

**Before the  
Rural Utilities Service  
Washington, D.C. 20250**

In the Matter of	)	
	)	
Environmental Review of	)	Docket No. RUS-14-Telecom-0008
Telecommunications Program Projects	)	
	)	

**COMMENTS  
of  
WTA – ADVOCATES FOR RURAL BROADBAND**

**I. INTRODUCTION**

WTA – Advocates for Rural Broadband (WTA) submits these comments to the Rural Utilities Service (RUS) on the subject of its Public Notice<sup>1</sup> seeking comment on the development of a more “efficient and effective environmental review process for the RUS Telecommunications Program” to “support the agency’s mission of facilitating the development of affordable, reliable utility infrastructure to improve the quality of life and promote economic development in rural America.”

WTA represents more than 280 small, rural telecommunications carriers providing voice, video and data services in the United States. WTA’s members serve some of the most rural and hard-to-serve communities in the country and are on the forefront of bringing 21st Century telecommunications services to rural America. The rural, independent telecommunications providers represented by WTA have a long-standing relationship going back 75 years with RUS and its predecessor agency, the Rural Electrification Administration (REA). The vast majority of providers WTA represents were, at one time, RUS/REA borrowers and many of them continue to

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<sup>1</sup> Rural Utilities Service, Environmental Review of Telecommunications Program Projects, 79 Fed. Reg.

borrow from RUS today. WTA members have a stake in making sure that the RUS telecom and broadband loan programs are both effective drivers of broadband in rural America and efficient, sustainable uses of taxpayer resources.

WTA understands the importance of protecting threatened and endangered species, preserving historically and culturally significant lands and structures, and safeguarding fragile ecosystems. These needs must be balanced with the public policy objective of ensuring all Americans have access to a modern and affordable communications network. If there are ways in which costs of building and maintaining a communications network can be reduced without sacrificing the important principles above, RUS should look to do so. In this spirit, WTA recommends that RUS consider the following reforms to its policies and practices as it implements aspects of the National Environmental Policy Act, the National Historical Preservation Act, the Endangered Species Act and other applicable statutes.

## **II. RUS SHOULD AVOID DUPLICATIVE ENVIRONMENTAL REVIEWS**

When WTA members lay new fiber or embark on new construction it is almost always easier to do so along roads, where other infrastructure (drainage, conduit, power lines, etc.) has already been buried or constructed, or along existing rights-of-way. When it comes to well-used highways and roads, it is likely that the area around the road has been disturbed recently for other maintenance and construction purposes. It is also highly likely that anything of note under the ground has already been disturbed and that concerns about threatened or endangered species have been addressed. Therefore, RUS should be more flexible with environmental reviews in these situations so that companies' limited resources, that could be used to build out broadband, are not redirected towards superfluous administrative reviews.

While anecdotal, there is evidence for a greater need for flexibility. For example, one WTA member reported having to conduct an environmental review when seeking to lay conduit between a road and existing conduit. In another example, an applicant was seeking to cross a portion of Bureau of Land Management (BLM) land measuring less than 1500 feet, yet BLM requested a full biological survey of land covering five miles wide that had already been disturbed by previous infrastructure construction. WTA member companies have also reported incidences of an environmental review being required by RUS when they were seeking to place above-ground infrastructure near existing above-ground power lines. If the power lines were not disturbing the surrounding environment, it is not likely an additional piece of equipment would do so.

In addition, local departments of transportation often spray to keep foliage away from roads or take other actions to restrict the growth of unwanted vegetation. It is unlikely an endangered or threatened species is thriving in these situations, yet environmental reviews to determine whether species would be harmed are required.

It is fair to presume that recent environmental reviews have already been completed in the aforementioned circumstances; therefore, requiring RUS loan applicants to duplicate these reviews is an inefficient use of time and resources. RUS should use its discretion under NEPA and only require environmental reviews for areas of proposed construction where a previous environmental review has taken place so long ago that it would no longer be applicable or where there is no other prior human disturbances.<sup>2</sup>

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<sup>2</sup> A WTA member company relates that its State Historic Preservation Office requires a review if there is no record of a previous review in the last 10 years.

### **III. RUS SHOULD PERMIT A MORE GENERAL REVIEW IN EARLY STAGES OF THE LOAN APPROVAL PROCESS**

The cost of conducting an environmental review with all its potential considerations (threatened and endangered species, historical and cultural resources, wetlands, floodplains, fish and wildlife, aesthetics, etc.) is significant. In general, loan applicants must complete a full environmental review early on in the loan approval process. According to WTA members, however, this has not always been the case. In the past, RUS allowed a more general generic Borrower's Environmental Report (BER) to be submitted early in the loan approval process, but now requires a very specific full environmental review at that point in time. WTA recommends returning to the previous policy for two reasons.

