

# Draft Compatibility Determination

## Title

Issuance of Right of Way (ROW) Permit Branch Communications for the Installation, Operation, and Maintenance of Communications Equipment

## Refuge Use Category

Rights-of-way and Rights to Access

## Refuge Use Type(s)

Rights-of-way (utility)

## Refuge

Wichita Mountains Wildlife Refuge

## Refuge Purpose(s) and Establishing and Acquisition Authority(ies)

Wichita Mountains was originally established as a Forest Reserve by President William McKinley in 1901 through the authority provided by the Act of Congress entitled, "An Act to Repeal Timber - Culture Laws, and for other purposes." By proclamation of President Theodore Roosevelt, on June 2, 1905, based on a special Act of Congress (33 Stat. 614 "An Act for the Protection of Wild Animals and Birds in the Wichita Forest Reserve", January 24, 1905), the land was further designated as the Wichita Forest and Game Preserve. The land was administered by the U.S. Forest Service until June 1936, when it was transferred to the U.S Fish and Wildlife Service (formerly Bureau of Biological Survey) as a provision of the Agriculture Appropriations bill (40 Stat. 1446). Shortly thereafter, the area was renamed the Wichita Mountains Wildlife Refuge for administration under the National Wildlife Refuge System. In addition, two units of Wichita Mountains Wilderness were established by Public Law 91-504 on October 23, 1970.

### REFUGE PURPOSE(S):

1. "...set aside for the protection of game animals and birds and be recognized as a breeding place thereof. (33 Stat. 614, dated January 24, 1905)
2. "...to be set aside for the protection of game animals and birds and be recognized as a breeding place thereof. (President Theodore Roosevelt, proclamation of June 2, 1905)
3. "...to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition. (The Wilderness Act, September 3, 1964)

## National Wildlife Refuge System Mission

The mission of the National Wildlife Refuge System, otherwise known as Refuge System, is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans (Pub. L. 105-57; 111 Stat. 1252).

## Description of Use

Is this an existing use?

No.

What is the use?

This Compatibility Determination evaluates a proposal to issue a right-of-way (ROW) permit to allow Branch Towers III, LLC to construct a 330-foot tall guyed cellular communications tower and associated infrastructure.

Is the use a priority public use?

No

Where would the use be conducted?

The proposed tower location is 1275.58 yards East of HWY 115, and 458.75-yards South of HWY 49, within Wichita Mountains Wildlife Refuge (refuge).

When would the use be conducted?

The tower would be constructed within 60 days of issuance of a ROW Permit and construct, operate, and maintain on a 50 year permit.

How would the use be conducted?

The project would involve construction of a 97.5-meter- (320.0-foot-) tall, guyed cell tower located approximately 1.3 kilometers (0.8 mile) southeast of the intersection of State Highway (SH) 49 (a.k.a. Cache Meers Road) and SH 115, roughly across the highway and slightly east of the Wichita Mountains Wildlife Refuge Visitor Center. While the proposed cell tower pad would measure less than 0.1 hectare (0.1 acre) in size, the overall lease area, inclusive of three guy wire anchor locations, would cover an area of 1.0 hectare (2.4 acres). The project would also involve construction of an approximately 0.5-kilometer- (0.3-mile-) long by 9.1-meter- (30.0-foot-) wide access road providing access to the cell tower site from SH 49 to the north. Collectively, the proposed cell tower site and access road would cover an area of approximately 1.4 hectares (3.5 acres), including the 1.0-hectare (2.4-acre) lease area and the 0.4-hectare (1.1-acre) access road right-of-way. Fiber optic lines will be run from the communications tower to the refuge headquarters and Visitor Center along existing roadways.

Why is this use being proposed or reevaluated?

The use is being proposed to increase cellular service and expand coverage within and around the refuge to better meet the needs of the visiting public and support refuge goals and objectives. There is limited cell service in the area and the proposed action would provide for expanded services to customers as well as function as a FirstNet site to provide expanded bandwidth for emergency response activities. The tower would also host radio repeaters for use by the refuge and partner agencies for improved emergency communications.

### **Availability of Resources**

Minimal staff time would be required to administer and manage this activity. Expenses associated with management are primarily associated with the personnel costs for development and review of documents such as this "Compatibility Determination", NEPA compliance, the issuance of public notices, development of the ROW, and review of draft and final permit-related documents. Resources to develop the permitting documents and manage the Branch Towers III Cell Tower Project site are available as part of ongoing Service operations.

### **Anticipated Impacts of the Use**

Potential impacts of a proposed use on the refuge's purpose(s) and the Refuge System mission

The effects and impacts of the proposed use to refuge resources, whether adverse or beneficial, are those that are reasonably foreseeable and have a reasonably close causal relationship to the proposed use. This CD includes the written analyses of the environmental consequences on a resource only when the impacts on that resource could be more than negligible and therefore considered an "affected resource."

