U.S.C. § 309(d)(1); 47 C.F.R. § 1.939(d).

conclusory statements in the Petition have no basis in fact. Under Oberdorfer’s leadership, Western has a history of making spurious interference claims to suit its litigation strategy and policy agenda. Now, it has filed a wave of petitions to deny against a number of broadcast licensees in Central Oregon. Each of those petitions repeats generic claims of interference without offering detailed support or identifying any source of interference. In sum, the Petition lacks sufficient detail to deny KK227DC’s renewal application, and to the extent the Petition makes any specific allegations, Western is mistaken or is misrepresenting the nature of those allegations.³

II. Discussion

a. Western and Oberdorfer Lack Standing

Because the Petition does not make a *prima facie* showing that either Western or Oberdorfer is a party in interest, Western and Oberdorfer lack standing, and the Petition must be dismissed. Section 309(d) of the Act limits the ability to file a petition to deny to parties in interest.⁴ “Under this provision of the Act, a party in interest must essentially meet the same requirements as those required for standing to appeal a Commission decision to a federal court.”⁵

³ Horizon would note that Western is a Commission licensee. *See e.g.*, ULS File No. 0008540034 (seeking renewal of call sign KKB562). As a licensee, Western may be in violation of the Commission’s rules if any statements in the Petition are untruthful, inaccurate, or misleading. *See* 47 C.F.R. § 1.17.

⁴ *See* 47 U.S.C. § 309(d)(1); *see also* 47 C.F.R. 1.939(d); 47 C.F.R. § 73.3584(a).

⁵ *Timothy K. Brady, Esq., et. al.*, Letter, 20 FCC Rcd. 11987, 11990 (Audio Division 2005) (citing, *inter alia*, *In re Application of MCI Communications Corp., Transferor, and Southern Pacific Telecommunications Company, Transferee for Consent to Transfer Control of Qwest Communications, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd. 7790, 7794 (1997) (*MCI Communications*)) (*Brady*); *see also In re the Applications of Tribune Media Company (Transferor) and Nexstar Media Group, Inc. (Transferee), et. al. for Transfer of Control of Tribune Media Company to Nexstar Media Group, Inc., and Assignment of Certain Broadcast Licenses and Transfer of Control of Certain Entities Holding Broadcast Licenses*, Memorandum Opinion and Order, 34 FCC Rcd. 8436, ¶ 23, n.103 (2019) (citing *Lujan v. Defenders of Wildlife*,

Thus, a person or entity claiming standing “must allege and prove three elements: (1) personal injury; (2) the injury is ‘fairly traceable’ to the challenged action; and (3) there is a substantial likelihood that the relief requested will redress the injury claimed.”⁶

The Petition does not allege or prove any of the elements required to satisfy the Commission’s party in interest or standing requirements. While the Petition generally claims that Western and Oberdorfer have been harmed by interference at Grizzly Mountain, a petition “must contain *specific* allegations of fact sufficient to show that the petitioner is, in fact, a party in interest.”⁷ Simply put, the Petition contains no specific factual allegations regarding a personal injury suffered by Western, Oberdorfer, or any other party due to purported interference at Grizzly Mountain.⁸ Even if the Petition did make factual allegations of interference or some other injury, there is no showing that the injury is fairly traceable to K227DC. In fact, K227DC is mentioned only in passing in the Petition: in the first and last paragraph indicating that the Petition seeks the denial of K227DC’s renewal application and to wrongly and without evidence assert that K227DC is not operating at low power with a bandpass filter pursuant to a Bureau of Land Management Site Plan. Finally, because Western and Oberdorfer fail to provide any

504 U.S. 555 (1992), *MCI Communications*, 12 FCC Rcd. at 7790, and *Brady*, 20 FCC Rcd. at 11987).

⁶ *Brady*, 20 FCC Rcd. at 11990 (citing *Lujan*, 504 U.S. at 555, *MCI Communications*, 12 FCC Rcd. at 7794, and *In re Authorization of Conn-2 RSA Partnership, et. al.*, 9 FCC Rcd. 3295, 3297 (1994)).

⁷ *In re Liberman Television of Dallas License LLC, Debtor-in-Possession, et. al.*, Order, 34 FCC Rcd. 8543, 8546 (Video Division 2019) (emphasis added).

⁸ Horizon would note that the Commission has set out several categories that it typically accords party in interest status to in the broadcast context including (1) market competitors suffering signal interference, (2) market competitors suffering economic harm, and (3) residents of the station’s service area or regular listeners or viewers of the station. *Id.* at 8547. However, these categories cannot supersede the general party in interest and standing requirements. In other words, even if Western or Oberdorfer claim to fall into one of these categories, they still must make specific factual allegations showing they meet the all three standing elements.

specific allegations regarding their injury or its traceability to K227DC, there can be no substantial likelihood that grant of the Petition will redress the injury claimed.

b. The Petition Should Be Dismissed Because It Fails to Provide Any Specific Allegations of Fact Making It Procedurally Deficient

Because the Petition's generic allegations do not satisfy the requirements of the Act or the Commission's rules, the Petition should be dismissed. In assessing the merits of a petition to deny, the Commission engages in a two-step analysis. As a threshold matter, "the petition must make specific allegations of fact sufficient to demonstrate that the petitioner is a party in interest and that a grant of the application would be *prima facie* inconsistent with the public interest, convenience, and necessity."⁹ In conducting this threshold inquiry, the Commission must consider the petition and its supporting affidavits alone and take the *specific* facts set forth in the petition as true.¹⁰ However, "nebulous statement are not specific allegations of fact."¹¹

The Petition can best be described as a nebulous statement and is, therefore, procedurally deficient. Even taken as true, the statements in the Petition do not constitute specific allegations of fact. Instead, the Petition alludes to an increase in the noise floor at Grizzly Mountain caused by spurious emission from FM stations.¹² However, the Petition provides no information regarding how Western evaluated the noise floor, when it did so, the equipment it used, or why it believes K227DC is a source of spurious emissions. The Petition also fails to offer specific factual allegations concerning the adverse effect on Western's CMRS stations.

⁹ Letter from Peter H. Doyle, Chief, Audio Division FCC, to William Johnson, *et. al.*, 27 FCC Rcd. 1471, 1472 (Feb. 13, 2012) (citing 47 U.S.C. 309(d) and *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556, 1561 (DC Cir. 1988)); *see also* 47 U.S.C. § 309(d); 47 C.F.R. § 1.939(d).

¹⁰ *See Astroline*, 857 F.2d at 1561.

¹¹ *In re Application of WWOR-TV, Inc. for Transfer of Control of Station WWOR-TV, Channel 9 Secaucus, New Jersey*, Memorandum Opinion and Order, 6 FCC Rcd. 193, 199 (1990).

¹² Petition at 1.

Likewise, the Petition alludes generally to interference to public safety and public service communications without offering any particular factual allegations.¹³ Again, the Petition fails to identify Horizon or K227DC specifically as sources of interference and fails to identify any single specific instance of interference or impairment to CMRS licensees or users.

