



# Public Employees for Environmental Responsibility

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March 2, 2017

Ms. Sue Masica  
Regional Director  
National Park Service  
Intermountain Regional Office  
12795 Alameda Parkway  
Denver, CO 80225

Dear Ms. Masica,

On behalf of Public Employees for Environmental Responsibility (PEER), I am requesting your oversight over developments at Yellowstone National Park (YNP) which appear to violate both law and National Park Service (NPS) policy. In addition, YNP appears to be accommodating commercial interests at the expense of the visiting public and diverting needed park infrastructure funds to very low priority projects.

YNP has announced its intent to authorize a massive commercial cellular expansion that would result in a more than a fifty-fold increase in bandwidth, bathing the park and much of its remote backcountry with 4G signals to enable video streaming, music downloads and online gaming. Planned work is so extensive that the main hiking trail to one of its most visited venues, Mt. Washburn, will be fully or partially closed to the public during construction. The sixteen slated telecommunications augmentations include three new cell towers, as well as numerous microwave dishes and antennas in various locations.

PEER is asking your office's review of the following:

1. Blatant Violation of NEPA

The National Environmental Policy Act (NEPA) requires that federal actions with environmental significance undergo a specific review process. This project obviously is a significant federal action that should trigger NEPA review.

YNP contends that NEPA review is not required because this multi-site project was already analyzed nine years ago in its comprehensive Wireless Services Communications Plan EA. That is plainly not the case, as the current project centers on projects not contemplated in 2008 and which are designed to increase bandwidth for 4G signals which were only emerging when the Wireless Plan was written.

In a January 2017 news release, YNP states that “A Categorical Exclusion would be prepared for any changes requiring additional National Environmental Protection Act (NEPA) compliance.” However, YNP does not bother to indicate the category under which this proposal fits. In fact, reliance on a Categorical Exclusion (CE) for this project would be wholly inappropriate and would not withstand legal review.

YNP officials should be aware of NEPA’s requirements. This sort of official disregard of these key legal responsibilities should not be tolerated.

## 2. Non-Compliance with the National Historic Preservation Act

As there have been no assurances that this project would not have adverse effects on historic or cultural resources, the requirements of the National Historic Preservation Act (NHPA) have yet to be met.

The regulation (36 CFR 800.2) outlining implementation of the public involvement section (Section 106) requires consultations with “participants” which is defined to include the public. This project has not been subject to any public input on its impact on historic resources – and these impacts are undeniable.

One of Yellowstone’s most iconic features is Mt. Washburn. Its historic fire lookout tower is eligible for the National Register of Historic Places. Mt. Washburn is now festooned with at least 35 antennas and microwave dishes, many of them relating to cellular service in the Park. These have all been added since 1980 (the cellular antennas were added starting in 1996), yet there has been no NHPA analysis performed by the Park, and certainly no examination of the “cumulative effects” of such a conglomeration on the scenery at Mt. Washburn or on the viewshed from this historic structure.

The Park’s January 2017 press release ends with this cryptic line: “Yellowstone is also consulting with the Wyoming State Historic Preservation Office on the proposed design...” That statement in no way suggests that YNP is complying with Section 106 in this public comment period.

Park officials are undoubtedly aware that Section 106 review requires public involvement “commencing at the early stages of project planning,” yet YNP has been working privately on the Mt. Washburn part of this proposal with various telecom companies for more than eight years. In all that time, the Park has not allowed the public a meaningful opportunity to comment, as required by Section 106.

In fact, the NHPA Section 106 review has not even begun on the Mt. Washburn portion of proposal. On three occasions since late 2008, the Wyoming State Historic Preservation Officer has written to the park to inform them that they are unable to concur with any “no adverse effect” determination without having a specific proposal to review. However, no specific proposal has ever been submitted to them, until now. Yet even now, YNP keeps moving the goal-line with an ever-expanding number of new proposed antennas, dishes, and other structures proposed at Mt. Washburn.

In recent years, other NPS units have caused the agency great embarrassment due to flagrant noncompliance with NHPA. We seek your intercession to ensure that Yellowstone does not join this ignominious list.

### 3. Ignores Park Service Rules

As required by NPS Reference Manual (RM-53, Special Park Uses, Rights-of-Way, Wireless Telecommunication Facilities, Appendix 5, Exhibit 6, Page A5-48), an SF-299 written application must be submitted by a wireless company to construct a new cell tower on land inside YNP. The SF-299 must contain all of the following:

“full description of the requested land or facility use in the park, including... equipment and antennas (including structures) to be located at each site.”

“maps showing the ‘before’ and ‘after’ service levels and signal strength for the proposed WTF site.”

“maps showing all other WTF sites and their coverage operated by the applicant up to a 15 mile radius (or other distance determined appropriate by the superintendent).”

“propagation maps from the applicant showing its proposed buildout of sites within a 15 mile radius of the proposed site within the next five years (or other distance or time frame determined appropriate by the superintendent).”

a “copy of the FCC license authorizing the applicant to provide wireless telecommunications services for that area, along with a map showing the boundaries of the authorized service area and the relationship of that area to the park’s boundaries”; and

a “realistic photo-simulation acceptable to the park depicting what the proposed WTF(s) and access, if applicable, would look like after installation.”

RM-53 (Page A5-51) also requires the park’s written response (either a yes, no, or maybe) following receipt of the SF-299 application, as well as notice to “other Telecommunication companies and other interested parties.” In addition, that notice must be sent to the Park’s “list of potential interested parties” (if the Park has one), or to “a newspaper of general circulation in the affected area and/or in the nearest metropolitan area newspaper.”

YNP appears to have ignored all of these required procedural steps. For example, the Canyon proposal does not even have a current SF-299 posted at PEPC and no “before” and “after” coverage maps are provided. The Mt. Washburn proposal does not have a complete SF-299 posted, nor are “before” and “after” coverage maps provided.

The reason this Rule requires that all of this must be provided is so that the public can determine the impact of a cellular proposal. In this project, YNP appears to want to keep the public in the dark about its impacts.

If Yellowstone is free to ignore NPS rules and policies, why should any other park heed them?

These matters should not be peripheral concerns to NPS and YNP. To the contrary, compliance with these statutes and rules are central to the National Park Service mission. PEER asks you to exercise oversight in this action. If you find that individual YNP officials have been derelict in their duties, we would urge you to take appropriate action.

#### Other Concerns

We have enclosed detailed comments about this project and would like to highlight three aspects of the project which PEER believes should merit your attention. As explained, this proposed telecommunication project appears to—

- Improperly impair park resources and values, particularly the protection of scenery and soundscapes;
- Make improper use of park resources for purely commercial uses; and
- Divert substantial resources away from other, higher priority YNP infrastructure needs.

PEER also urges you to consider administrative and management steps to ensure that the types of violations and malfeasance enumerated here are not repeated.

Finally, U.S. Representative Ryan Zinke, the current administration's nominee to serve as Secretary of the Interior, has stressed the need to improve the management of the lands under Interior jurisdiction. The matters PEER is raising here present a major opportunity to improve the quality of management of one of America's Crown jewel parks.

Thank you for attention to this matter. PEER would be happy to provide any additional information you think would be helpful.

Sincerely,

Jeff Ruch  
Executive Director

cc: Superintendent Dan Wenk, Yellowstone National Park