Short-term impacts

The expected footprint will be between 3-4 acres, with fiber optic lines installed in or very close to previously disturbed areas along existing roadways. Vegetation and trees will not be completely removed from the footprint, some trees and native vegetation will remain. Impacts to wildlife include disturbance and displacement. Visual and noise disturbances could disrupt normal wildlife behavior for the duration of construction activities.

Impacts to non-nesting migratory birds within the project area during construction will be minimal and temporary, with a small reduction in potential nesting sites long-term during operation of the tower. Due to the highly localized nature of the effects, the proposed project is not expected to result in significant direct, indirect, or cumulative adverse effects to birds protected under the MBTA or Bald and Golden Eagle Protection Act (BGEPA).

Construction activities would include use of heavy equipment and machinery. Vehicular traffic to the work site, as well as foot traffic and heavy equipment operations, have the potential to flush birds and wildlife. These short-term direct effects would be temporary since sufficient habitat is available to provide security to displaced wildlife in the immediate vicinity of the project site and roads used to access the site.

Direct effects such as mortality could affect less mobile wildlife like reptiles and small mammals who are not able to avoid construction equipment (i.e. tractors, excavators, and vehicles).

An Intra-Service Section 7 biological evaluation has been completed through consultation with the Service's Oklahoma Ecological Services Field Office. No critical habitat and no known listed or proposed species reside in the project area; therefore, no Endangered Species Act mitigation measures would be necessary.

#### Long-term impacts

Once construction is complete of the tower, long-term indirect effects on wildlife are anticipated due to continued visitation to the tower for maintenance. These effects are expected to be minimal, and it is anticipated that wildlife movement and activity would return once construction is complete.

Beneficial impacts on wildlife are also anticipated under the proposed action based on the refuge's improved ability to efficiently support the management of wildlife and associated habitat through improved cellular service and radio communications. The ability of hikers to navigate with mapping applications will likely reduce off-trail hiking and wildlife disturbance. Increased cellular and radio coverage will aid in better direction and response coordination among emergency responders, also reducing off-trail traffic and disturbance. Increased cellular and radio coverage will aid in better direction and response coordination among emergency responders, also reducing off-trail traffic and disturbance. The public will have a greater chance of relaying their location in an emergency, thus reducing the amount of time and traffic in and out of the Wilderness Area to complete a rescue. Improved cellular and internet for the staff increases efficiency to better administer public use programs. Increased cellular service could also open Visitor Services opportunities including various methods of interpretation or education that can be accomplished with a phone application, cellular service, and mobile data.

### **Public Review and Comment**

The draft compatibility determination will be available for public review and comment for 30 days from 10/28/2022 to 11/28/2022, in conjunction with the public comment period for the Draft Environmental Assessment for the Right-of-Way Permit Application for the Cell Tower Project. Draft documents are available on the refuge website, or you can contact the refuge at 580-429-3222 or at [wmr\\_publiccomment@fws.gov](mailto:wmr_publiccomment@fws.gov) to request either printed or electronic copies. Please let us know if you need the documents in an alternative format. The public comment period is an opportunity to provide your comments on the draft documents. You can submit comments via email to [WMR\\_PublicComment@fws.gov](mailto:WMR_PublicComment@fws.gov) or mail in comments to Attention: Refuge Manager, Wichita Mountains WR, 32 Refuge Headquarters, Indianahoma, OK 73552. Concerns expressed during the public comment period will be addressed in the final Compatibility Determination.

## Determination

Is the use compatible?

Yes

### Stipulations Necessary to Ensure Compatibility

1. Temporary access restrictions may be used to protect sensitive resources from harassment.
2. The refuge will limit and control refuge access through enforcement of refuge regulations, signage, and education of the public as to the purpose of the refuge and responsibilities of visitors.
3. Branch Communications staff and all subcontractors will notify the Refuge Manager prior to each visit to the site during construction and thereafter for operation.
4. Measures to minimize risks to ground nesting birds and avian collision with the proposed structure include a pre-ground clearing nest survey if such activities are expected to occur during the nesting season, and the use of bird diverters on guyed wires every 15' or as otherwise directed, and the use of med-dual avian friendly lighting system as required by the FAA.
5. Contractors would provide erosion control methods such as watering dry soils and structures such as silt fences as necessary to prevent wind-borne dust and water-borne silt from leaving the immediate work areas. Access points would be designated and flagged to minimize soil compaction. Mats or boards would be used to access equipment during wet conditions to prevent rutting and soil loss.
6. If paleontological, archaeological or historical remains (including burials or skeletal material) were encountered, all work would be immediately halted and a construction representative, contracting officer representative, contracting officer or a Service representative would be notified. The contracting officer would notify the regional archaeologist, so the provisions of 36 CFR 800.7 and other relevant laws were followed. Work would cease in the immediate vicinity until permitted to resume by written order from the contracting officer. Work in other areas may proceed as approved by the contracting officer. All mitigation measures agreed to in consultation with the Oklahoma State Historic Preservation Office in relation to this project would be administered.

### Justification

Issuance of this ROW would improve overall efficiency and procedures of everyday refuge operations and emergency response communications and improve the visitor experience by enhancing communications.

