

Special Award Conditions

Award Number: NT10BIX5570035

Amendment Number: 3

1) Compliance with Environmental Protocols & Measures SAC

Broadband Technology Opportunities Program Grant Hardy Telecommunications, Inc., Hardy AnchorRing

This BTOP Grant Special Award Condition establishes requirements applicable to implementation of the Hardy Telecommunications, Inc., Hardy AnchorRing Project. The funding of the Grant is dependent on compliance with the provisions of this Special Award Condition.

Post-award environmental reviews of the Project included consultation with regulatory agencies related to the protection of biological and historic and cultural resources. These consultations identified specific protocols or environmental protection measures. These protocols or protective measures may be either required or recommended to be included in the implementation of the Project to minimize potential impacts to biological resources and effects on historic and cultural resources. The protocols and measures are listed below.

Note that this Special Award Condition does not distinguish requirements identified during the consultations from recommendations that were also provided. Hardy Telecommunications, Inc. (Hardy) shall implement the identified protocols and measures without regard to this distinction and advise the Federal Project Officer (FPO) immediately if any issues arise related to the ability to comply fully with any requirement or recommendation listed below.

For each protocol or measure listed, Hardy shall include the following information in its periodic report to the FPO administering the grant:

- a. Specifically where and when the protocol has been used or a measure has been implemented during the reporting period, and
- b. Whether full compliance with the protocol or measure was achieved.

The FPO may, if they determine necessary, require additional information to ensure compliance with the protocol or measure. If, at any time, Hardy has questions or requires clarification regarding any of these protocols or measures, they shall notify the FPO, who will coordinate with the appropriate regulatory authority to provide the necessary information.

Biological Resource Protection Protocols and Measures

Hardy consulted with the U.S. Fish and Wildlife Service (USFWS) and the West Virginia Division of Natural Resources (WVDNR) with regard to potential Project impacts on biological resources. These Endangered Species Act Section 7 consultations resulted in identification of the following requirements and recommendations:

None.

Historic and Cultural Resource Protection Protocols and Measures

Hardy consulted with the West Virginia Division of Culture and History, State Historic Preservation Officer (SHPO). Through the Tower Construction Notification System (TCNS), NTIA also provided information on the Project to four tribes. Project stipulations resulting from these consultations include:

1. Hardy will develop a Phase I survey report for the 9.3 miles where fiber will be buried cable and for the construction of the support building near Wardensville, a Phase I survey report will be prepared that all the following requirements:

a. Identifies KNOWN ARCHAEOLOGICAL SITES located within the proposed right-of-way where underground cable will be installed.

i. States what type of site is involved (i.e., late archaic habitation site, nineteenth century domestic site, prehistoric lithic scatter, etc.);

ii. Identifies the current National Register of Historic Place eligibility status for all identified sites within areas where ground disturbing activities will occur;

iii. Documents any prior fieldwork conducted on the identified resources;

iv. Assesses the effect of the project's proposed ground disturbing activities on the identified resources; and

v. Recommends whether mitigation is possible, and outlines necessary steps to avoid or mitigate possible effects.

b. Assesses the POTENTIAL for archaeological deposit where underground cable will be installed and support the building constructed near Wardensville.

i. Establishes a methodology and criteria for categorizing rights-of-way as disturbed, including photographs, and identifies specific areas where this classification applies;

ii. Clarifies the locations of the associated bore/receiving pits for the bore locations and verifies whether the propose boring activities will be confined to previously disturbed soils and/or undisturbed soils;

iii. Documents soils present within areas where ground disturbing activities will occur; and

iv. Provides photographs of areas where ground disturbing activities will occur including water crossing and directional drill locations; and

v. Identifies specific areas of the 9.3 miles of underground fiber that have high potential for archaeological deposits.

c. Provides recommendations to avoid adverse effects including:

i. Specific provisions, stipulations, or actions required to ensure avoidance and mitigation identified in a (v) above for identified resources and/or areas of high potential;

- ii. Identification of areas where Phase II archaeological investigations are necessary to complete identification and evaluations if required to ensure avoidance;
 - iii. Identification of areas with potential for intact archaeological deposits where archaeological survey work or monitoring should occur;
 - iv. Includes recommendations on steps that will occur if archaeological deposits are encountered; and
 - v. Identifies and addresses areas (if any) where Phase II data recovery could be required if avoidance or other mitigation is possible.
- d. The report shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation and the West Virginia State Historic Preservation Office's Guidelines for Phase I, II, II Archaeological Investigations and Technical Report Preparation (2001).
- e. The report and recommendations shall be submitted to the WV SHPO for concurrence.
- f. Upon concurrence, WV. SHPO and NITA can agree to allow cleared sections of the project to proceed to construction.
- g. In the event of disagreement, WV SHPO, NTIA and Hardy County will consult to resolve adverse effects before ground-disturbing activities in the affected area can proceed.
2. Hardy and its project management/engineering firm, Byers Engineering Company, agree to implement the Best Management Practices for connecting Broadband equipment to Historic structures. These BMPs are identified in the EA attachment titled, *Attaching Broadband Equipment to Historic Buildings*. Byers will communicate the BMPs to all Hardy and Byers personnel involved in installation or maintenance of Broadband equipment connected to Historic structures. Byers will incorporate adherence to the BMPs as a condition of installation company contracts. Byers will conduct a pre-installation meeting with all installation contractors to review the requirements. Byers will enforce adherence to the BMPs through its inspectors; all inspectors will be trained with respect to the BMPs and the form of inspection report will contain a checklist of the BMPs showing the requirements. Inspectors will ensure that installation contractors meet contract requirements during installation and will note adherence with requirements on Byers installation inspection reports. After installation, inspectors will take digital photos of the installation site and customer premises equipment attached to each premise. A summary report with photos by the inspectors will be provided to NTIA and WVSHPO quarterly as evidence that all requirements have been met. SHPO; April 4, 2011
3. If any human skeletal remains or protected Native objects are uncovered during construction, construction will stop immediately, and all consulting parties will be contacted.
4. If the tribal nations notified of the project through TCNS respond to the recipient with any concerns, the recipient shall notify and consult with the NTIA and the tribal nation to resolve the identified concern.

Mitigation Measures identified in the Environmental Assessment as being required to avoid potential significant

environmental impacts:

None.