AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Communications Site License Agreement; Western Sta

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Western State Colorado University and BOCC

Term Begins: November 21, 2017 **Term Ends:** 11/20/2022 **Grant Contract #:**

Summary:

Attached please find the License Agreement for the W-Mountain Communication Site.

Fiscal Impact:

Submitted by: Office of the County Attorney **Submitter's Email Address:** rmagruder@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns. ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 11/30/2017

County Attorney Review: (●) Required ( ) Not Required

Comments:
ok db 11/27/17

Reveiwed by: Discharge Date: 11/27/2017 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 12/1/2017

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted: 0

Agenda Date: 12/5/2017

Revised April 2015

COMMUNICATIONS SITE LICENSE AGREEMENT

This Communications Site License Agreement (this "License"), made this November 21, 2017, by and between the State of Colorado, acting by and through the TRUSTEES OF WESTERN STATE COLORADO UNIVERSITY for the use and benefit of WESTERN STATE COLORADO UNIVERSITY, a state institution of higher education established under the laws of Colorado and located in Gunnison, Colorado ("University" or "State"), and BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO having a mailing address of 200 E. Virginia, Gunnison, CO 81230 ("Licensee"). University and Licensee may be collectively referred to as the "Parties" or individually as a "Party."

Recitals

A. University is an institution of higher education of the State of Colorado whose property includes a site commonly known as "W Mountain" located in Gunnison, Colorado (the "Property").

B. Pursuant to a prior written or verbal agreement, the "Western State College of Colorado License Agreement" (the "Prior Agreement"), Licensee has installed and maintained a communications facility on the Property.

C. University and Licensee wish to terminate the Prior Agreement and to establish the terms and conditions related to Licensee's continued use of such space through this License.

D. Licensee acknowledges that the Property is on an archaeologically significant site ("Archaeological Site"), that University desires to protect such Archaeological Site, and that damage caused to the Property or the Archaeological Site by Licensee or any of Licensee's employees, agents, subcontractors, sublicensees, assigns or successors may constitute a material breach of this License as provided herein. Licensee acknowledges that they have read the Cultural Resource Management Plan for the Mountaineer Site ("CRMP") and seek compliance with Section 106 of the National Historic Preservation Act and Colorado State Law. As used in this License, the term "Property" shall include the Archaeological Site.

E. Licensee agrees that all Multi-Use Agreements (as provided in Section 8.4) shall be approved, which approval shall not be unreasonably withheld, by the University and that any unauthorized Multi-Use agreements may constitute a material breach of this License.

Agreement

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, University and Licensee hereby agree as follows:

1. EXHIBITS. The following exhibits, attached hereto, are incorporated herein by this reference:

1.1 Exhibit A, Legal Description of the Property;

1.2 Exhibit B, Description of Licensed Space;

1.3 Exhibit C, Uses and Frequencies;

1.4 Exhibit D, Equipment List;

1.5 Exhibit E, Property Use Rules;

1.6 Exhibit F, A Cultural Resource Management Plan for the Mountaineer Site; and

1.7 Exhibit G, RFR Compliance.

2. TERMINATION OF PRIOR AGREEMENT. University and Licensee agree that this License terminates and replaces the Prior Agreement. University and Licensee acknowledge that notwithstanding the termination of the Prior Agreement and the commencement of this License, Licensee may continue to make, and University may continue to receive, rental and other payments pursuant to the Prior Agreement. In such event, any rental or other payments made pursuant to the Prior Agreement after its termination shall be applied and credited against any rentals or other payments due under this License.

3. TERM. The initial term of this License ("Initial Term") shall be from November 21, 2017 ("Commencement Date") and shall continue until November 20, 2022. Upon written consent by University, which shall not be unreasonably withheld, Licensee may extend the term of this License for two (2) additional five (5) year extension terms (each an "Extension Term") on the same terms and conditions as set forth herein and the total duration of this License shall not exceed fifteen (15) years (the "Term"); provided, however it shall not be considered unreasonable for the University to withhold consent to any renewal or extension because any of the Fees (as hereinafter defined) are below market rate as determined by the University. Notice by Licensee requesting each extension shall be given to University at least one hundred eighty (180) calendar days prior to the end of the Initial Term or Extension Term, as applicable. Within sixty (60) calendar days of receipt of the notice requesting extension, University shall provide Licensee with a written response extending, or declining to extend, this License.

4. EQUIPMENT.

4.1 Licensee's equipment shall be limited to the items approved by University in its reasonable discretion and indicated on the Equipment List, Exhibit D (the "Equipment"). Licensee shall not install additional equipment on the Property, or the Licensed Space (as defined below) without the prior, written consent of University. University's written consent shall not be required for additional equipment installed within Licensee's equipment shelter.

4.2 After the Commencement Date, Licensee and its Multi-Users may add additional equipment ("Additional Equipment") to the Licensed Space, provided that Licensee and the Multi-Users obtain University's prior written approval of the size, weight, type, location, mounting, placement, and installation of any Additional Equipment, which approval may be withheld in University's sole discretion. In the event Additional Equipment is approved by the University,

the University and Licensee shall amend this License to add the Additional Equipment to the Equipment listed on Exhibit D attached hereto, and Licensee shall pay all additional fees required under this License as determined by the University.

