



# Public Employees for Environmental Responsibility

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September 9, 2019

Deputy Director P. Daniel Smith  
National Park Service  
1849 C Street, NW  
Washington, DC 20240

## **RE: Moratorium Request for New Park Cell Towers**

Dear Deputy Director Smith:

As you know, on July 19, 2019, the Interior Department Office of Inspector General (IG) sent you an audit entitled “The NPS Needs To Improve Management of its Commercial Right-of-Way Program” (Report No.: 2018-WR-011). This audit was conducted following an October 2017 complaint from Public Employees for Environmental Responsibility (PEER) concerning illegal cell tower approvals in Yosemite National Park.

The audit confirmed the problems PEER flagged and determined they existed system-wide, including –

- Widespread noncompliance with National Park Service (NPS) rules requiring reviews of potential adverse impacts on environmental and cultural resources;
- Failure to even bill for, let alone collect, revenue owed to NPS by telecoms; and
- Lack of oversight to the extent that parks cannot accurately report what they have permitted and nationally the NPS does not inventory what cell facilities have been built.

The NPS response to this audit, issued under your signature, agreed with the Inspector General findings and recommendations and included pledges to --

- Complete an inventory of rights-of-way that have been issued for cell towers and a system to keep that inventory up-to-date;
- Develop “an action plan to ensure compliance with RM 53” and other applicable laws, regulations, and policies; and

- Implement collection policies to ensure that the proper fees and costs are assessed.

However, just weeks after this Inspector General report, with none of the promised reform steps completed, the NPS is green-lighting even more cell towers. In some cases these new approvals are for not only single towers but for whole networks of cell towers in parks such as Grand Teton (with nine new towers) and Grand Canyon (with five towers slated for approval). In addition, PEER is still trying to obtain information about emerging cellular proposals from Olympic, Crater Lake, Lake Mead, and Bryce Canyon.

By this letter, PEER is urging you to impose a moratorium on all new national park cell towers or equipment until you have implemented the Inspector General's recommendations. We would also urge that the NPS use this hiatus to rethink its overall approach to permitting commercial cellular facilities to serve subscribers of particular telecoms.

The fact that the NPS, after 15 years of desultory efforts, still does not know how many cell towers (and where they are located) in national parks is an embarrassing failure of management that denotes deeper institutional dysfunction that demands immediate attention.

This is not merely a concern about poor record-keeping. Indeed, we are concerned that park superintendents are acting in violation of law and policy, and in so doing are harming park resources, such as scenery, soundscapes, and serenity values.

The recent approval of the largest cellular expansion in NPS history by Grand Teton National Park (GRTE) following a Finding of No Significant Impact (FONSI) after a remarkably incomplete Environmental Assessment (EA) epitomizes our concerns as itemized below:

### ***1. Conflict with Park Mission***

NPS Management Policy 8.6.4.3 provides that "As with other special park uses, telecommunications proposals must meet the criteria listed in sections 1.4.7.1 and 8.2 to prevent unacceptable impacts. In addition, when considering whether to approve, deny, or renew permits, superintendents will... consider whether the proposal would cause unavoidable conflict with the park's mission, in which case the permit will be denied."

Policy 1.4.7.1 defines unacceptable impacts as "impacts that, individually or cumulatively, would:

Be inconsistent with a park's purpose or values, or

Unreasonably interfere with... the atmosphere of peace and tranquility, or the natural soundscape maintained in wilderness and natural, historic, or commemorative locations within the park.”

GRTE’s Foundation Document succinctly states the Park’s mission:

“The purpose of Grand Teton National Park is to preserve and protect the spectacular scenery of the Teton Range and the valley of Jackson Hole; protect a unique geologic landscape that supports abundant diverse native plants and animals and associated cultural resources; protect wildlands and wildlife habitat within the Greater Yellowstone area, including the migration route of the Jackson elk herd; and to provide opportunities for enjoyment, education, inspiration, and scientific investigation compatible with these resources for present and future generations.”

The provision of cellular service as proposed is inherently incompatible with preserving Park “wildlands and wildlife habitat” and the other values enumerated above. Cellular companies promote their product based on such “values” as how fast movies or video games can be downloaded and played.

We urge the NPS to use a moratorium to rethink the role of visitor connectivity in preserving core park values of communing with nature and protecting natural soundscapes from deep penetration from human noise.

