



Public Employees for Environmental Responsibility

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Ms. Mary Kendall
Deputy Inspector General
U.S. Department of Interior
1849 C Street, NW
Mail Stop 4428
Washington, DC 20240

April 9, 2019

Re: Request for Performance Evaluation and Financial Audit of National Park Service Cellular Tower Approvals

Dear Ms. Kendall:

On October 27, 2017, Public Employees for Environmental Responsibility (PEER) requested that your office review National Park Service (NPS) approval of commercial cellular and wireless facilities within park units. At that time, our review of NPS performance indicates that national parks are often approving these commercial facilities –

- In violation of federal laws to protect environmental and historical resources on parklands;
- In disregard of NPS policies and rules to govern this process;
- Under circumstances which forfeit revenues owing to the federal treasury;
- In derogation of important national park values for conservation of scenery, natural soundscapes, and the ability of visitors to commune with nature; and
- In the almost complete absence of public notice or involvement.

On November 6, 2017, you wrote PEER back indicating that your Audit and Evaluation Division was preparing to include it in your audit plan. Subsequently, PEER did hear from your staff and we provide them substantial documentation about actions by several parks.

In 2017, the largest and most egregious park acting both in violation of law and policy and to the detriment of the taxpayer was Yosemite National Park. Today, I am writing to you to renew and supplement our 2017 request with a focus on recent and ongoing violations at Grand Teton National Park.

Grand Teton is in the final stages of approving the largest expansion of wireless facilities of any national park: thirteen new cell towers in nine locations, together with 62 miles of new fiber optic cable. This approval is undertaken in a manner that clearly violates both law and policy.

I. Violations of Law

A. National Environmental Policy Act (NEPA)

1. Impairment

The Grand Teton telecom Environmental Assessment (EA) contains a section (1.3) that discusses “applicable laws, regulations, and policies.” It lists “NPS Director’s Order (DO) 53, Special Park Uses (2000),” noting that “DO-53 (along with its implementing guidance in NPS Reference Manual (RM)-53, Special Park Uses) addresses procedures for permitting wireless telecommunications facilities in units of the National Park System.”

The EA fails to mention NPS’s Organic Act in its “relevant laws” section. The Organic Act is the quintessential guidance for all NPS actions, especially the Act’s requirement to avoid “impairment” of Park resources.

By contrast, Yellowstone’s Wireless Plan discusses the “impairment” issue as well as the definition of “unacceptable” impacts. Since Grand Teton’s proposal is larger by far than any other in history, it is a significant failing that it does not address the concept of impairment of park resources.

2. Wilderness

Nearly half (46%) of Grand Teton consists of recommended wilderness and potential wilderness. Yet the EA dismisses this topic altogether. This omission seems to violate the very purpose of NEPA that federal agencies must assess the environmental effects of their proposed actions prior to making decisions.

3. Lack of Alternatives

Section 1500.2 of the Council of Environmental Quality Regulations states that “Federal agencies shall to the fullest extent possible: ...Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.”

The Grand Teton EA considers only two alternatives: no action or the Park’s plan. By contrast, a 2015 internal document to aid the consultant doing the EA states that at least three alternatives “shall” be considered.

4. Misuse of Categorical Exclusion

In the summer of 2016, the park approved by Categorical Exclusion AT&T’s proposal to install a COW (Cell on Wheels) near Grand Teton’s Moose Headquarters complex. It was to be in place from July 1 to October 1 of 2016 for a total of three months. The “category” used by the park was D4:

“Issuance of permits for demonstrations, gathering, ceremonies, concerts, arts and crafts shows, etc., entailing only short-term or readily mitigable environmental disturbance.”

Not only was this a misuse of the permit process, it was a distortion of the CatEx exemption as well.

Further, Grand Teton did not issue a press release regarding installation of this COW, nor was the CatEx made public. PEER found out about this mobile cell tower through materials obtained through a Freedom of Information Act lawsuit we brought against the park for refusing to release any documents for 9 months following the request.

The Park internally circulated “talking points” justifying the COW, which included these lines:

“The NPS Centennial is all about connecting with the next generation, namely millennials.”

“One of the best ways to connect with millennials is through technology.”

“It’s not just millennials, it’s the modern park visitor.”

Not mentioned was the NPS Centennial promotion called “100 Years of Getting Away from it All.” The ad for that promotion stated, “Join us in celebrating 100 years of beautiful escapes. Tell us how you broke free with #FindYourPark.”

B. National Historic Preservation Act

The National Historic Preservation Act Section (NHPA) 106 regulations require public notice and comment from the earliest stages of the proposal. Grand Teton began internal discussions on a telecom expansion in 2013 and received a comprehensive SF-299 in 2015. The park issued no public notice on this topic until June 2017.

The park’s first formal contact with Wyoming State Historic Preservation Officer was not until April 13, 2018. The SHPO concurred with the park’s “no adverse effect” determination in November 21, 2018. There was, however, none of the required public involvement and comment.

The public is not supposed to come into the NHPA process at the end. The public should have been provided with maps of the relevant historic districts, including where the proposed structures would be. Nor was the “Class III cultural resources inventory report” referenced in correspondence with the SHPO posted online for the public to review.

II. Violations of NPS Policy

NPS Reference Manual (RM) 53 requires that a specific process be followed for each tower application received by a park. RM-53 lays out the roadmap each park is supposed to follow in approving WTF facilities. Despite these clear guideposts, Grand Teton has gone off the map.

RM-53 requires that an application contain “Maps showing the ‘before’ and ‘after’ service levels and signal strength for the proposed WTF site(s).”

The park has belatedly posted just one map that covers all 13 cell towers. It is impossible to isolate the coverage provided by each tower. Nor can the entire map be clearly read.

RM-53 also requires “Maps showing all other WTF sites and their coverage operated by the applicant up to a 15 mile radius (or other distance determined to be appropriate by the superintendent).” The park has released no such map to the public.

Knowing about towers within a 15-mile radius is important to learn whether there is coverage coming into the park from towers outside the park. The public needs to know exactly how much coverage there is now so it can see what the park is adding.

These coverage maps are the heart of the compliance process. Whatever is required to be part of the application should be released to the public during the compliance process. There is nothing privileged or secret about coverage maps, or the location of other cell towers in the area. Other parks have made this information public during the compliance process (e.g., Mt. Rainier).

In addition, Grand Teton has not released a “schematic site plan” for each tower, as required by RM-53.

Furthermore, bundling 13 tower proposals together does not allow the park to evade the specific requirements of RM-53 for each proposal.

Finally, this RM (Page A5-45) states that the “superintendent assures proper compliance” for each WTF application. Grand Teton Superintendent David Vela failed to do this as well.

Conclusion

The scope of the violations and other shortcoming that we have outlined for your office have not only continued unabated, they have become even more blatant. Unless your office undertakes a performance review and recommends management reforms to prevent recurrence of abuses, they will continue.

PEER has extensive documentation of these deficiencies at Grand Teton, as well as similar problems since 2017 at several other national parks. Should you choose to conduct this review, we will arrange to transmit documents we have collected on all these parks that underline these concerns.

Thank you for your consideration of this matter.

Sincerely,



Timothy Whitehouse
Executive Director