5. LICENSED SPACE. The location of the Equipment on the Property is described in Exhibit B (the "Licensed Space"). University hereby grants to Licensee the exclusive right to use the Licensed Space, and the non-exclusive right to reasonable ingress and egress thereto.

6. LICENSEE'S USE.

6.1 Permitted Use. The Licensed Space may be used by Licensee only to install, maintain, repair, replace, remove, and operate the Equipment for the purposes of a communications facility in connection with communications service (the "Permitted Use"). Licensee, its employees, agents, subcontractors, sublicensees, successors and assigns recognize that the Property is an Archaeological Site and shall not engage in any activity on the Property that may compromise the Archaeological Site in any way.

6.2 Maintenance and Repair. Licensee shall keep and maintain the Licensed Space in good condition and repair in accordance with all applicable laws, rules and regulations, including without limitation, rules and regulations of the Federal Communications Commission ("FCC"), Federal Aviation Administration, and all applicable local codes and regulations, at Licensee's sole cost and expense, in a manner that does not conflict or materially interfere with University's or other existing users' use of the Property. Licensee shall not damage nor permit any damage to the Property, including without limitation, the Licensed Space. If Licensee does, however, damage the Property, Licensee shall immediately notify University of the same including the extent and location of such damage. In addition, in the event University discovers damage to the Property it reasonably believes Licensee caused, this Section 6.2 shall apply; provided, however, this clause shall in no way relieve Licensee of its obligation to notify University of damage if such damage is known to Licensee. University shall make an assessment, in its reasonable discretion, of the level of damage and shall notify Licensee of its determination and University may elect, in its reasonable discretion, that the parties proceed in any or all of the following ways: (i) Licensee promptly repair the damage as designated by University at its sole cost and expense, to the reasonable satisfaction of University; (ii) University completes the repairs or maintenance as designated by University and Licensee shall promptly reimburse University for its reasonable costs and expenses within thirty (30) days after receipt of invoice therefor; or (iii) University deems, in its reasonable discretion, that the damage, or any portion of the damage, is material ("Material Damage") and constitutes an Event of Default pursuant to Section 10.3. University may deem damage to be Material Damage for any reasonable reason, including but not limited to, irreparability, egregiousness, or frequency of damage. Licensee shall cooperate with University in University's efforts to assess and/or repair any damage. All of the foregoing notwithstanding, Licensee shall have the authority to keep and maintain the Licensed Space and make improvements necessary to ensure continued use consistent with Section 106 of the National Historic Preservation Act, FCC, FAA and local government requirements; all improvements shall require the prior written consent of University which consent shall be granted unless prohibited by FCC, FAA, or other federal, state or local

government requirements.

6.3 Nonexclusive Use of the Property. Licensee acknowledges and agrees that University, at its reasonable discretion, has the right to grant other licenses or rights of use, of any kind or nature, to parties other than Licensee with respect to the Property (but not the Licensed Space); provided that following the Commencement Date, University shall not grant a license or right of use that will interfere with Licensee's operation of the Equipment or Licensed Space.

7. ACCESS. Licensee agrees to be bound by all rules and regulations of the Property including without limitation, the Property Use Rules (Exhibit E), and those associated with ingress and egress to the Licensed Space. Failure to comply with the Property Use Rules shall be considered an Event of Default as described in Section 10 of this License and shall constitute a material default and breach of this License, provided, however, that Licensee shall be provided with notice and the opportunity to cure any violation of the Property Use Rules as provided in Section 10.4 before an Event of Default shall be deemed to exist. University reserves the right, in its reasonable discretion, to refuse to permit any person or company access to the Property or Licensed Space if University reasonably believes that such person or company will not follow the Property Use Rules, the CRMP or will likely cause harm to the Property. Licensee accepts the Licensed Space in its current configuration and condition. University has no obligation to make improvements in order to satisfy the needs of Licensee. Licensee shall have authority to make Licensed Space secure from non-authorized access.

7.1 Training Requirement. Licensee and all of Licensee's employees, agents, subcontractors or sublicensees shall complete a training program prior to accessing the Property for the first time ("Property Training Program"). The Property Training Program will seek to educate facility users on the historical significance of the Property and how to properly maintain and access the Property. During the Term, Licensee shall request additional training for new or existing employees, agents, subcontractors or sublicensees who wish to access the Property.

7.2 Key Code Policy. Licensee and all approved sublicensees will each be given one, non-duplicating key code upon successful completion of the Property Training Program. Licensee and sublicensees shall not duplicate their key under any circumstances. University reserves the right to reclaim Licensee's or sublicensees' key codes in the event that this policy, the Property Use Rules, or the CRMP have been violated and such violation is not cured pursuant to Section 10.4. In such event, Licensee will be required to checkout a key from the University to access the Property.