## **2. Deleterious “Wilderness” Impacts**

Almost half (46%) of GRTE is recommended wilderness or potential wilderness, and almost all of John D. Rockefeller, Jr. Memorial Parkway is now eligible for wilderness designation. The GRTE EA mentions the Wilderness Act of 1964 just once, and does not elaborate on what the law provides or protects.

Yet, on page 9 of the EA, GRTE dismisses “Wilderness” as a topic for evaluation and analysis. This contradicts the scoping newsletter released to the public in 2017. In that document, the park lists “Scoping and Issues to be Addressed,” and “Wilderness” is on the list as a “preliminary impact topic.” By contrast –

- ✓ Mt. Rainier National Park’s Paradise Cellular Installation Environmental Assessment (May 2017) retained “Wilderness” as an impact topic for further review.
- ✓ Yellowstone’s Wireless Communications Services Plan retained “Wilderness” as an impact topic.
- ✓ Sequoia National Park’s Wuksachi Village Wireless Telecommunications Facility EA (October 2018) retained “Wilderness Character and Visitor Experience” as an issue for “detailed analysis,” stating that “Access to cell service and cell phone use in the Sequoia-Kings Canyon Wilderness may cause noise such as ringtones, music, and chatter, impacting wilderness character and altering the wilderness experience...”

GRTE's EA emphasizes that "it is not the purpose of the plan to try to provide cellular service to these areas." However, in its FONSI, GRTE acknowledges the coming "spillover" of signals into the backcountry but dismisses this concern:

"Although the technology exists to limit the spillover of cell phone frequency into backcountry and wilderness areas, the NPS determined the potential increase in overall coverage of cellular service is acceptable in these areas. Smartphone applications, as well as FirstNet described in the EA, which are cellular dependent platforms, can assist search and rescue personnel in locating and rescuing ill, injured, and lost persons." (p.16)

This extraordinary conclusion is not accompanied by any evidence. Moreover, it appears to be based upon the assumption that public safety would be enhanced by wiring every square inch of park backcountry and wilderness.

Before it proceeds further down this misguided (and, we would argue, illegal) path, the NPS should pause to consider whether extending electronic tendrils deep into park wild lands is prudent.

Concerning this vital issue of mitigation, the EA offers the bland assurance of "visitor education on the importance of natural soundscapes and being respectful of other visitors to minimize impacts." The EA adds, "Education about the importance of wilderness and how to use (or not use) cell phones in wilderness (e.g., etiquette to improve opportunities to solitude) would occur."

Looking at Yellowstone's experience on this issue offers a cautionary tale. In approving its 2008 Wireless Plan, YNP promised, as mitigation, "cell-phone-free zones" and an education program paid for by the cellular companies. To date (11 years after their EA was issued), no cell-phone free zones have been designated, and no money has been forthcoming from the industry. Some of the signage originally installed has been removed (e.g. near Old Faithful).

The NPS should use a moratorium to consider the scope of impairment these cellular expansions represent and whether "visitor education" is a meaningful mitigation for those adverse impacts.

### ***3. Violating the National Environmental Policy Act***

NEPA requires that the park consider impacts but most of the Environmental assessments prepared by parks are severely limited. For example, the GRTE EA does not even mention the dangers of roadkill and distracted driving from extending cell coverage to GRTE's winding, poorly lit roads. The public is entitled to learn more about the park's efforts to enhance traffic safety and to reduce roadkill if expanded cellular coverage is approved.

Nor did GRTE consider a “range of alternatives” to cell towers. Few even consider Cellular on Wheels (COW) alternatives for serving the public during the busy summer months.

Finally, virtually all park cell approvals spring from official findings of “No Significant Impact” despite substantial concerns raised. The misuse of FONSI for precedent-setting actions with significant consequences reduces the NEPA process to an empty exercise.

We would urge the NPS to use a moratorium to examine its NEPA review process and take steps to strengthen uneven compliance.

#### ***4. Improperly Excluding the Public from the National Historic Preservation Act’s Section 106 Process***

Section 800.1 of the regulations states that the agency official “shall ensure that the section 106 process is initiated early in the undertaking’s planning, so that a broad range of alternatives may be considered during the planning process for the undertaking.”