First, from the applicant's and the permitting agencies' perspectives, it makes more sense to conduct the environmental review later in the loan process when more detailed information about the project requiring financing will be available to both the applicant and the permitting agencies, which will save time and money on both ends. For example, one WTA member related that early in the loan application process, it had yet to determine which side of a road it might lay fiber for a construction project it was considering. However, the side of the road mattered greatly to the permitting agency and as a result the telco/applicant had to spend more resources for a project still in the initial stages of being planned. If the applicant could have waited until later in the loan application process to contact the permitting agency, it would have saved both the applicant and the permitting agency valuable time and resources. Another instance, an applicant was told by the local State Historic Preservation Office that it would have preferred having been contacted later in the process with more detailed information rather than with less detailed information earlier on in the application process.

Second, if a full environmental review is delayed until later in the application process, the risks of sinking money into a review for a loan that ultimately does not get approved are lessened. WTA recommends altering the process to allow for a more general BER early in the loan application process and then, later on in the approval process, or even after loan approval but prior to disbursement of funds, a full environmental review would be required by RUS. This change has the potential to save applicants, RUS, other federal and local agencies, and other entities time and money.

#### **IV. RUS SHOULD REVIEW PUBLIC NOTICE REQUIREMENTS**

Section 1794.13 (7 CFR) rightly requires loan applicants to engage the public in the environmental review process and alert the public to the “nature, location, and extent of the proposal action and indicate the availability and location of additional information.” The regulations require the publishing of information in newspapers along with “such other places as RUS determines.” RUS proposes in its Programmatic Environmental Assessment (PEA) to create a more “efficient and effective environmental review process.” In accordance with this goal, the proposed PEA would be a good opportunity to review and evaluate whether the current regulations and practices regarding public notices are the most effective way to reach the public. As information transitions away from print onto the Internet and other forms of electronic communications, RUS should consider whether publishing notices in the newspaper is the most effective way to reach the local community. For example, many towns and cities now alert their residents to civic functions, events, and important governmental changes using email.

In many small towns and rural areas, the newspaper might be the most effective way to notice the public, but RUS should, at the very least, consider alternatives during the process of its assessment of its regulations.

## **V. RUS SHOULD MAKE CHANGES TO PRACTICES TO ENSURE A SMOOTHER PROCESS**

While not regulatory changes, *per se*, there are other adjustments to practices and procedures that WTA recommends RUS make.

### **a. RUS Guidance bulletins**

It is important that the guidance bulletins created by RUS to help potential borrowers navigate the environmental review process are kept up to date. RUS Bulletin 1794A-600 is intended to assist applicants in preparing an environmental review, yet it does not appear to have been updated since 1998. There are undoubtedly resources that exist today that did not exist in 1998 that would be of assistance to borrowers in fulfilling their obligations regarding environmental reviews.

### **b. Mapping software**

WTA recommends RUS review and reevaluate in which format it requires applicants to submit mapping data. According to experts WTA has consulted, there is a trend towards using Google mapping technology<sup>3</sup> both in the industry and in other federal agencies. While there are most likely pros and cons to any format, RUS should seek to keep up-to-date with industry trends and other federal agencies so that applicants are not required to use different mapping formats depending on with which agency they are dealing.

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<sup>3</sup> Keyhole Markup language Zipped, or .KMZ

### **c. Lead Agency Delays**

When projects are proposed for land managed by a federal entity (Bureau of Land Management, U.S. Forest Service, U.S. Fish and Wildlife, etc.) that entity is designated the “lead agency.” WTA member companies have experienced significant delays when this designation has taken place. For example, one WTA member’s loan application was delayed over a year after the U.S. Forest Service was designated the lead agency. In addition, applicants often do not know whom to contact at the other agencies to check on the status of their application. RUS should work with these other agencies to establish clear points of contact and make sure loan applicants are aware of these points of contact. WTA commends RUS for reducing the amount of time it takes to process a loan application over the last several years and encourages RUS to continue working with other federal agencies to lessen this time in order to promote and further enable the build-out of broadband in rural America.

## **VI. CONCLUSION**

WTA applauds RUS’ initiative to update its regulations and practices regarding environmental reviews. There is no reason why efficient broadband build-out in rural America has to come at the expense of the natural and built environment. The anecdotal evidence WTA has been able to glean from its members companies and other experts in the field points to a need for review and reform that would not compromise the principles outlined in the various applicable environmental statutes.

Respectfully Submitted,

**WTA - ADVOCATES FOR RURAL BROADBAND**

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