Finally, the Petition lumps Horizon into an unnamed cartel of broadcasters that have refused to cooperate in resolving interference issues and are in violation of the BLM Site Plan at Grizzly Mountain.¹⁴ However, the Petition again fails to provide even the most basic details regarding its claims. It fails to document any instance of Horizon or K227DC operating outside the Site Plan or the Commission's technical rules or refusing to address interference concerns related to K227DC. Therefore, the Petition should be dismissed because its nebulous statements do not satisfy the requirements of the Act and the Commission's rules that a petition to deny be supported by specific allegations of fact.

c. To the Extent the Petition Makes Any Specific Allegations, Those Allegations Misrepresent the Facts or Are Outright Fabrications

Even if the Petition's claims are sufficiently specific to satisfy the threshold requirements discussed above, the claims made by the Petition misrepresent the facts and do not justify denial of K227DC's renewal application. For example, the Petition suggests that unnamed members of a group of broadcasters have refused to install cavity bandpass filters.¹⁵ With respect to K227DC, Western is mistaken. Horizon has installed a bandpass filter at K227DC's transmission

¹³ *Id.*

¹⁴ *Id.* at 2.

¹⁵ *Id.*

facilities.¹⁶ Horizon certified K227DC's compliance with the Commission's technical regulations in the station's renewal application.¹⁷ Horizon now reaffirms that certification.¹⁸

The Petition also wrongly claims that indefinite FM station interference has caused unspecified impairment to public safety and public service communications, but the Petition fails to identify any instance of interference to public service communications at Grizzly Mountain. Horizon is not aware of an interference complaint regarding K227DC by a public safety agency or any other party and would promptly respond to any properly filed interference complaint.¹⁹

Because K227DC complies with the BLM Site Plan and the Petition misrepresents the requirements of the Site Plan, the FCC should deny the Petition and grant K227DC's license renewal application. The Petition incorrectly argues K227DC's facilities do not comply with the BLM Site Plan because K227DC does not have a bandpass filter and operates at high power. As noted above, a bandpass filter has been installed at K227DC's facilities. Moreover, the Site Plan does not require bandpass filters or any other specific protective device for broadcast facilities located at Grizzly Mountain. Rather, it requires transmitters to comply with FCC licensing requirements and have appropriate protective devices to prevent interference to other users at the site.²⁰ Likewise, K227DC operates at its authorized power,²¹ which is well below the power limits established for broadcast facilities at Grizzly Mountain. It is Horizon's understanding that

¹⁶ See Ex. A Declaration of Keith Shipman at 2 (Shipman Decl.); *see also* Ex. B.

¹⁷ See File No. 0000162340.

¹⁸ See Ex. A Shipman Decl. at 1.

¹⁹ *Id.* at 2.

²⁰ See Ex. C at 11. If the Site Plan had intended to mandate the use of bandpass filters or any other specific type of protective devices by broadcasters, it would have done so as it did for certain types of two-way equipment located on Grizzly Mountain. "In situations where a notch type device is used, a bandpass filter must be used with the transmitter." *Id.*

²¹ See Ex. A Shipman Decl. at 1.

the BLM limits broadcast facilities at Grizzly Mountain to 1,000 watts (1 kW). K227DC is authorized to operate at 250 watts (0.25 kW), which it does.²²

The Commission should deny the Petition to make clear that its processes cannot be abused by a serial frivolous litigator to air unsubstantiated interference complaints. Western has offered no evidence regarding its claims of interference or identifying its source. Western also apparently has not availed itself of the Commission's interference reporting processes and, instead, filed an unsupported petition to deny K227DC's license renewal application. Horizon stands ready to resolve any credible interference concerns raised by another party, including by Western,²³ but the Petition does not offer a credible interference claim.

III. Conclusion

In light of the forgoing, Horizon respectfully requests that the Commission dismiss or deny the Petition and grant the pending K227DC renewal application.

Respectfully submitted

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January 27, 2022

²² See File No. BLFT-20180508AAE.

²³ See Ex. A Shipman Decl. at 1.

Exhibit A

DECLARATION OF
KEITH SHIPMAN

I, Keith Shipman, declare that:

1. I am the President and CEO of Horizon Broadcasting Group, LLC (Horizon), and I am authorized to make this declaration.
2. Based on my position with Horizon, I have personal knowledge and experience regarding its facilities and their operations, including the facilities located at Awbrey Butte and Grizzly Mountain.
3. Horizon is a long-time Federal Communications Commission (FCC) licensee. In its capacity as a broadcaster and FCC licensee, Horizon has served the public interest for decades. Horizon is currently the licensee or permittee seven FCC authorizations, including KLTW-FM, Prineville, OR (Facility ID No. 27168) (KLTW), KQAK, Bend, OR (Facility ID No. 31175) (KQAK), KWPK-FM, Sisters, OR (Facility ID No. 59365) (KWPK), K227DC, Prineville, OR (Facility ID No. 27170) (K227DC), and K245BC, Prineville, OR (Facility ID No. 151166) (K245BC).
4. Through the years, Horizon has ensured that its FCC licensed facilities comply with the relevant technical rules, and I reaffirm the certifications made in renewal applications for Horizon's licenses that each of the facilities operates according to the FCC's rules. Specifically, I reaffirm that KLTW, KQAK, KWPK, K227DC, and K245BC were operating according to the technical parameters authorized by their licenses at and before the filing of their license renewal applications and that those facilities continue to operate according to their licenses. Horizon's facilities, including K227DC and K245BC, operate at their authorized power levels.

5. Horizon takes seriously its obligation to comply with the FCC's rules and, therefore, has installed bandpass filters at a number of its facilities where technically appropriate. KLTW, KWPK, KQAK, K227DC, and K245BC have each had bandpass filters installed. The bandpass filter for KLTW was installed in August 2012, and the bandpass filter for the combined facilities for KQAK and KWPK was installed in May 2001.
6. As part of its obligation to comply with the FCC's rules, it is Horizon's policy to quickly respond to any credible interference complaint. Horizon is not aware of any pending interference complaints regarding its facilities, nor is it aware of any interference complaints by public safety or public service communications users regarding its facilities. Horizon stands ready to work with and address interference issue raised by another party to the extent such interference is fairly traceable to Horizon's facilities.
7. In my capacity as President and CEO of Horizon, I would have knowledge of pending litigation involving Horizon. I am not aware of any pending litigation involving Horizon and Western Radio Services Co. (Western). To the extent that Western has initiated or pursued litigation regarding interference issue related to radio facilities located at Awbrey Butte or Grizzly Mountain, Horizon is not a party to that litigation, or it has not been served.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24th day of January 2022.

/s/ Keith Shipman
Keith Shipman
President and CEO
Horizon Broadcasting Group, LLC

Exhibit B



K227DC 93.3 MHz

Exhibit C



Department of the Interior
Bureau of Land Management



**COMMUNICATIONS SITE PLAN
GRIZZLY MOUNTAIN
PRINEVILLE DISTRICT OFFICE**

Prepared by the United States Bureau of Land Management
Prineville District Office
State of Oregon

Approved by: /s/ Mark E. Johnson June 28, 2005
Acting District Manager Date

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I. INTRODUCTION

A. Terms and Definitions

The terms used in this communications site management plan conform to the definitions listed in the April 22, 2005, Federal Register notice “Rights-of-Way, Principles and Procedures: Rights-of-Way Under the Federal Land Policy and Management Act and the Mineral Leasing Act” and clarifications provided in Bureau of Land Management (BLM) Handbook 2860-1 and the United States Code of Federal Regulations (CFR) 43 CFR 2800. In the event of a conflict, between the plan and these sources, the Federal Register notice and the BLM Handbook will govern.

The words “lease” and “lessee” as used in this plan refer to the relationship between the BLM and the communications use leaseholder, the lessee. The words “customer” and “tenant” refer to the relationship between the lessee and the occupants in the lessee’s facilities.

LEASE – A right-of-way (ROW) authorization issued to a communication Facility Owner or Facility Manager, allowing for the use of public lands to construct and/or operate a communications facility and unless specifically prohibited, to sublease to occupants in that facility.