7.3 CRMP or Cultural Resource Management Plan. Licensee acknowledges that it has read the Cultural Resource Management Plan ("CRMP") attached as Exhibit F. Licensee and Licensee's employees, agents, subcontractors, sublicensees, assigns and successors agree to adhere to the access requirements and management recommendations set forth in the CRMP.

8. FEES.

8.1 Initial Fee Amount.

8.1.1 On the Commencement Date and every year thereafter during the Initial Term and any Extension Term, Licensee shall pay to University, at the address specified in this License, without notice, deduction or offset a fee for the license granted hereunder as set forth in this Section 8.1 (collectively, the "License Fee"). On the Commencement Date or the date this License is fully executed, whichever is later to occur, Licensee shall pay University Zero and No/100 Dollars ($0) per year, which amount represents the License Fee for the period beginning on the Commencement Date through July 31, 2022.

8.2 Assignment & Sublicense Fee. Licensee may only assign or sublicense this License in accordance with Section 25.1 of this License. Upon the execution of any assignment or sublicense agreement with respect to this License, Licensee shall pay to University, without notice, One Thousand and No/100 Dollars ($1,000.00). This Sublicense Fee will ONLY APPLY if assigned to an entity for use other than for purposes of public health, safety, welfare, and emergency services. As an "Assignment Fee" . The Assignment Fee shall apply to any assignment or sub-license agreement entered into after the Commencement Date of this License. This Assignment Fee shall not apply to any assignment or sub-license prior to the Commencement Date.

8.3 Multi-User Fee. In the case if assigned to other uses other than public health, safety, welfare, and emergency services. Licensee may only enter into multi-use agreements ("Multi-Use Agreements") in accordance with Section 25.2 of this License. If Licensee allows additional users (collectively, "Multi-Users" or individually, "Multi-User") to utilize Licensee's Licensed Space, University shall receive payment ("Multi-User Fee") for each additional Multi-User utilizing the Licensed Space. For the purposes of this License, a Multi-User or Multi-Users shall also be considered a sublicensee or sublicensees. All fees payable by Licensee to University hereunder, including but not limited to, the License Fee, the Maintenance Fee, the Assignment Fee, the Multi-User Fee, including all escalations thereof, shall be collectively referred to herein as the "Fees".

8.4 Late Charge and Interest. In the case if assigned to other uses other than public health, safety, welfare, and emergency services. If any of the Fees or any other payment required by this License is not received by University within ten (10) business days of the date due, Licensee shall pay to University a late charge equal to ten percent (10%) of such overdue amount, plus interest at the rate of eighteen percent (18%) per annum on all delinquent amounts from the date on which it was due until the date on which it is paid in full with accrued interest.

9. TAXES. University shall be responsible for the payment of all real property taxes and assessments levied against the Property and for any increases in such taxes and assessments. Licensee shall be responsible for and shall pay any possessory interest tax, its proportionate share of all real property taxes, and other assessments, if any, which become due and payable during the Term and arise from Licensee's interests under this License. For real property taxes, University shall provide Licensee with an invoice and documentation from the taxing authority indicating with reasonably certainty that the property tax or tax increase was directly attributable to Licensee's interests. All such payments shall be made by Licensee and evidence of payments shall be provided to University. Notwithstanding the foregoing,

Licensee shall pay all taxes on its equipment and its personal property at the Licensed Space.

9.1 Events of Licensee Default. The following events shall be deemed to be events of default by Licensee (collectively, "Events of Default" or individually, an "Event of Default") and shall constitute a material default and breach of this License:

9.2 Monetary Default. Licensee or any sublicensee shall have failed to make any payment of Fees or any other charge provided herein, or any portion thereof when the same shall be due and payable and shall not cure such failure within ten (10) business days of receipt of written notice of said default.

9.3 Material Damage to Property and/or Archaeological Site. Licensee or any of Licensee's employees, agents, subcontractors, sublicensees, assigns or successors shall have caused damage to the Property that is deemed to be Material Damage by University in its reasonable discretion as provided in Section 6.2. Material Damage caused to the Property shall constitute a material breach of this License. University and Licensee acknowledge and agree that in the event of Material Damage to the Property, University may exercise all remedies available to it at law or in equity in addition to the remedies available to it under this License. To the extent any Material Damage is deemed repairable by University, Licensee shall promptly (a) reimburse University for all University's reasonable costs and expenses incurred in repairing such Material Damage, or (b) repair such damage at its sole cost and expense upon request by and to the reasonable satisfaction of University. Notwithstanding anything contained in this License to the contrary, in any instance where University is required to be reasonable with respect to the Property or the Licensed Space, Licensee acknowledges and agrees that University shall take into consideration the Archaeological Site, which requires a higher standard of care than real property that is not archaeologically significant.