At GRTE, the project planning in this case began in 2013. Diamond Communications proposed the elaborate current project in October 2014. GRTE’s consultant began drafting the EA in either 2016 or 2017. Yet GRTE’s own scoping newsletter makes no mention of Section 106 or the impact the proposal may have on historic properties in the park. GRTE began its formal consultation with the Wyoming State Historic Preservation Office in April 2018, with concurrence of the “no adverse effect” determination occurring on November 21, 2018. No matter how you do the math, this proposal has been under consideration for at least four years, yet the public was not invited to comment on the possible impacts of this proposal on historic sites in the park until March 2019.

Moreover, the GRTE EA does not even contain any maps showing the boundaries of historic districts or text describing the details of each historic district, landmark, or building that might be affected. In no way can this be considered involving the public at the “early stages of project planning,” as required by Section 106.

In a June 29, 2017 letter, PEER expressed concern to then-Superintendent Vela about the public being left out of the Section 106 process. We asked that the details of every historic property be posted at PEPC so that the public could intelligently participate in the analysis of this complex proposal, but our request was ignored. This is a direct violation of the above-mentioned Section 800.1.

Again, we would urge NPS to use a moratorium to examine the nature of its NHPA compliance. We would further urge outreach to relevant State Historic Preservation Officers to improve the required consultation process at the earliest possible stages of new telecommunications developments.

## ***5. Ignoring NPS Policies Requiring Public Notice and Other Fundamental Information***

Reference Manual (RM)-53 requires that a specific process be followed for each tower application received by a national park. RM-53 lays out the roadmap each park is supposed to follow in approving wireless facilities. GRTE has not followed this process and has not provided an explanation as to why it has deviated from this process.

RM-53 requires that an application contain “Maps showing the ‘before’ and ‘after’ service levels and signal strength for the proposed [Wireless Telecommunication Facility].” In its 2019 EA, GRTE belatedly posted just one map that covers multiple proposed cell towers. It is impossible to isolate the coverage provided by each tower, and to see the detail required to understand how much coverage is being proposed, and exactly where.

NEPA requires you to “fully consider the impacts of proposals” and “to involve the interested and affected public” in the process (see 2015 NPS NEPA Handbook, p. 5). How can GRTE “fully consider the impacts” of this proposal without seeing the individual coverage maps? How can the public provide input without seeing this critical information?

RM-53 also requires “Maps showing all other WTF sites and their coverage up to a 15-mile radius (or other distance determined to be appropriate by the superintendent).” GRTE released no such maps to the public. The public needs to know the extent of coverage provided by towers outside of the park to determine how much coverage the park’s new towers will be adding.

RM-53 also requires “Propagation maps from the applicant showing its proposed buildout of sites within a 15-mile radius of the proposed sites within the next five years (or other distance or time frame determined appropriate by the superintendent).” But again, this fundamental information is absent from the GRTE EA.

These coverage maps are the heart of the compliance process. There is nothing privileged or secret about coverage maps or the location of other cell towers in the area. Indeed, cellular companies compete in making claims about which one has the best coverage.

In addition, RM-53 (Page A5-45) provides that the “superintendent assures proper compliance (for instance NPEA, NHPA, etc.) is accomplished for each WTF application.” Such assurances are not possible in the manner several parks conduct their right-of-way approvals.

PEER would urge NPS to use a moratorium to examine compliance with RM 53 and other NPS policies and to take administrative steps to assure future adherence to these policies.

## ***6. Failure to Consider Changing Technology***

Although these recent approvals tout modernization, none accommodate 5G (Fifth Generation) cell service and will soon be obsolete. Thus, before the ink is dry on these new rights-of-way, the telecom companies will be pushing for upgrades. This, in turn, will divert park managers' time and attention in pursuit of a never-ending pursuit of the latest level of connectivity.

In conclusion, we believe that the NPS needs to take a time out in order to reflect on what its major parks are doing to promote commercial cell coverage at the expense of other park values.

As you know, PEER has been critical of NPS protection of park resources during your tenure, as well as those of your predecessors. We are hopeful but deeply skeptical that you will take action to prevent long-term damage to park resources and a coarsening of the park visitor experience. Please demonstrate that our skepticism is misplaced.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Ruch". The signature is fluid and cursive, with the first name "Jeff" being more prominent than the last name "Ruch".

Jeff Ruch  
Pacific PEER Director  
Public Employees for Environmental Responsibility (PEER)