LEASEHOLDER OR LESSEE – Facility Owner/Facility Manager

CUSTOMER – Individuals, commercial activities, organizations, or agencies that are paying a facility owner, facility manager or tenant for communications services and are not re-selling or broadcasting communications services to others.

TENANT – A communications user who rents space in a communications facility and operates communication equipment for the purpose of re-selling, or broadcasting communications services to others for profit.

COMMUNICATIONS SITE – An area of BLM-managed public land designated through the land and resource management planning process as being used or as suitable for communications uses. A communications site may be limited to a single communications facility, but most often encompasses more than one. Each site is identified by name; usually a local prominent landmark, such as Grizzly Mountain Communications Site.

FACILITY MANAGER – The holder of a BLM communications use authorization that owns a communication facility on public land; leases space to other communication users; and does not own or operate their own communications equipment.

FACILITY OWNER – Individuals, commercial entities, organizations, or agencies that own a communications facility on Federal land; own and operate their own communications equipment; and hold a communications use authorization.

NON-BROADCAST – This category includes Commercial Mobile Radio Service (CMRS), Facility Managers, Cellular Telephone, Private Mobile Radio Service (PMRS), Microwave, Local Exchange Network, and Passive Reflector.

BROADCAST – This category includes Television Broadcast, AM and FM Radio Broadcast, Cable Television, Broadcast Translator, Low Power Television, and Low Power FM Radio.

RESELLING – Providing communications to others for profit, such as CMRS providers and cellular telephone, or being in the communications business, such as Television and Radio Broadcasters.

B. Purpose

This plan provides technical standards for the development and management of the Grizzly Mountain Communications Site and replaces the existing Grizzly Mountain Communications Site Plan, dated October 4, 1991. This plan will be used by BLM officials in administering communication uses at Grizzly Mountain, and by existing lessees and applicants desiring a lease or a lease amendment.

The Brothers/La Pine Resource Management Plan (RMP), prepared in 1989, states that public lands will continue to be available for communications sites and that they will be located adjacent to existing facilities to the extent technically and economically feasible. Revisions to the existing Brother/La Pine RMP are currently underway in the Upper Deschutes RMP. The Upper Deschutes RMP, when approved, will identify Grizzly Mountain as an existing low power communication site for two-way radio, point to point microwave, cellular, Cable Television and Television translators. Any future communication uses must be designed, installed, operated, and maintained to be compatible and not interfere with existing uses.

This plan is administrative in nature and is Categorically Excluded from further review under the National Environmental Policy Act (NEPA) (516 DM2, Appendix 1, 1.7). Any additional facility development will require site-specific NEPA analysis.

The plan will be modified in the future as needs and conditions warrant. The plan will be kept updated by amending pages or sections of the plan rather than issuing a revised edition of the plan. When a revision is necessary, a letter from the Prineville District Office enclosing a copy of revised pages or sections will amend the plan. The amendments will be consecutively numbered.

C. Site Description

The site is located on a long narrow ridge, identified as Grizzly Mountain, which is located in the Prineville District Office area, northwest of Prineville, Oregon in T. 13 S., R. 15 E., Section 17 SE¼, Willamette Meridian at approximately 44° 26' 17" North Latitude and 120° 57' 13" West Longitude. The elevation on top of the Grizzly Mountain Communications Site is approximately 5540 feet above mean sea level (msl). A site map is provided as Appendix A.

D. Area Served

This site does not currently serve within an Ranally Metro Area (RMA), and the largest community served is Redmond. The population of Redmond is approximately 15,000 with an annual growth rate of 6% and is located in population zone 9. This information will be used for fee determination.

E. Access

Access to Grizzly Mountain is from Federal Highway 26/State Highway 360. Grizzly Mountain Road is an exclusive perpetual easement that BLM acquired in 1964 from Francis and Beth McCabe. The easement extends from Federal Highway 26/State Highway 360 to the summit and was acquired for the purpose of providing general access for the public and for specific users who hold rights-of-way at the communication site. BLM grades the road annually in the fall to facilitate access to the 80 acre communication site.

F. Site History and Development

The first communications facility ROW on Grizzly Mountain was issued to Endicott Logging Company for a radio repeater in 1964. In 1969, PG&E Transmission Northwest was authorized to add a microwave repeater site and Crook County Road Department added a radio repeater. In the 1970's and 1980's several additional radio repeater and microwave relay facilities were granted. Low power television translator facilities were authorized in the mid 1980's. When the previous management plan was approved in October 1991, there were fifteen buildings and 22 separate right-of-way grants. Authorized uses at that time included microwave, UHF-VHF, low band, and low power television translator equipment. Cellular telephone uses were added later in the mid-1990's.

G. Goals and Objectives of Site Management Plan

1. Manage the Grizzly Mountain Site as a low power two-way radio, point-to-point microwave, cellular, cable television, and low power translator communications site.
2. Manage communication equipment on the Grizzly Mountain Site to maintain the Radio Frequency Radiation (RFR) levels within the uncontrolled public access standards as defined by the Federal Communications Commission (FCC).
3. Systematically develop the site to maximize the number of compatible uses while ensuring safety and protection of resources. Development of new towers or buildings within each of the authorized owner's facilities will be authorized only after their respective tower or building space area is filled to near capacity.
4. Present a program for future growth, development and operation within the site.
5. Help fulfill the public need for adequate communications sites.
6. Protect the interests of leaseholders and site users by preserving a safe and electronically "clean" environment.
7. Encourage the efficient development and use of space and facilities within the designated site, subject to the BLM's goal to provide the best possible public service at reasonable cost.
8. Achieve visual quality objectives by requiring design standards that are unobtrusive and utilizing earth tone colors and non-reflective surface material and stringent site maintenance requirements.
9. Describe the BLM's policy for authorizing road use and maintenance.

10. Establish the framework for a User's Association, which could provide recommendations to the BLM authorized officer.

11. Developed new facilities only after the appropriate site-specific NEPA analysis and coordination with current leaseholders and users. This future development must also be consistent with the Upper Deschutes RMP when approved.

12. Amend this Communications Site Plan as necessary to be consistent with the Upper Deschutes RMP when it is approved.

II. AUTHORITY AND DIRECTION

A. Authority

Authority for the BLM to grant communications uses on Public Land (administered by the BLM) is granted by the Federal Land Policy and Management Act of 1976, 90 Stat. 2776 (43 U.S. C. 1761-1771) and the regulations in Title 43, Code of Federal Regulations (CFR), Part 2800 – Rights-of-Way.

Overall management direction and policy for the BLM in the administration of communications sites is outlined in BLM Manual, Handbooks and applicable BLM Instructional Memoranda. Specific direction for site management planning on designated communications sites is contained in BLM Manual Handbook H-2801-1, Rights-of-Way Plans of Development and Grants, and BLM Manual Handbook H-2860-1, Communication Site right-of-Way.

Authority for the issuance of authorizations and/or licenses for the transmission and reception of electronic radiation for communication purposes is granted by Congress and administered by the Federal Communications Commission (FCC) and/or the National Telecommunication and Information Administration – Interagency Radio Advisory Committee (NTIA/IRAC).

B. Relationship to Communications Site Lease

This site plan will be incorporated into all leases now and/or in the future issued for this communications site and must be used in conjunction with the lease. **PROVISIONS OF THE SITE PLAN ARE ENFORCED THROUGH THE LEASE.** Each lessee is expected to include the requirements of the lease and the site plan into any documents, which describe the business relationship between the lessee and the lessee's tenants and customers. The lessee is responsible for enforcing those provisions.