9.4 Failure to Comply with Property Use Rules & CRMP. Licensee or any of Licensee's employees, agents, subcontractors, sublicensees, assigns or successors shall have failed to comply with any rule or regulation of the Property including without limitation, the Property Use Rules (Exhibit E), the CRMP (Exhibit F), and those associated with ingress and egress to the Licensed Space and shall not have cured or ameliorated such failure within thirty (30) calendar days after University, by written notice has informed Licensee of such noncompliance. Notwithstanding anything herein to the contrary, in the event Licensee's violation of the Property Use Rules or CRMP causes damage to the Property, the Parties shall proceed under Sections 6.2 (Maintenance and Repair) and 10.3 (Material Damage to Property and/or Archaeological Site) with respect to such damage, instead of under this Section 10.4 (Failure to Comply with Property Use Rules & CRMP). Failure to comply with Property Use Rules may also result in loss of Licensee's access key, if such failure is not cured. In such event, Licensee will be required to checkout a key from the University in accordance with Section 7.2.

9.5 Interference with Other Uses. Licensee or any of Licensee's employees, agents, subcontractors, sublicensees, assigns or successors shall be found responsible for interference as set forth in Section 13.3 (Interference – Enforcement and Remedies) and Licensee fails to cure the same within the time period set forth in Section 13.3.

9.6 Other Default. Licensee shall have failed to comply with any other provision of

this License, including any provision contained in the Exhibits, and shall not have cured such failure within sixty (60) calendar days after University, by written notice, has informed Licensee of such noncompliance. In the case of default which cannot, with due diligence, be cured within a period of sixty (60) calendar days, Licensee shall request University for such additional time to cure such default as may be reasonably necessary, provided Licensee proceeds promptly and with due diligence to cure such default after receipt of said notice.

9.7 Recording. Recording of this License in the public records by Licensee is prohibited without the prior express, written consent of University.

9.8 Liquidity and Liens. If any of the following occurs with respect to Licensee:

9.8.1 a voluntary petition for relief to the bankruptcy laws of the United States or of any state is filed by Licensee;

9.8.2 an involuntary petition for relief pursuant to the bankruptcy or insolvency laws of the United States or of any state is filed against Licensee which is not dismissed within sixty (60) calendar days of the filing date;

9.8.3 Licensee makes an assignment for the benefit of creditors;

9.8.4 Licensee shall cease for a period of more than ninety (90) calendar days to conduct its normal business operations in the Licensed Space or shall abandon the Licensed Space;

9.8.5 Licensee shall do or permit to be done anything which creates a lien or attempts to create a lien upon the Licensed Space or upon Licensee's interest under this License which is not paid or discharged within thirty (30) calendar days, or within such additional number of days as University, in University's sole discretion, may allow; or,

9.8.6 There is a taking of this License or Licensee's interest herein pursuant to a writ of execution, garnishment or attachment, or warrant, by a creditor of Licensee (such term "creditor" to include government taxing authorities).

9.9 Notice of Default. Upon the occurrence of any Event of Default of Licensee or, as applicable, upon Licensee's failure to cure a curable default within the time set out herein, University may, at any time thereafter, terminate this License by delivering written notice of termination to Licensee which termination shall be effective upon receipt by Licensee in addition to maintaining any claims in law or equity against Licensee.

10. TERMINATION. In addition to the termination rights indicated in various Sections herein, this License may be terminated without penalty or further liability to the termination party, except as otherwise provided herein, as follows:

10.1 Termination for Convenience.

10.1.1 By Licensee, if it fails to obtain or maintain any license, permit or other governmental approval necessary to Licensee's construction of its facility on the Licensed Space or operation of the Equipment, provided such failure is not the result of any negligent act or failure to act on the part of Licensee;

10.1.2 By Licensee, if it determines that the Licensed Space no longer meets its network needs, effective twelve months after receipt by University of written notice and a termination fee equal to the amount of the then-current annual amount of Fees paid or payable by Licensee to University. Such termination fee is in addition to the Fees paid or payable by the Licensee.

10.2 Early Termination in the Public Interest. The University is entering into this License for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this License ceases to further the public policy of the University, the University, in its sole discretion, may terminate this License in whole or in part. Exercise by the University of this right shall not constitute a breach of the University's obligations hereunder. This subsection shall not apply to a termination of this License by the University for Cause or breach by Licensee, which shall be governed by Section 10 or as otherwise specifically provided for herein.

10.3 Prorated Fees. If this License is terminated by Licensee due to a default by University at any time other than the anniversary of the Commencement Date, the annual prepaid Fees shall be prorated as of the date of such termination, and such prorated amount shall be refunded to Licensee. If this License is terminated by either party for any reason other than a default by University, University shall retain all prepaid Fees.

11. END OF TERM.

11.1 Removal of Equipment. Upon expiration or earlier termination of this License, Licensee shall quit and surrender to University the Licensed Space and shall remove the Equipment and its personal property and fixtures from the Licensed Space in a manner that least impacts the Property and is reasonably acceptable to University. Furthermore, Licensee shall also be responsible to remove the equipment and personal property of all sublicensees in the same manner. Licensee shall restore the Licensed Space to the condition it was in prior to Licensee's entry upon the Property, reasonable wear and tear excepted. If, within thirty (30) calendar days after the expiration or earlier termination of this License, Licensee has not removed all equipment, property and fixtures and/or has not restored the Licensed Space as provided herein, University may do so, and Licensee shall reimburse University for all reasonable costs and expenses for removal, storage, transport and sale of the Equipment and restoration of the Licensed Space within thirty (30) days' after receipt of an invoice from the University therefor. Notwithstanding anything contained herein to the contrary, University and Licensee hereby agree and acknowledge that due to the possibility of snow and/or other inclement weather conditions, University shall not request and Licensee shall not remove its Equipment during the months of November, December, January, February, March, April or May unless otherwise expressly agreed by the Parties. This Section shall survive the expiration or earlier termination of this License.

