

**Comments Concerning
Yellowstone National Park
Wireless Communications Service Plan
Submitted by
Public Employees for Environmental Responsibility (PEER)
August 8, 2006**

Background

Yellowstone National Park (YNP) is soliciting comments on the scoping for a future environmental assessment of an unspecified Wireless Communications Service Plan.

More than two years ago, following public controversies over the decision by YNP to site a cell phone tower overlooking the Old Faithful Historic District, YNP announced a moratorium on any additional cell phone towers until it completed its “Antenna Management Plan” or “Wireless Communications Plan.” This plan, however, has been in development longer than it has taken the new government of Iraq to draft and ratify its constitution. As of this writing, it is still not publicly known when Yellowstone National Park will finally unveil its draft plan.

Although the Park has been meeting behind closed doors for several months to map out plans with its concessionaires and representatives from several telecommunications companies, this is the first time that YNP is inviting public participation of any sort relative to its communications plans.

PEER Comments

The comments submitted by PEER fall into three categories: 1) a suggested preferred alternative for YNP to pursue; 2) a discussion of YNP’s misleading public statements concerning the supposed public safety benefits of cell phone towers; and 3) specific comments concerning factors YNP should consider in developing its Wireless Communications Plan.

I. A Preferred Alternative: Unwire the Backcountry

The Yellowstone backcountry covers an estimated 3,500 square miles of incomparable wilderness, yet, due to actions by YNP managers, a considerable amount of Yellowstone’s backcountry is already electronically blanketed by existing cell phone towers.

PEER urges YNP to adopt a policy that eliminates cell tower coverage in the backcountry. Regardless of the terms of existing permits, these permits should not be renewed for towers that penetrate the backcountry. In addition, YNP should not grant new permits to any such facilities.

Further, YNP should consider limiting electronic coverage for personal communication devices to buildings. This would mean seeking an un-wired status for its natural

wonders, such as Old Faithful, which are not in the backcountry and have development (e.g., boardwalks) solely designed to allow public access to natural sites.

II. The Public Safety Canard

YNP has used public safety as a post-hoc justification for approving the construction of cell phone towers without public input. However, these YNP claims of public safety benefits appear to have no factual basis. YNP has not—

- Conducted a single study on purported safety benefits of current or proposed cell coverage;
- Assessed the adequacy of alternatives such as emergency call boxes and radios. Feasible alternatives must be considered in order to balance the need for public safety with the protection of our natural resources; or
- Attempted to determine the ways in which cell phone towers can create additional dangers to humans and wildlife.

In attempt to justify its illegal action in approving the Old Faithful cell tower, for example, YNP spokespeople cited three hundred 911 calls from the Old Faithful cell tower during 2002. PEER submitted a Freedom of Information Act request to learn the factual basis for this claim. YNP surrendered records showing the park's emergency number had received a total of 144 calls from all sources in 2002. Most of these calls could not be classified as emergencies. Cell calls could not be identified, nor could the particular tower that enabled the call be isolated. In other words, YNP fabricated numbers to justify public safety claims that were constructed out of whole cloth.

Only one developed area in the Park (the Lake area) has no cellular service. There is no evidence to suggest that the Lake Area is more dangerous or less safe due to its lack of cell phone coverage.

YNP's posture with respect to public safety also appears to be at variance with the position of the National Park Service. In 1998, when the NPS was formulating its early procedures for dealing with cell tower applications, one commenter asked the agency to expedite all wireless telecommunications facility permit applications "where serious public safety concerns are present." Here's how the agency responded:

"The lack of cellular telecommunications equipment does not constitute a serious public safety concern that would cause us to expedite a review or otherwise give priority consideration to the application."

PEER is unaware of any new information in the past eight years that would change this conclusion.

Moreover, even if YNP had a rational basis for concluding that additional lines of communications are needed, it has alternatives to commercial cell or wireless facilities. In the Old Faithful area, for example, hundreds of people walk around with walkie-talkies, which provide instantaneous communications with the visitor center and other people.

Given the downside of heavy cellular use in special settings at Yellowstone, YNP should consider rejecting cellular use and instead using other non-intrusive steps to further safety. Emergency call boxes could be placed in a few locations, and free walkie-talkies could be handed out to those who do not wish to walk out into the basin on their own without a phone.