III. GENERAL RESPONSIBILITIES

A. The BLM retains the responsibility for:

1. Issuing and amending leases and existing ROWs to Facility Owners and Facility Managers, only for the areas actually occupied by the authorized improvements. Granting occupancy and

use of public lands rests exclusively with the BLM, Title 43 CFR Sections 2801- 2803. The issuance of a FCC license (authorization), or frequency assignment, does not authorize occupancy of public lands.

2. Approving any new/modified facility(ies) at the site.
3. Approving amendments to leases to qualified buyers of facilities on the site.

B. Facility Owners and Facility Managers (or their designated representatives) are responsible for:

1. Complying with their authorization and all sections of this Site Management Plan.
2. Ensuring that all new facilities, expansions, or improvements are consistent with the Prineville District Office Planning Documents; any environmental document(s)/decisions for the site and this Communications Site Plan.
3. Lessees are not authorize to place or have tenants place additional buildings, equipment shelters, and/or towers upon their lease area without written authorization from the BLM. Owners of buildings, equipment shelters and/or towers must have their own authorization. The primary configuration of a lease is one building and one tower. Any additional buildings or towers must be authorized by the BLM and/or amended in the lease instrument.
4. Ensuring facilities/equipment not complying with Federal/State/local laws/regulations/ordinances will be removed or modified within one year of the approval of this plan. Any modification needs pre-approval by the BLM.
5. Keeping all facilities within the established limits of their authorized area.
6. Providing the BLM, with the name, address and phone number for a local contact person. The Facility Owner, Facility Manager and contact person may be the same individual. The contact person will be available for emergencies and will have the authority to make decisions about construction issues, facility maintenance and all equipment within the facility.
7. Adhering to the Facility Owner/Manager Lease/ROW as follows:
 - a. Facility Owners and/or Facility Managers are authorized to rent building/tower space to tenants and/or customers without prior written approval from the BLM.
 - b. Tenants and/or customers using a facility covered by a Facility Lease/ROW will not have separate BLM Leases/ROWs to authorize the use.
 - c. Facility Owners and/or Facility Managers are responsible for complying with the terms and conditions of the Facility Lease/ROW. Facility Owner/Managers are also responsible for ensuring that their tenants and customers are in compliance with the terms and conditions of the Lease/ROW, and applicable FCC or National Telecommunications and Information Administration, Interdepartmental Radio Advisory Committee (NTIA/IRAC) license terms and conditions.
 - d. The Facility Owner and/or Facility Manager may not place any unreasonable restrictions nor any restriction restraining competition or trade practices on tenants and/or customers, or potential tenants and/or customers.
8. Ensuring that all communications equipment is properly installed, operated, and maintained.

9. Ensuring that all communication equipment meets American National Standard Institute (ANSI), FCC and BLM regulations, guidelines and standards concerning radiation limitations by:

- a. Monitoring radiation levels at their facility and;
- b. Immediately correcting any radiation levels that are, or could be a hazard to human health. (FCC 47CFR sections 1.1307(b), 1.1310 and 2.1093) and FCC OET Bulletin 54, August 1999.

10. Providing to the BLM a certified copy of their use and the category of use along with the current name of all tenants and customers as of September 30th each year. This report is due by October 15th.

11. Keeping the premises around their buildings free of trash and debris and remove surplus or unused equipment from the site.

12. Perform all necessary repairs and maintenance to facilities in a timely manner.

13. Placing the Lease/ROW holder's name, address, phone number, and BLM Lease/ROW number on the door of their communications site building.

14. Correcting interference problems.

C. FCC and NTIA/IRAC are responsible for Frequency Management:

The FCC and NTIA/IRAC are not normally responsible for the resolution of conflicts when the licensees or agencies are operating within the limits of the authorizations.

IV. AUTHORIZED USES AND USERS WITHIN A FACILITY
--

A. Exclusive Use of a Facility By a Single User

Several facilities currently have no tenants or customers. Unless unexpected demand occurs, these facilities will be allowed to remain as single users facilities at the Grizzly Mountain Site.

B. Use by Multiple Users

Use of new facilities and improvements by more than one user will be required. Site applicants will take the lead in this area and design their proposals to accommodate multiple uses of facilities and improvements. This includes multiple uses of buildings, towers, back-up generators, grounding systems, fuel containers, access ways and parking areas.

Due to the current availability of building and tower space at the site, new facilities, or major modifications to existing facilities will generally not be approved until the empty space is utilized even if other users are, or could be, competitors.

Facility Owners and/or Facility Managers are not required to lease facility space to others if they can prove to the authorized BLM officer that:

1. Space is not available;
2. The use is incompatible with the existing facilities;
3. Additional space is needed by the facility owner/manager;
4. Additional users would violate system security needs; or,
5. Potential interference is not resolvable.

V. FEES AND BONDING

A. Fees

The BLM will charge Facility Owners and/or Facility Managers annual fees based on the Fee Schedule for Communications Uses on Public Lands as adjusted annually. These fees will be fair market value for the use of public lands. Since this site is not currently within a Rationally Metro Area (RMA), the population Zone 9 will be used for these calculations unless something else is specifically agreed to in writing by the authorizing officer.

Fees that Facility Owners and/or Facility Managers may charge their tenants and “customers” are to be reasonable (consistent with, and not in excess of, other fees for similar facilities) and commensurate with the uses and occupancy of the facilities and services provided to tenants and “customers”.

B. Bonding

Customarily, bonds are required from site ROW holders to assure compliance with the construction, maintenance, and termination stipulations of the ROW grant. Communication sites present interference and intermodulation concerns that may warrant bonding. When a site ROW requires bond coverage, the guidance is found in BLM Manual Handbook H-2801-1 shall be followed.

VI. General Operation and Maintenance Direction

A. Unique Resource Considerations at this Communication Site

1. The communications site is adjacent to a known Bald Eagle nesting site. Construction activities are prohibited between January 1st and August 31st each year. The seasonal closure could be re-opened if, through monitoring, the nest site is determined to be unoccupied. However, the closure period must cover the potential for late nesting birds. If construction activity is proposed during this period, a Biological Assessment would be prepared and consultation with the U.S. Fish and Wildlife Service may be required to determine potential impact to Bald Eagles. The Prineville District Office must be contacted prior to any construction activities at this site.

B. Wiring and Grounding

1. All equipment is to be installed within existing buildings and on equipment racks that are grounded and shielded. Grounding is to be installed in accordance with accepted standards.
2. All electrical wiring and grounding must meet the “National Electrical Code” and applicable state codes. All permanent wiring shall be installed in metallic conduit. Surge protection shall be installed on all power distribution panels. All non-aerial wiring shall be buried in conformance with local building codes.
3. Lightning protection “down” conductors installed upon communications towers shall be treated as “Transmission Lines”. Therefore, they shall have an insulating jacket. Periodic bonding of the down conductor to the tower (Galvanized) steel shall be made with proper bonding connectors that are tin plated or made of brass.
4. Each building is to have its own separate grounding system for all users in that structure. Wherever practical, interconnection of individual grids and/or the simultaneous placement of a large sized copper ground wire with any new grounding systems that are buried on the site will be required.
5. Site or facility grounding must be constructed of copper, with #2 AWG (American wire gauge) or larger wire or 2” or larger solid copper strap, connected to an adequate site/facility ground electrode system. The site/facility ground electrode system shall be bonded to the power service entrance grounding electrode conductor. Guy wires should also be grounded using manufacturers approved methods to preclude bi-metallic junction and corrosion. All equipment on the site (buildings, towers, power units, transmitters, receivers, antennas, combiners, telephone systems, power cabinets, HVAC, heating ventilation and air conditioning, units, etc) must be connected to the site/facility ground by direct connection. Electrical system ground wiring is required for electrical ground fault protection and circuit breaker coordination. High power operations should use copper strap bonding in accordance with manufacturers specifications. The grounding systems shall comply with applicable laws, codes and in accordance with standard engineering practice. Below ground connections must use either an exothermic welding process (i.e. Cadweld, Thermoweld, etc.), copper wedge pressure devices (i.e. Ampact, Wrench-lock, etc.), or brazed copper connections in conjunction with a mechanical UL, Underwriters Laboratories, listed connector (to be used as a physical strength enhancement component). Brazing by itself is not an acceptable method of bonding below earth grade (buried).