11.2 Holdover. Licensee and sublicensees will have no right to remain in possession of all or any part of the Licensed Space after the expiration or earlier termination of this License. Notwithstanding the foregoing, if Licensee remains in possession of all or any part of the Licensed Space after the expiration or earlier termination of this License, such holdover will not constitute a renewal or extension of this License for any further term, and such possession may be terminated by University upon the earliest date permitted by law. In such event, such use by Licensee shall be month-to- month, and the Fees will be pro-rated and prepaid on a monthly basis and be equal to one hundred fifty percent (150%) of the monthly amount of the Fees payable during the last month of the Initial Term or Extension Term, as applicable, and any other sums due under this License will be payable in the amount and at the times specified in this License. If Licensee's holdover is the result of archeological findings or other archeological research, Licensee shall not be required to pay monthly fees during the holdover. Notwithstanding anything contained herein to the contrary, University and Licensee hereby agree and acknowledge that due to the possibility of snow and/or other inclement weather conditions, if this License expires or is terminated during the months of November, December, January, February, March, April or May, Licensee shall not be charged the fee referenced in this Section for such months provided Licensee is not operating the Equipment. Except as set forth above, such holdover possession will be subject to every other term, condition, and covenant contained in this License.

12. INTERFERENCE.

12.1 Prohibition and Prevention. Licensee shall not use the Licensed Space in any way which interferes with the use of the Property by University, or its lessees or licensees with rights in the Property concurrent with, or prior in time to, Licensee's use (collectively, the "Current Users"). For the purposes of this Section, University's "use of the Property" shall include without limitation, University's use of the Property for archaeological and educational purposes and communications setups. In accordance with Section 6.3, University agrees not to grant a license or right of use to users of the Property who are later in time (the "Later Users") whose use will interfere with Licensee's operation of the Equipment or Licensed Space, which use has priority. The Current Users and the Later Users shall collectively be referred to as the "Users". Further, University agrees to use reasonable efforts to eliminate interference between Users as provided in this Section 13. To those ends, University will use reasonable efforts to include verbiage consistent with this Section 13 in all future licenses or leases granted on the Property.

12.2 Resolution. If Licensee experiences interference, Licensee shall promptly provide written notice to University and the User(s) suspected of causing such interference. If Licensee sends or receives a notice of interference, Licensee shall cooperate with University and the User(s) to promptly determine the cause and cure the interference. Interference may be cured by changing frequencies, changing the type or location of antennas or equipment, adding filtering, reducing power or shutting off equipment, or by other means. Interference conflicts shall be resolved in the following order of priority:

First, in favor of the affected User, if the other User(s) refuses to cooperate in determining the cause of the interference and correcting it;

Second, in accordance with any pertinent FCC regulations;

Third, at the cost and responsibility of the User(s) of the transmitting station causing interference, if that station's spurious emissions, or spurious emissions caused by its operation (intermodulation) exceed FCC regulations;

Fourth, at the cost and responsibility of the User(s) of the receiving station, if that station is operating without sufficient filtering to prevent overload or intermodulation in the receiver, and if installation of such a filter (or a higher quality filter) can be shown to fix the problem; and

Fifth, at the cost and responsibility of the User(s) of whichever station is junior in time, based on the equipment list in each User's lease or license, and any actual subsequent changes or modifications to the equipment.

12.3 Enforcement and Remedies. If the interference is not cured within forty-eight (48) hours after Licensee's receipt of notice of interference, University may, in its reasonable discretion and in accordance with the terms herein, determine responsibility for the interference, and Licensee agrees to be bound by University's decision. If it is determined that Licensee is responsible for the interference, and the interference is not cured within seventy-two (72) hours after Licensee's receipt of notice of University's determination, University may, in its sole discretion (i) require Licensee to immediately terminate Licensee's operations of the interfering equipment until the interference is cured (except that Licensee may power up the interfering equipment for intermittent testing), or (ii) deem the interference to be an Event of Default of this License pursuant to Section 10.5 herein.

13. INSURANCE.

13.1 Types. Licensee, its subcontractors (while working hereunder) and sublicensees shall obtain and maintain at all times during the Term of this License, insurance in the following kinds and amounts, in the case if assigned to other uses other than public health, safety, welfare, and emergency services.:

13.1.1 Workers' Compensation Insurance as required by State statute, and Employers' Liability Insurance covering all employees acting within the course and scope of their employment.