Construction activities under the proposed action would have minimal impacts on some natural resources including wildlife, air quality, soils, and vegetation. Mitigation and best management practices will minimize impacts on these resources. There will be beneficial impacts on administration, public use, and recreation under the proposed action by enhancing cellular and radio communications in the area.

The proposed action is consistent in meeting the purpose and needs of the Service because this project would improve radio and cellular communications as well as provide expanded bandwidth for emergency response operations sufficient to meeting the needs of various visitor activities while reducing negative impacts associated with current emergency response activities. Additionally, fiber optic will improve connectivity at the refuge administrative offices and Visitor Center which supports refuge operations and the Service's ability to support refuge visitors.

### Signature of Determination

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Refuge Manager Signature and Date

### Signature of Concurrence

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Assistant Regional Director Signature and Date

### Mandatory Reevaluation Date

Mandatory 10-year Reevaluation Date: 2032

### Literature Cited/References

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# Figure(s)

Figure 1: Vicinity Map of Project Area





Figure 2: Location of Project Area on USGS Topographic Map

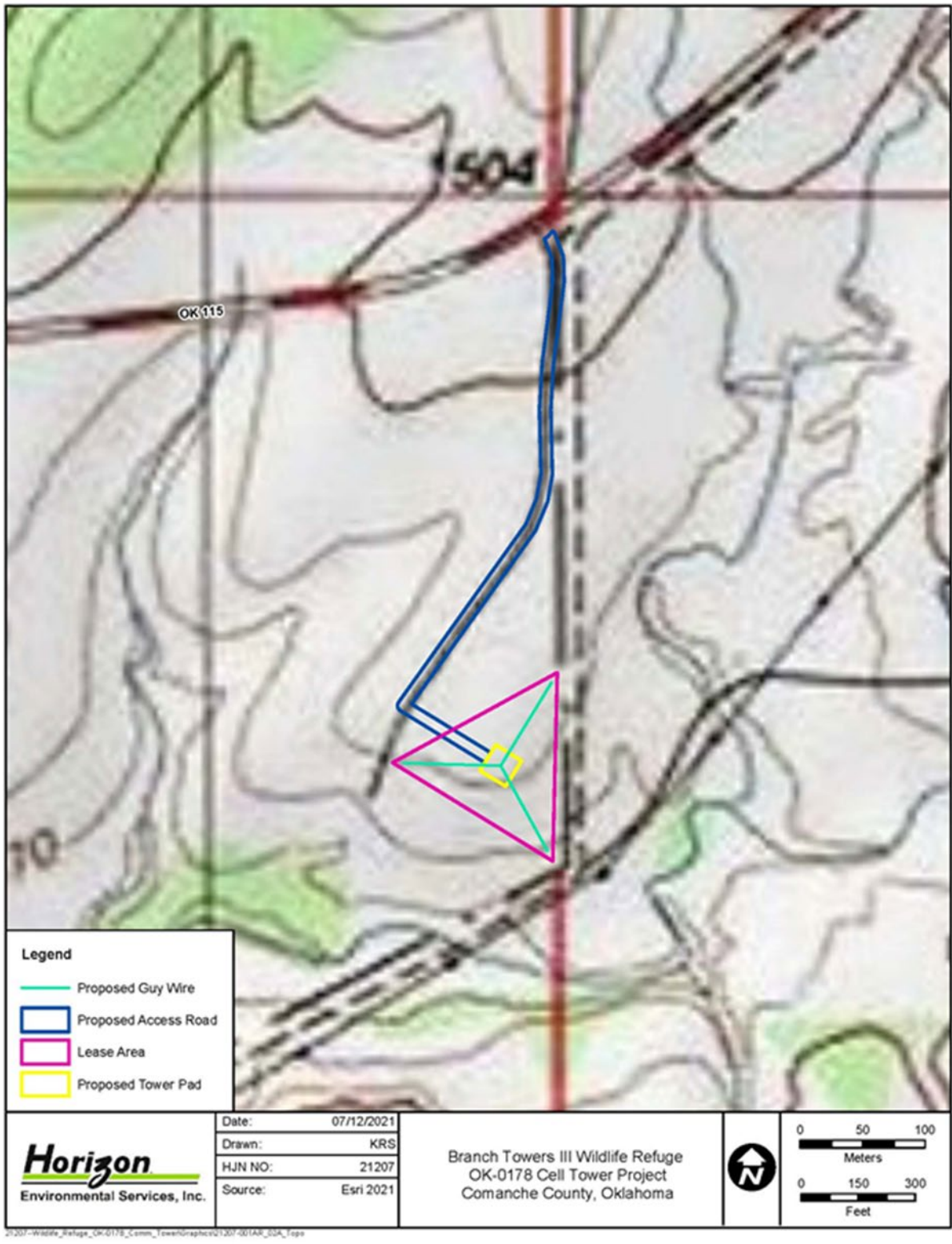


Figure 3: Location of Project Area on Aerial Photograph