C. Communications Equipment

Equipment Ownership

All equipment shall be labeled with:

1. The owner’s name;
2. Transmitter frequency(ies);
3. A valid FCC, or IRAC , authorization;

4. Transmitting power output(s); and
5. A current 24-hour phone contact number.

Transmitting Equipment

All transmitters will have protective devices (shields, filters, isolation components), designed into or externally installed, to prevent interference to other users. All transmitters will meet FCC licensing requirements.

Re-radiation of intercepted signals from any unprotected transmitter and its associated antenna system will be prevented by the use of appropriate filters (wide band and narrow band broadcast transmitters).

The direct radiation of out-of-band emissions (i.e. noise or spurious harmonics) will be reduced to a level such that they may not be identified as a source of interference as defined in the FCC Rules and Regulations (e.g. Part 90.209(e)). If site noise (electromagnetic noise) becomes an issue, noise threshold limits will be established, and amended into the Site Plan.

All transmitters not in immediate use and not specifically designated as standby equipment shall be removed. Loads connected to circulators are to be capable of dissipating the total power output of the transmitter.

Receiving Equipment

A bandpass device (cavity, crystal filter, etc.) is recommended at the input of all receiving devices. Cavity filters, or other protective devices, may be used at receiver inputs to reduce interference.

Where duplexing is used, use of a notch type device should be avoided. In situations where a notch type device is used, a bandpass filter must be used with the transmitter.

Tower

1. Generally only one tower is authorized for each facility owner. Facility Owners and/or Facility Managers may obtain permission to construct a second tower only after submitting evidence that demonstrates that their existing tower is completely filled and full use has been made of combining systems.
2. All towers will be left unpainted, if they are dull, galvanized steel. If paint is required, the BLM will approve only non-reflective colors from the Munsell Soil Color Chart, Standard Environmental Colors. The exception is when the FCC requires red/white striping.
3. No lights beacons or strobes will be allowed on towers (including antennas) less than 200 feet high.
4. To avoid possible impacts to birds or bats, follow the most current version of the U.S. Fish & Wildlife Service's Interim Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers (available at <http://migratorybirds.fws.gov/issues/towers/comtow.html>).

5. Maximum tower height (including antennas) for this site is 125 feet.

Antennas

1. The maximum antenna height (including tower) will be 125 feet.
2. Microwave (dish) antennas (other than ground mounted satellite dishes) will be a maximum of ten (10) feet in diameter. The smallest diameter dishes are preferred if technically feasible.
3. All antennas must meet all OSHA, Occupational Safety and Health Administration, safety standards. If an antenna exceeds FCC public or occupations standards (see FCC OET Bulletin 57) it will be remedied within 24 hours after measures are taken or isolated (e.g., fencing, signing, relocation, lowering power levels are all possible remedies). Ground measurements of Radio Frequency Radiation levels will be taken before mitigation measures are implemented.
4. Color(s) for dish antennas, or covers, must be pre-approved by the BLM. Facility owners/managers will make best efforts to install new antenna and/or covers of a flat gray or other non-reflective color. When in need of replacement, existing white dishes and/or covers will be replaced in flat gray or other non-reflective colors, where possible.

Buildings

All building managers and/or owners are responsible for prompt and adequate maintenance and upkeep of their facility, including painting and necessary repairs of foundations, sidewalks, curbs, wall and roof structures, drainage and enclosures. No facility may be painted without first obtaining approval of the paint color from the BLM. The objective is to have all painted buildings at the site a uniform color. Non-reflective, BLM approved colors will be used on equipment buildings; refer to the Munsell Soil Color Chart, Standard Environmental Colors.

Interference

The responsibility for correcting interference problems is a matter for resolution between the Lease/ROW holder of the facility(ies), the user causing the interference, and the affected party(ies). First uses on a site have seniority with respect to the resolution of interference complaints. Senior holders have an obligation to maintain their equipment to industry standards, to operate their systems in accordance with the terms of both the FCC license and NTIA/IRAC frequency authorization, and to comply with the BLM authorization. Operators of newer uses on a site must correct, at their expense, interference problems that they create. They must cease operation of the suspect equipment until the problem is corrected. If interference problems cannot be resolved or corrected within a reasonable time, the new use that is causing the interference may be terminated and the equipment removed.

The BLM does not have authority for correcting interference problems, but can act as a mediator to help all affected parties. Interference problems must be coordinated with the FCC or NTIA/IRAC whichever is appropriate.

Interference with law enforcement and/or emergency communications must be corrected immediately. The operation of equipment covered by this Site Plan shall not interfere with United States Government radio or electronic operations already in existence on public land within two (2) miles of the site to which this authorization refers. The user causing this interference, shall, at its own expense, take all action necessary to prevent or eliminate such interferences. If it does not eliminate such interference within ten (10) days after receipt of notice from the BLM to do so, this use will be terminated.

If electromagnetic noise becomes an issue, noise thresholds will be established and this Site Plan will be amended accordingly.

D. Cables and Transmission Line (Wave Guides)

All new cabling will be jacketed and shielded and shall either be flexible or semi-rigid type. Existing substandard cables will be upgraded as repairs or replacement become necessary.

Cables will be properly installed and will be strapped and fastened down. Use of ports at building entrance points will be kept to a minimum by use of combiners.

All transmission lines (wave guides) are to be supported in accordance with manufacturer's specifications.

Double shielded braided, or solid shielded cable will be used. No RG-8 type cable is permitted. No connector-type adapters will be used on transmission lines. Only correct connectors that will mate to connected devices are to be used.

Conduits will be shared when they service common areas and will be buried underground in compliance with local building codes. Where below ground installation is not feasible, above ground installation of conduits may be permitted subject to BLM approval.

E. Radiation

All communications uses must meet ANSI, FCC and BLM regulations, guidelines and standards concerning radiation limitations.

Monitoring radiation levels at the site is the responsibility of all site users and will occur at intervals to comply with FCC regulations and guidelines. A copy of the monitoring report will be provided to the BLM within 30 days of its completion.

Onsite RFR measurements will be taken using appropriate equipment that can adequately measure both on-tower and on the ground levels before mitigation measures related to RFR are implemented.

Security fences with RFR notice signs are required around areas that exceed public use levels. Raising higher power transmitting antenna on the tower or adding a taller tower may be necessary to eliminate RFR hazards. Reducing power may also be required if other alternatives are not feasible. All fencing location and design or new tower construction must be pre-approved by the BLM.

Warning signs will comply with ANSI C95.2 color, symbol, and content conventions. Contact information including name and telephone number will also be included on warning signs.

Lowering power levels for on-tower access during maintenance will be coordinated between affected users.

Any identified RFR radiation problems that are, or could be, a human health hazard must be corrected within 24 hours after measurement tests have been completed or removed from the site by the site user(s). If the proposed corrective action involves any new ground disturbance, it must be pre-approved by the BLM.