13.1.2 Commercial General Liability Insurance written on ISO occurrence form CG 00 01 04 13 or substantial equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

13.1.2.1 $350,000 each occurrence;

13.1.2.2 $990,000 general aggregate;

13.1.2.3 $1,000,000 products and completed operations aggregate; and

13.1.2.4 $50,000 damage to premises.

13.1.3 Automobile Liability Insurance covering any auto (including owned, hired, and non-owned autos) with a limit as follows: $1,000,000 each accident combined single limit.

13.1.4 Property Insurance written on an "all risk" form covering all Equipment, trade fixtures, appliances, furniture, furnishings, and other personal property at the Licensed Space in an amount not less than the full replacement cost without deduction for depreciation. Licensee may self-insure this coverage under the same terms as all risk insurance, responding as if commercial insurance were in place.

13.2 Additional Insured. The University and the State of Colorado shall be included as additional insured on the Commercial General Liability policy (leases and construction contracts will require the additional insured coverage for completed operations on endorsements CG 2010, CG 2037, or equivalent). Coverage required of this License will be primary over any insurance or self- insurance program carried by the University and State of Colorado, as relates to Licensee's operations.

13.3 Notice. Licensee shall provide at least thirty (30) calendar days prior notice to the University by mail (ten (10) days shall apply to nonpayment) of any cancellation of any required coverage if not replaced.

13.4 Waiver of Subrogation. Licensee, its subcontractors (while working hereunder), and sublicensees will require all insurance policies in any way related to this License to include clauses stating that each carrier will waive all rights of recovery, under subrogation or otherwise, against the University, State of Colorado, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

13.5 Approval. All policies evidencing the insurance coverages required hereunder shall be issued by insurance companies rated at least A- by A. M. Best Company.

13.6 Certificates. Licensee, its subcontractors (while working hereunder), and sublicensees shall provide certificates showing insurance coverage required by this License to the University within seven (7) business days of the Commencement Date or prior to the commencement of any services at the Licensed Space. Within ten (10) business days after the expiration date of any such coverage, Licensee shall deliver to the University certificates of insurance evidencing renewals thereof, without a lapse in coverage. At any time during the Term of this License, the University may request in writing, and Licensee shall thereupon within ten (10) calendar days supply to the University, certificates evidencing Licensee's compliance with the provisions of this Section.

14. DAMAGE. Licensee shall be responsible for any and all damage done to the Property, including without limitation the Licensed Space, by its employees, subcontractors,

sublicensees, contractors, agents, officers or invitees. Licensee shall take care to properly ground its antenna system for lightning in accordance with the National Electric Code (NEC). New towers or modifications to towers shall comply with Telecommunications Industry Association (TIA) standards, local codes and Section 6.2 (Maintenance and Repair).

15. COMPLIANCE WITH LAWS.

15.1 Licensee Compliance. Licensee shall promptly comply with all applicable laws relating to Licensee's use of the Property and the Licensed Space. At its sole cost and expense, Licensee shall promptly cause the Licensed Space to comply with all laws to the extent that such compliance is required as a result of Licensee's use or occupancy of the Licensed Space.

15.2 Licensee's Licenses and Permits. Licensee shall maintain all of its appropriate licenses and permits in good standing and shall maintain copies of all such licenses and permits for the Initial Term of this License and for any such Extension Term thereof. Upon five (5) business days written notice, University reserves the right to inspect and make copies of any of Licensee's licenses and permits that may be reasonably required for the Permitted Use and/or are required by law. University shall cooperate to the extent permitted by law with Licensee, at Licensee's sole cost and expense, in making application for and obtaining all licenses, permits and other necessary approvals that may be reasonably required for the Permitted Use.

16. ENVIRONMENTAL.

16.1 Definitions.

16.1.1 "Hazardous Materials" means asbestos, explosives, radioactive materials, hazardous waste, hazardous substances, or hazardous materials including, without limitation, substances defined as "hazardous substances" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, 42 U. S. C. Sections 9601-9657 ("CERCLA"); the Hazardous Material Transportation Act of 1975, 49 U.S.C. Sections 1801-1812; the Resource Conservation Recovery Acts of 1976, 42 U.S.C. Sections 6901-6987; the Occupational Safety And Health Act of 1970, 29 U.S.C. Sections 651 et seq., or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning hazardous materials, wastes or substances now or at any time hereinafter in effect (collectively, "Environmental Laws").

16.1.2 "Hazardous Waste" means hazardous waste as defined under the Resource Conservation Recovery Act of 1976, 42 U.S.C. Sections 6901-6987.

16.2 Licensee's Obligations.

16.2.1 Licensee will not cause or permit the storage, treatment or disposal of any Hazardous Waste in, on, or about the Licensed Space or any part of the Property by Licensee, its agents, employees, contractors, subcontractors, and sublicensees, except for batteries

and fuel storage associated with a generator used for emergency power. Licensee will not permit the Licensed Space to be used or operated in a manner that may cause the Property or any part of the Property to be contaminated by any Hazardous Materials in violation of any Environmental Laws.