Finally, the disturbing assumption behind YNP's claims of public safety benefits is that cell coverage is needed throughout the park, especially in the backcountry where other communication alternatives are unavailable.

This assumption requires careful examination before it is blithely accepted because it implies that our parks will become places where one can no longer enter nature's temples completely and truly alone.

III. Specific Comments

A. Start Fresh

Yellowstone National Park already has five cell towers that provide cell phone coverage over approximately two-thirds of the park, including much of the backcountry.

According to meeting notes from a March 31, 2005 gathering convened by YNP with representatives from Sprint, Verizon, Qwest, Western Wireless (now Alltel) and YNP concessionaires, the thrust of current planning is to determine **where else** to locate towers and other telecommunications facilities.

PEER suggests that YNP develop a plan in which no current towers are a given. Instead, YNP should start fresh and determine in which parts of the park, if any, it desires to provide wireless communications access.

While YNP lacks a formal Wireless Communications Plan, it nonetheless already has a facility siting policy – YNP today merely allows the telecommunications companies to decide coverage areas and tower placement. PEER submits that YNP has an obligation (detailed below) to affirmatively plan for the preservation of soundscapes, viewscapes and solitude. YNP should end its deference to commercial interests whose facilities are not required in the national park system.

B. Stop Misinterpreting the Law

YNP internal “talking points” and other communications assert that its cell tower siting decisions are mandated by the Telecommunications Act of 1996. Those assertions are false.

The Telecommunications Act of 1996 does not require YNP to approve a single cell tower. Section 704(c) is the only provision of the Act relating to cell towers on federal lands, and it simply states that the President (or his designee) “shall” draft procedures by which federal departments and agencies “may” make federal lands available for the placement of “new telecommunications services.” These procedures “may” establish a presumption that requests for the use of property... should be granted absent unavoidable direct conflict with the department or agency’s mission...”

As detailed below, YNP's actions to let commercial companies determine cell phone coverage and facility siting is in direct conflict with NPS's mandate to preserve this nation's parklands unimpaired.

The House Commerce Committee added the language of Section 704(c) to the House version of what eventually became the Telecommunications Act of 1996 on May 17, 1995. Exactly what these drafters of 704(c) intended was made clear when the Committee issued its report on the bill in July of that year:

“The Committee recognizes, for example, that use of the Washington Monument, Yellowstone National Park or a pristine wildlife sanctuary, while perhaps prime sites for an antenna and other facilities, are not appropriate and use of them would be contrary to environmental, conservation, and public safety laws.”

On two occasions, the National Park Service (NPS) noted in published documents that it would “take into account” the restrictive language of the House report (first on July 23, 1997 when it published in the *Federal Register* the NPS “policy statement concerning access” to NPS property for the “siting of mobile services antennas,” and second, when Director's Order #53A was issued on December 1, 1997).

The overriding law that YNP is misinterpreting, however, is the Organic Act of 1916 (16 U.S.C. §§ 1-4) which specifies that NPS has a duty to conserve the scenery and leave each park unimpaired. Resources to be protected under the Organic Act include scenic views and natural landscapes.

C. Follow the Park Service Management Policies

In the introduction to the Management Policies, NPS states that a “key tenet of park management is preventing the impairment of natural and cultural resources.” In order to ensure that impairment does not occur, though, NPS is committed to “avoiding impacts that it determines to be “unacceptable.” According to 1.4.7.1, these are “impacts that fall short of impairment, but are still not acceptable within a particular park's environment.”

“Unacceptable impacts” are defined as: “impacts that, individually or cumulatively, would be inconsistent with a park's purpose or values,... or diminish opportunities for current or future generations to enjoy, learn about, or be inspired by park resources 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.”

Section 4.9 of the NPS Management Policies provides:

“The National Park Service will preserve, to the greatest extent possible, the natural soundscapes of parks... The Service will take action to prevent or minimize all noise that, through frequency, magnitude, or duration, adversely affects the natural soundscape or other park resources or values.”