F. Utilities-Availability of and Requirements for:

Commercial Electrical Power

Commercial power is provided to the site under a BLM ROW Grant to Central Electric Cooperative. The distribution line and portions of the service drops are all buried.

Telephone Service

Qwest has a BLM ROW Grant, to provide commercial telephone hardwire service to this site. All distribution and service connections are buried.

Fuel Tanks

All facility owners are responsible for providing fuel storage (propane and diesel) and emergency power for their tenants. No tenants will be authorized to have separate fuel tanks and/or generators. Each facility owner will preferably consolidate fuel storage into a tank large enough in size to accommodate all tenants. At a minimum, tanks will be grouped together in a consolidated area adjacent to their facilities. All fuel, storage tanks (e.g. LPG, propane and diesel) must meet current fire department, Federal, State and County safety and hazardous materials requirements.

1. All tanks will be:

- a. Signed in red letters, "SMOKING OR OPEN FLAME PROHIBITED WITHIN 20 FEET";
- b. In conformance with National Fire Protection Association (NFPA) requirements; and,
- c. Barriers which prevent vehicle collision with the tank must be installed and maintained.

2. Diesel tanks will also be:

- a. Enclosed in BLM and fire department approved secondary containment vaults that are painted a BLM approved color from the Munsell Soil Color Chart, Standard Environmental Colors.
- b. Constructed with underground fuel lines. Fuel line must be constructed of black, treated pipe and fittings, and must be posted.

G. Sanitary Facilities

1. Plans for any sanitary facilities must be pre-approved by the BLM. If it is determined by the BLM that the users need such facilities, they will be provided by the Lease/ROW holder in a manner and location satisfactory to the BLM and within the requirements of the County Health Department.

H. Security and Law Enforcement

The County Sheriff's Department is the key law enforcement agency for the area. They are responsible for most civil and criminal matters. The BLM will be responsible for enforcing matters related to uses of BLM lands (e.g. resource protection issues).

Patrolling and policing for security purposes is the holder's responsibility. If holders desire to have the protection of extra fencing, BLM's approval must be obtained first. To reduce visual clutter and efficiently utilize existing space, fencing groups of buildings will be encouraged.

No gates are currently on the access road. If an access gate or fencing is deemed necessary, the location of the fence and gates must be approved in advance by the BLM and must be adequate for BLM and County Fire Department access needs.

Fencing All new and/or replacement fences:

1. Must meet health and safety requirements.
2. All fence locations and design require BLM's approval prior to installation. The standard fencing type will be chain-link (i.e. cyclone)
3. The standard fence height will be eight (8) feet.
4. Fencing will be designed and of a type to minimize interference issues.
5. Fences will be signed with RFR notices if RFR is above public levels.
6. All cyclone-type fencing materials will be galvanized.
7. Security wire is permitted along the top of the fence.

I. Site Maintenance

The objective of maintenance activities is to present a clean, neat, and orderly appearance at the site and have all of the authorized improvements safe for workers and the public. All users will keep up the overall appearance of the site.

The objective of reclamation activity is to return the site to a condition which prevents impact to the environment and will not cause additional expense for future communications site users.

Miscellaneous debris remaining after any construction and/or equipment installation, removal or modification, is not only a hazard, but can cause interference or intermodulation problems. In particular, all loose wire or metal objects are to be removed from the site.

The users of the Site will remove all graffiti within 10 working days of finding it. If graffiti is on natural features (e.g. rocks), the graffiti will be removed in a method approved by the BLM's Authorized Officer.

Holders will not be permitted to leave or dispose of trash, garbage, or cut brush on BLM lands. No outside trash or litter containers will be provided. Site users (i.e. holders) will remove litter from the site as it is produced.

Policing of litter in common areas (i.e. areas between buildings and developed sites) is the shared responsibility of those holders bordering these areas.

During construction and/or maintenance, paintbrushes will not be cleaned off on the rocks around the site and excess materials (e.g. cement) will be removed from BLM land.

Peeling paint on buildings and/or towers will be re-painted within thirty (30) days of discovery by the Facility Owner or within 10 days of notification of the holder by the BLM. Paint color shall be pre-approved by the BLM. Upon termination of a communications site ROW grant, it is the responsibility of the holder to ensure that the site is left in a safe and environmentally sound condition, free and clear of all hazardous materials. The specific requirements for facility and site reclamation will be identified in the individual ROW grant issued by BLM.

J. Inspections

Unless waived in writing by the BLM, the holder is to provide, annually, a certified inspection of the facilities and equipment covered by the authorization. The inspection will include technical review that assures that authorized equipment is operating within the specifics of this Site Plan, the FCC authorization, ANSI Standards, and the manufacturer's specifications. In addition, the inspection must assure that the authorized equipment is secure, free of rust, properly grounded, and otherwise properly operated and maintained. This inspection will also review general good "housekeeping". A copy of the inspection report, certified by a telecommunication specialist, is to be provided to the BLM within 30-days of completion. Appendix D provides an example of the inspection checklist.

The BLM may also conduct un-announced periodic reviews to monitor for authorization compliance.

K. Fire Prevention and Hazard Reduction Requirements

Facility owners and managers will be required to maintain 2" mowed grass or mineral soil a minimum of (30) feet clearance around their buildings and a minimum of then (10) feet clearance around any propane tanks, or maintain a gravel surface within their fenced area free of vegetation. Identified threatened, endangered, or sensitive plant species must remain within the minimum clearance areas. No chemical treatment of vegetation is permitted without prior approval of the BLM.

Smoking is prohibited in flammable vegetation areas.

Roof structures shall be kept reasonably clear of leaves, twigs, and other debris at all times.

No explosives will be stored at this site. Flammable materials shall be stored in conformance with the requirements of local fire regulations. Flammables will be placed in closed containers and stored away from sources of ignition and combustible materials. If flammables are stored within a building, the building will be locked, properly signed and well ventilated.

Approved spark arresters will be required and maintained on all internal combustion engines.

At least one (1) U.L. rated 40 B:C dry chemical fire extinguisher is required inside each building. Prior to each June, fire extinguisher(s) shall be inspected by holders and refilled, if necessary.

Any fire will be immediately reported to “911”, the nearest BLM office and/or County Sheriff.

The BLM Officers will make periodic fire prevention inspections. They will call to the holder’s attention any lack of compliance with the above regulations, plus any other existing hazards. Compliance with these inspections is required within the time limits specified in the inspection report.

L. Access Maintenance and Restrictions

Roads

Access to Grizzly Mountain is from Federal Highway 26/State Highway 360. Grizzly Mountain Road is an exclusive perpetual easement that BLM acquired in 1964 from Francis and Beth McCabe. The easement extends from Federal Highway 26/State Highway 360 to the summit and was acquired for the purpose of providing general access for the public and for specific users who hold rights-of-way at the communication site. BLM grades the road annually in the fall to facilitate access to the 80 acre communication site. If other road maintenance is necessary, it must be coordinated with the BLM and according to standards described by the authorizing officer.

Users who damage or disturb the access road, or any associated structures, such as ditches, culverts, roadside vegetation, signs and/or underground utilities or facilities, will be required to repair the road or associated structures, to conditions equal to or superior to those prior to any damage or disturbance. This work may require appropriate NEPA analysis.

Interior Site Driveways/ Parking Areas

Roads within the communications site will be maintained by the site users. Interior roads will be planned and approved during establishment of new facilities. Interior roads will be maintained in a manner to allow only one entrance to the site. Off-road vehicle use in and around the site is discouraged.