16.2.2 Licensee will be solely responsible for and will defend, indemnify, and hold University, its agents and employees harmless from and against all claims, costs, and liabilities, including reasonable attorneys' fees and costs, arising out of or in connection with: (i) Licensee's breach of its obligations in this Section; or (ii) Licensee's introduction of Hazardous Materials and/or Hazardous Waste to the Property, except to the extent such claims or damages are the result of the University's violation of Environmental Laws or introductions of Hazardous Materials and/or Hazardous Waste on the Property. Licensee's obligations under this Section shall survive the expiration or other termination of this License.

16.3 Mutual Obligations. Each Party will promptly notify the other Party of (i) any and all enforcement, cleanup, remedial, removal, or other governmental or enforcement cleanup or other governmental or regulatory actions instituted, completed or threatened pursuant to any Environmental Laws relating to any Hazardous Materials affecting any part of the Property; and (ii) all claims made or threatened by any third party against Licensee, University or any part of the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials on or about the Property or any part of the Property.

16.4 Environmental Assessments. University may, from time to time during the Initial Term or any Extension Term, conduct such environmental assessments or tasks as University deems necessary, provided that University will give Licensee reasonable prior notice of its entry on the Licensed Space for such purposes and will cooperate in minimizing any disruption of Licensee's use of the Licensed Space as a result of such activity. University will make available to Licensee copies of any reports or assessments so obtained by University.

16.5 Radio Energy Exposure. It shall be the responsibility of Licensee to comply with all applicable regulations regarding public and occupational exposure to radio energy. Because of the presence of University personnel and students, and ongoing archeological research, exposure levels applicable to the general population/uncontrolled exposure must be observed at all ground level locations. Licensee shall, at University's request, conduct one (1) Electromagnetic Interference study during the Initial Term and one (1) Electromagnetic Interference study during each Extension Term, to promptly demonstrate compliance with this Section, at Licensee's expense.

17. LICENSEE INDEMNIFICATION. Licensee shall indemnify, save and hold harmless the University, the State of Colorado, their employees and agents, against any and all claims, damages, liability and court awards including costs, expenses and attorneys' fees incurred as a result of Licensee's negligence or willful misconduct, or its employees, agents, subcontractors, sublicensees, successors or assignees arising out of or in any way connected with this License, except to the extent such claims or damages result from the negligence of the University, its officers and employees. This Section shall survive the expiration or earlier termination of this License.

18. INSTALLATION AND CONSTRUCTION.

18.1 Licensee's Facilities.

18.1.1 Except as otherwise provided herein, all proposed construction, installation and modifications performed on the Licensed Space must be reviewed and approved in writing by University prior to the commencement of such construction, installation and/or modification, which approval shall not be unreasonably withheld, conditioned, or delayed. University reserves the right to require an archaeologist approved by University to be onsite during any construction, installation and/or modifications on the Licensed Space. For construction of new facilities, Licensee shall hire a professional archaeological consultant to complete an archaeological inventory of the area of potential effect plus a 25 foot buffer zone around the proposed new facility. Licensee will endeavor in good faith to satisfy any concerns raised by the archaeologist; the final determinations of unresolved disagreements will be made by University administration in its reasonable discretion. All Equipment shall be installed, and construction and modifications performed, by contractors reasonably approved by University and subject to reasonable conditions specified by University, and shall be performed in a good and workmanlike manner and in compliance with all applicable laws. The Parties agree that during the design and construction of the Licensed Space, as well as during any later material modification to the Licensed Space as determined by the University, including any relocation of the Equipment, any disagreements regarding the meaning of University's design and construction standards will ultimately be determined by University after consultation with Licensee. Licensee will provide University reasonably suitable final "as built drawings" within thirty (30) calendar days of completion of any construction performed by or for Licensee on the Licensed Space. Any reference to an "easement" in the "as built drawings" or in any document related to this License shall refer only to the license rights and obligations granted herein and shall not grant any additional or further rights to Licensee.

Notwithstanding anything contained in this License to the contrary, in any instance where Licensee is proposing to cause ground disturbance at the Licensed Space or the Property, it shall not be considered unreasonable for University to withhold or condition its consent when University believes the ground disturbance may put the Archaeological Site in jeopardy.

18.1.2 University's approval of any placement or specifications shall not be construed to be a warranty or representation that such plans or specifications are in conformity with any laws or ordinances.

18.1.3 Except as set forth in this License, Licensee shall not make or allow to be made any alterations, additions, or improvements to the Licensed Space.

19. RELOCATION. University may, in its sole discretion, require Licensee to relocate to another location on the Property at the sole expense of the Licensee. University must act in good faith and use its best efforts to provide an alternative location which is acceptable to Licensee and does not adversely affect Licensee's Permitted Use. If, in Licensee's sole discretion, a suitable alternative location does not exist on the Property, Licensee shall be permitted to terminate this License immediately upon notice to University, and no termination

fees shall apply.

20. ELECTRICAL AND TELEPHONE UTILITIES. Licensee shall, at its sole cost and expense, arrange for the connection and metering of all utility and telephone lines it reasonably requires for the Permitted Use of the Licensed Space. Licensee will obtain University's written approval of the design and construction of such hook-ups prior to the installation of same. Licensee shall have all of its utilities separately metered and billed directly to Licensee, and shall promptly pay the same when due. Licensee will not have access to University's utility hook-ups for telephone lines or other systems.