Section 8.2.2. elaborates:

“One particularly important factor that affects the recreational experience of park visitors is the sounds they encounter... Park managers will (1) identify what types of sound contribute to or hinder visitor enjoyment and (2) monitor... noise-generating human activities, including noise caused by... electronic devices that adversely affect visitor opportunities to enjoy park soundscapes. Based on this information, the Service will take action to prevent or minimize those noises that adversely affect the visitor experience...”

The latest revision of the NPS Management Policies Draft of June 2006 goes even further with respect to soundscape management. Park superintendents would be instructed to evaluate unnatural sounds to determine if the level and type is acceptable for a particular park or even a particular area of a park (Section 4.9). The superintendents would also be instructed to “prevent inappropriate or excessive types and levels of sound (noise) from unacceptably impacting the ability of the soundscape to transmit the cultural and historic resource sounds associated with park purposes” (Section 5.3.1.7).

The ubiquity of cell phones has diminished the opportunities for enjoyment of park resources for many of us. Why? Because conversations on cell phones are different from conversations with the person next to you. People tend to talk louder on cell phones, and they also tend to talk about things unrelated to what they are observing.

Cell phones also interfere with the atmosphere of peace and tranquility throughout the park. In addition, cell phones negatively impact the “natural soundscapes” in places such as Yellowstone’s thermal areas.

D. Solitude, Respite from the Civilized World and Communing with Nature Are Values Not to Be Squandered

By wiring most of YNP (while planning to wire the rest), YNP managers are surrendering irreplaceable assets without any apparent consideration of what is being given up. Tellingly, its July 2006 Public Scoping Newsletter, YNP list nine “potential impact topics” but nothing resembling communing with nature or the ability of park visitors to free themselves from the electronic tethers of civilization is included among potential impacts that YNP managers envisioned worthy of discussion.

Today’s cell phones are more than phones. They allow users to check email, text messages and search the web. Increasingly, cell phones mean that visitors can bring their world, and all its baggage, with them – wherever park managers facilitate it by approving cell towers.

Many of our national parks offer an escape from the stress of our daily lives, and the opportunity to get away from the developed world for at least a short period of time. Yellowstone should have areas where commercial interests are not allowed to intrude—

even electronically. It is unfortunate that the current YNP managers cannot imagine why truly being alone with nature is important in Yellowstone.

E. Wilderness Should Stay Wild

Yellowstone National Park has more than 2.2 million acres designated as Roadless under its “Wilderness Plan, Yellowstone National Park, Idaho, Wyoming, Montana,” numbered 101-20,000-C (November 1971) which are eligible for designation as wilderness.

The Wilderness Act of 1964 (16 U.S.C. §§ 1131-1136) provides for the designation of wilderness areas that shall be managed in such a way that will “leave them unimpaired for future use and enjoyment as wilderness areas.” The Act defines wilderness as “an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.” Wilderness is further defined as “an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation,” and described as a place that “has outstanding opportunities for solitude or a primitive and unconfined type of recreation.”

Cell coverage in these areas, even if the cell towers are outside the wilderness eligible areas, is antithetical to the primeval character of wilderness.

F. Pay More than Lip Service to Protecting Viewscapes

The National Historic Preservation Act (“NHPA”) of 1960 (16 U.S.C. § 470) established a program to preserve historic properties for the inspiration of future generations. The Act declares that “preservation of this irreplaceable heritage is in the public interest.” Preservation entails protecting historic viewscapes.

The Organic Act and NPS Management Policies also speak to protecting viewscapes. In addition, the latest revision of the NPS Management Policies Draft of June 2006 emphasizes scenic landscapes as a resource to be protected. It also states that facilities provided will be consistent with the conservation of park resources and values, and all facilities will be harmonious with park resources and aesthetically pleasing.

Contrary to its own public notice requirement, however, the public was not consulted before YNP approved a cell tower in clear view of Old Faithful—one of the premier viewscapes on the planet. Unshielded by trees and without any attempt at camouflage, the stark, silvery pole and its three antennas are clearly visible from much of the Old Faithful Historic District.

At the very least, any YNP Wireless Communication Plan should provide for the removal of the Old Faithful cell tower.