Road Closures

Roads on public land are subject to periodic closures to entry during periods of extreme fire danger, inclement weather, or wet conditions. Authorized site users may use the site during these general closures if advance approval is obtained from the BLM.

VII. CONDITIONS FOR CONSTRUCTION, MODIFICATIONS OR EXPANSION

A. New Facility Owner Responsibilities

In addition to the responsibilities listed in Section III, New Facility Owners and/or Facility Managers are responsible for:

1. Submitting a complete application to the Prineville District Office prior to any new construction, or modifications to existing improvements (ATTN: "Realty Specialist"). The application must include:
 - a. The appropriate cost recovery and application fees.
 - b. A copy of the approved Site Plan Base Map showing all of the proposed (new) facilities including structures, towers, and auxiliary equipment;
 - c. Completed drawings/plans prepared by a registered engineer and approved by the BLM;
 - d. Identification of any microwave beam paths, a plot of their azimuth(s), and their proposed elevation(s) on the tower;
 - e. Documentation that shows the proposed facilities will not be obstructing, or interfering with, any existing fixed point to point antennas, omni directional broadcast antennas, or microwave beam paths in the directions of primary population targets. Proposed beam path needs must be shown on Site Plan Base Map; and,
 - f. Any needed recommendations, changes or modifications to their original proposal, based on any required resource surveys and/or reports.
2. Demonstrating that their proposals will not cause undue interference with any existing uses before the BLM can approve new facilities. In addition, it is the applicant's responsibility to show that any new facilities will make the most efficient use of the limited amount of space at the site.
3. Showing their proposals will provide for future users without additional construction.
4. Providing engineering and geotechnical investigations for development of specific foundation designs and grading plans.
5. Providing an Erosion Control Plan prior to construction activities. At a minimum, the Erosion Control Plan must include: sediment control, stipulations that cut/fill slopes will be graded and contoured to prevent erosion and/or excessive runoff, and recommendations for temporary erosion control measures, (e.g. netting, silt fences, swales, and/or sediment collection areas).
6. Coordinating with other Federal (e.g., FCC and FAA), State and County agencies and obtain all required approvals and/or permits.

7. Providing 30-day notice to all facility owners and/or managers at the site, as well as the BLM, of all new frequencies proposed for the site. A completed BLM technical data sheet or equivalent must be sent with the 30-day notice to allow for comment of potential interference. This would be for new frequencies for themselves and their tenants.
8. Insuring that all written approvals have been obtained from BLM prior to construction. In addition:
 - a. Directional broadcast antennas (e.g. translators) will only be protected within the arch between their licensed 3 dB points.
 - b. New and/or modified facilities will not obstruct existing fixed point-to-point antennas or omni-directional broadcast antennas in directions of primary population targets.

B. Construction Methods and Resource Protection

Plans submitted by an applicant for any new construction or modifications shall specify provisions for soil rehabilitation measures including, but not limited to, soil replacement and stabilization and for proper handling of runoff from buildings, parking area, access roads, and undeveloped common areas.

The following methods and resource protection measures will be required to minimize impacts during construction:

1. Avoid and protect sensitive resource areas as identified by the BLM.
2. Compliance with the Erosion Control Plan.
3. During construction and/or maintenance, paintbrushes will not be cleaned off on rocks or trees, logs or other vegetation around the site. No permanent markings of any kind (including survey) marks will be permitted on rocks.
4. Minimize ground disturbance and vegetation removal as much as possible during construction activities. All ground-disturbing activities require prior BLM approval.
5. Following completion of construction or at the end of each construction season, exposed soils on cut and fill slopes will be re-vegetated with native vegetation species of the type and quantity prescribed by the BLM. All work shall be performed at a time and in a manner to maximize re-vegetation success. If necessary, reseeding will be required until vegetation is successfully established as determined by the BLM.
6. All excavation materials shall be incorporated to the greatest extent possible into the earthwork design and construction of the facility site and/or access road(s). Excess excavation shall be disposed of in accordance with plans approved by the BLM.
7. Temporary, on-site storage of construction materials will require prior approval by the BLM.
8. Construction materials and supplies, except for hazardous materials (see number 10. below) may be left at the construction site at the end of each workday, but at the owner's risk.

9. All hazardous materials, including, but not limited to all fuels, oils, and lubricants must be secured from unauthorized access at the site at all times. During construction, these materials are to be removed from the site at the end of each workday, or temporarily stored inside a locked and signed building until the following workday.
10. All surplus construction materials and/or waste debris must be removed from the site no later than thirty (30) days after construction has been completed.
11. Any excavating, earth moving or heavy equipment (e.g. dozers, graders, cranes, backhoes, etc.) will be cleaned off prior to being brought onto public lands to prevent the introduction and spread of noxious weeds into the area.

C. Construction Inspection

1. All new construction, reconstruction, or major modification shall conform to the established technical standards and accepted engineering practices (i.e., the Uniform Building Code).
2. Any construction inspections required by other applicable agencies are the responsibility of the holder. Copies of completed inspections are to be provided to the Field Office Manager, either as they occur or as part of the final as-built plan. Inspection information shall become a permanent part of the proponent's Lease/ROW case file.
3. The Holder agrees that corrective work detailed in BLM, or other agency required compliance inspections, would be completed by the scheduled completion date. If the Holder disagrees or has questions about specific items, the Holder must contact BLM in order that the disagreement or item may be resolved.
4. A final set of as-built plans will be submitted to the Field Manager within 90 days of acceptance of structure (if contracted) or of completion date.

D. New or Remodeled/Expanded Buildings

1. Any new buildings must be designed to accommodate multiple users along with fitting into the physical environment as defined in a site-specific environmental analysis developed at the time of the proposal.
2. Buildings are required to be one or two story, flat roofed. The roof material must be fire resistant. Roofs can be equipped with antenna support structures, such as poles and railings that can extend up to 25-feet above ground level.
3. Facility Owners and Facility Managers are encouraged to construct the interior of their buildings in a modular fashion, so that they can:
 - a. Sublease sections to others;
 - b. Provide tenants and customers with internal separation and security;
 - c. Reduce physical interference; and
 - d. Increase management effectiveness.

4. The following materials are approved for construction of new facilities (i.e. buildings)
 - a. Floors – Concrete slab with drainage.
 - b. Walls – Concrete block, metal or pre-fabricated concrete.
 - c. Roof – Metal, or concrete, if painted to eliminate shiny surfaces, or other fireproof material as approved by BLM. Proposals for wooden roofs will not be approved.
 - d. Partitions – If partitions are necessary in buildings, they should be constructed with fire resistant material (e.g., concrete block, reinforced concrete, or properly grounded expanded metal.
 - e. Color – Proposed color for use on all exterior building surfaces must have prior approved by the BLM. The goal of the color selection for the facilities is to make the building as inconspicuous as possible and to make buildings located on the skyline look inconspicuous when viewed from a distance. The intent is to reduce or eliminate glare from reflective and/or illuminated surfaces such as windowpanes, sheeting and reflective paints. Non-reflective, BLM approved colors will be used on equipment buildings; refer to the Munsell Soil Color Chart, Standard Environmental Colors
5. Building entry lights must:
 - a. Only light the immediate area in the vicinity of the door;
 - b. Be motion activated and have a limited time duration (e.g., 3-5 minutes); and
 - c. Have a shielded beam that is pointed at the building door.

Requests for all-night (i.e. “dusk-to-dawn”) lighting, or entry lighting that would be visible from outside of the site will not be approved.

E. New or Remodeled/Expanded Towers

1. All new construction, reconstruction, and modifications to towers will be approved by the BLM prior to implementation.
2. It is the applicant/holder’s responsibility to assure that a new, or modified, structure will not unduly interfere electronically or physically with any existing equipment at the site. Towers must be spaced, so as to prevent ground level radiation and/or interference problems. This must be clearly demonstrated in writing to the BLM prior to issuance of a Lease/ROW or amendment.
3. All new towers will comply with current structural and safety specifications and design standards, including safety-climbing devices. Towers should be as narrow and “open” as safety and structural integrity allow. New towers will be designed using maximum wind, snow, and/or tower loading anticipated for the site.

VIII. SITE ASSOCIATION/ADVISORY GROUP

A Site Users' Association may be desirable at this site. If formed for the Grizzly Mountain Communications Site in the future, they would be responsible for participation in an access road maintenance agreement and maintenance of internal roads and parking areas. The Site User's Association will also be responsible for ensuring cooperation between users for on-tower access. A Site Safety Officer would be identified within the Site User's Association. The Site User's Association would be expected to develop an RFR Plan/Agreement and recommend measures to reduce interference issues (e.g., through use of filters).

The goal of the Site User's Association will also be to maximize the effective use of the site. The objective of a sanctioned association will be to represent all site users as a group when dealing with the Prineville BLM District Office on matters relating to the Site administration. The association will be able to work in cooperation with BLM to identify problems or opportunities and make recommendations to the BLM for any changes in management strategies at the site. The association could also provide input to the BLM regarding the future addition of equipment and facilities at the site. While the advice and recommendations of the association would not be binding on the BLM, the BLM could use the input for administration of the site. The BLM would be a member of such a group and would help jointly develop the charter (i.e., the ground rules).

In absence of a formal Site User' Association, the BLM may utilize a Site Advisory Group that can make suggestions and/or recommendations to specific problems associated with the administration of the site.

IX. APPENDICIES

- A. Site Map**
- B. Authorized Facilities**
- C. Site Photographs**
- D. Inspection Checklist**

APPENDIX A

SITE MAP



APPENDIX B

LESEE FACILITY TABLE

(See associated User's Table on this Website)

	Auth #	Use	Building	Tower	Access/Parking	Other
# 1 USGS Dept of Geophysics	ORE-43013	Seismic Monitor	Cabinet	Wood mast	Access and parking	
# 2 BPA	ORE-3128	MIC	10'x 28' Fiberglass	35' lattice	Access and parking	2,000 gal Propane, generator
# 3 PG&E Transmission Northwest	ORE-11508	MIC	25'x 15' block	55' lattice 30' lattice	Access and parking	Propane, generator
# 4 Pacifcorp	ORE-39979	PMRS	12'x 24' aggregate	100' lattice	Access and parking	1,000 gal propane, generator Fence
# 5 Day Wireless Systems	ORE-38256	FAM	11'x 18' 11'x 18' metal 8'x 10' generator	95' lattice	Access and parking	4- 500 gal propane Fence
# 6 KATU Television	ORE-46227	BT	12'x 12' aggregate	50' lattice	Access and parking	
# 7 Central Elec Cooperative	ORE-53354	PMRS	8'x 11' block	35' wood pole 3 roof masts	Access and parking	300 gal propane
# 8 BLM Bldg	ORE-49193 ORE-54296	CMRS PMRS	16'x 10' wood	20' lattice 20' wood	Access and parking	Inside Am Twr fence

	Auth #	Use	Building	Tower	Access/Parking	Other
# 9 American Tower	ORE-46851	FAM	12'x 28' aggregate 2 story	100' lattice	Access and parking	Fence Propane generator Receiving antenna
# 10 Forest Service	ORE-26760	PMRS	16'x 24' metal	40' lattice 50' guyed	Access and parking	
# 11 Crook Cnty Road Dept	ORE-3111	PMRS	8'x 10' block	50' wood pole	Access and parking	
# 12 Oregon Public Broadcasting	ORE-36248	MIC	8'x 8' metal	On ODOT and OR State Police	Access and parking	
# 13 Oregon Dept of Transportation Oregon State Police	ORE-06262	PMRS	30'x 24' block – joint w/ OR State Police	40' lattice	Access and parking	Propane
	ORE-46228	PMRS		80' lattice		
# 14 RCC Holding	ORE-47871	CEL	15'x 20' metal	100' lattice	Access and parking	Propane fence
# 15 Ro Jo Jac Logging	ORE-11565	PMRS	8'x 8' block	40' wood pole	Access and parking	
# 16 Total Network Comm	ORE-49829	CMRS	24'x 28' block	100' lattice	Access and parking	500 gal propane
# 17 Oregon Dept of Forestry	ORE-44466	PMRS	9'x 8' block	125' guyed	Access and parking	
# 18 Oregon Public Broadcasting	ORE-36248	BT	10'x 12' block	40' guyed mast	Access and parking	300 gal propaneb

APPENDIX C
SITE PHOTOGRAPHS



Facility # 1
USGS Dept of
Geophysics

Facility # 2
Bonneville Power
Administration



Facility # 3
PG&E Transmission
Northwest

Facility # 4
Pacificorp



Facility # 5
Day Wireless Systems

Facility # 6
KATU Television



Facility # 7
Central Electric
Cooperative

Facility # 8
Bureau of Land
Management



Facility # 9
American Tower

Facility #10
Forest Service



Facility # 11
Cook County Road
Department

**Facility # 12
Oregon Public
Broadcasting**



**Facility # 13
Oregon Department of
Transportation**

Facility # 14
RCC Holding





Facility # 15
RO JO JAC Logging

Facility # 16
Total Network
Communications





Facility # 17
Oregon Department of
Forestry

Facility # 18
Oregon Public
Broadcasting



APPENDIX D

“Grizzly Mountain Technical Inspection”

Date Inspected: _____ Time Inspection: _____

Permit Holder: _____ Authorization # _____

Site Technician : _____ Phone # _____

Number of Transmitters _____ License Posted _____

Please mark the following Items as Acceptable (A) or Unacceptable (U).

Electrical Wiring ----- (A) (U) Grounding ----- (A) (U)

Equipment Installation ----- (A) (U) Housekeeping ----- (A) (U)

Building Repair ----- (A) (U) Tower Repair ----- (A) (U)

Please mark the following Items as Yes (Y) or NO (N) or (NA)

Isolators ----- (Y) (N) (NA) Circulators ----- (Y) (N) (NA)

Cavities ----- (Y) (N) (NA) Terminators ----- (Y) (N) (NA)

Filters ----- (Y) (N) (NA) Lightning Protection ----- (Y) (N) (NA)

Comments: _____

Recommended Corrective Action: _____

Required Corrective Action To Be Taken: _____

Committee Representatives: _____

Bureau of Land Management Representatives: _____

Please make the required corrective action within the next 120 days.

Certificate of Service

I, Seth L. Williams, hereby certify that I have, this 27th day of January, 2022, cause a copy of the foregoing "Opposition to Petition to Deny" to be sent via U.S. Mail or electronic mail, as indicated below, to:

Albert Shuldiner
James Bradshaw
Tom Hutton
Federal Communications Commission
Media Bureau
Audio Division
Albert.Shuldiner@fcc.gov
James.Bradshaw@fcc.gov
Tom.Hutton@fcc.gov

Service by Email

Richard L. Oberdorfer
P.O. Box 2450
Carefree, AZ 85377

Service by U.S. Mail

s/ Seth L. Williams
Seth L. Williams