G. Reliance on “Visitor Expectations” Is an Abdication of Leadership

In the July 2006 Public Scoping Newsletter, YNP Superintendent Suzanne Lewis writes:

“The challenge Yellowstone National Park faces is how to respond appropriately to visitor expectations and how to weigh the benefits and impacts of wireless

technologies...while protecting the historic, rustic, outdoor experience of a visit to the world's first national park.”

In PEER's view, Superintendent Lewis misreads her job description. National parks operate under certain preservation mandates regardless of visitor expectations. Park superintendents may not authorize visitors to degrade or impair park resources based upon polling data or other indications of public preference.

Twenty years ago when smoking cigarettes in public places was widely tolerated, YNP banned smoking in the thermal areas to prevent resource damage. In that case, YNP determined what the visitor expectation should be rather than allowing visitor expectations to dictate park practices.

So, too, with respect to cell towers and other wireless communications, protecting the character and resources of the park are the paramount values. Visitor expectations, presupposing that YNP has actually gathered reliable evidence (that it has not shared with the visiting public) indicating what visitor preferences are, should enter into a balance only after it has been determined that park resources will not be impaired.

H. Review the Traffic Safety Costs for Both Visitors and Wildlife

In April 2006, the National Highway Traffic Safety Administration and the Virginia Tech Transportation Institute released the results of their research on driver behavior, distraction and crash factors. The study found that nearly eighty percent of crashes and sixty-five percent of near-crashes involved some form of driver inattention. The most common distractions for drivers is the use of cell phones, and the number of crashes attributed to talking or listening nearly equal the number attributed to dialing.

While YNP officials have alleged public safety benefits from cell phone coverage (see II above), these officials do not appear to contemplate that there may be public health risks to cell coverage, particularly on the network of roads through the park.

In addition to contributing to an increased number of car accidents, cell phone use is contributing to an increase in the number of animals killed by vehicles in the parks. For example, Grand Teton National Park officials have attributed the recent rise in wildlife-vehicle collisions to increased use of cell phones by drivers.

YNP is experiencing record losses of wildlife from auto accidents. According to former Interior Secretary Gale Norton, motor vehicles in Yellowstone National Park “are involved in collisions that, on average, cause the death of at least one large animal per day.” Notwithstanding this grim toll, YNP is taking a number of steps that will aggravate its already high road-kill toll. The park is 1) widening nearly half of its major roadways (this increases vehicle speed, the leading factor in large mammal deaths from cars); 2) allowing gas stations to serve customers in the evening and early morning (most of the vehicular animal deaths occur at dusk or dawn, when animals are astir and driver visibility is low); and 3) making limited use of wildlife crossings, sensors or other means to mitigate animal fatalities.

YNP appears to regard road-kill as an expected by-product of visitation yet the NPS has a mandate to protect wildlife in its parks. YNP should commission a study that considers the impact on wildlife from large numbers of drivers who may become distracted while driving in the park by use of cell phones.

I. Study Potential Health Effects for Staff and Visitors

Cell tower base stations emit radio frequency (“RF”) radiation. High levels of RF radiation cause tissue damage and other adverse health effects. A number of scientific studies published in recent years have found that people living in close proximity to cell towers have increased rates of cancer, as well as other ill-health effects such as fatigue, headaches, dizziness, depression, sleeping disorders, difficulty in concentration, and cardiovascular problems.

In 2004, OSHA found unsafe levels of RF radiation were being emitted from the cell tower at Mt. Washburn within YNP. Exposure of park employees, visitors, and wildlife to RF radiation is one factor that must be considered in any decision to approve cell tower construction.

J. Cell Towers Are Not for the Birds

The Migratory Bird Treaty Act (“MBTA”) of 1918 (16 U.S.C. §§ 703-712) prohibits the killing of migratory birds. Cell towers have been shown to cause the death of migratory birds through collisions with the towers and with each other. Collisions with the towers occur primarily in foggy situations, while collisions with other birds occur when the lights on the towers confuse the birds and they attempt to navigate by the lights, causing continuous circling of the towers and collisions with other birds.

As part of the settlement of a recent lawsuit, Rock Creek Park, for example, has agreed to look into the impact of cell towers on migratory birds. By contrast, YNP has failed to consider the impact of cell towers on migratory birds for the park as a whole.

###