21. UNIVERSITY LIABILITY EXPOSURE. Notwithstanding any other provision of this License to the contrary, no term or condition of this License shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, C.R.S. § § 24-10-101 et seq., as now or hereafter amended. The Parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the University, the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § § 24-10-101 et seq., as now or hereafter amended and the risk management statutes, § § 24-30- 1501 et seq., as now or hereafter amended. It is specifically understood and agreed that nothing contained in this paragraph or elsewhere in this License shall be construed as an express or implied waiver by University of its governmental immunity or of the governmental immunity of the State of Colorado, as an express or implied acceptance by University of liabilities arising as a result of actions which lie in tort or could lie in tort in excess of the liabilities allowable under the Colorado Governmental Immunity Act, C.R.S. § § 24-10-101 et seq., as a pledge of the full faith and credit of the State of Colorado, or as the assumption by University of a debt, contract or liability in violation of Article XI, Section I of the State Constitution.

22. TITLE. Title to the Equipment shall be held by Licensee. The Equipment shall remain Licensee's personal property and are not fixtures. Licensee's removal of the Equipment shall be in compliance with Section 12.1.

23. GENERATOR. Licensee has installed a permanent generator on the Licensed Space, and Licensee covenants such use shall be in compliance with any applicable federal, state or local environmental, health, fire, community awareness, safety laws or other applicable laws or regulations, now or hereafter enacted or promulgated by any governmental authority or court ruling having jurisdiction over the Property, including, without limitation, any applicable guidelines promulgated by the Environmental Protection Agency, and Licensee agrees that it will reimburse University for any increase in University's insurance premiums directly attributable to any such installation or use by Licensee.

24. ASSIGNMENT AGREEMENTS, MULTI-USE AGREEMENTS.

24.1 Assignment. This License may be sold, assigned or transferred by Licensee without any approval or consent of University to Licensee's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Licensee's assets in the market

defined by the FCC in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this License may not be sold, assigned or transferred without the prior written consent of University, which consent may be withheld in the sole and absolute discretion of the University. No change of stock ownership, partnership interest or control of Licensee or transfer upon partnership or corporate dissolution of Licensee shall constitute an assignment hereunder. Licensee shall provide a fully executed copy of any assignment to University. Licensee shall not sublicense the Licensed Space without University's prior written consent, which consent may be withheld in the sole and absolute discretion of the University. Notwithstanding the foregoing, this License shall inure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

24.2 Multi-Uses and Multi-Use Agreements. Licensee shall not enter into any Multi-Use Agreement without the prior written consent of the University, which consent may not be unreasonably withheld. The Multi-User Fee identified in section 8.3 is due from the Licensee on each anniversary of this License's Commencement Date thereafter, in advance, without notice, deduction or offset to University. If any Multi-Use Agreement is executed on a date other than the anniversary of the Commencement Date, the Multi-User Fee for any partial year shall be prorated. Licensee agrees that no Multi-Use Agreement shall have a term that extends beyond the expiration or earlier termination of this License. If the Licensee charges the Multi-User a separate fee payable to the Licensee for the Multi- User's use of the Licensed Space, the fee shall be identified in the Multi-User Agreement and subject to the University's approval along with the Multi-User Agreement itself. Any Multi-User Agreement shall require the Multi-User to comply with the Property Use Rules (Exhibit E to this License), the CRMP (Exhibit F to this License), RFR Compliance (Exhibit G to this License), and those other terms and conditions that the University reasonably requires. Licensee shall promptly provide the University with a fully executed copy of any Multi-Use Agreement and all amendments thereto.

25. RENTAL STREAM OFFER. If at any time after the date of this License, University receives a bona fide written offer from a third party seeking an assignment or transfer of the License Fee payments associated with this License ("Rental Stream Offer"), University shall immediately furnish Licensee with a copy of Rental Stream Offer. Licensee shall have the right within ninety (90) days after it receives such a copy to match the Rental Stream Offer and agree in writing to match the terms of the Rental Stream Offer. Such writing shall be in the form of a contract substantially similar to the Rental Stream Offer. If Licensee chooses not to exercise this right or fails to provide written notice to University within the ninety (90) day period, University may assign the right to receive the License Fee payment pursuant to the Rental Stream Offer, subject to the Terms of this License. If University attempts to assign or transfer License Fee payments without complying with this Section, the assignment or transfer shall be void. Licensee shall not be responsible for any failure to make payments under this License and reserves the right to hold payments due under this License until University complies with this Section.

26. NOTICES. All notices under this License shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, properly addressed as follows:

University:

Manager, Business Services
Sherry Ford
Western State Colorado University
328A Taylor Hall, Business Services
600 N. Adams St.
Gunnison, CO 81231

Licensee:

Board of County Commissioners of the County of Gunnison, Colorado
200 E. Virginia
Gunnison, CO 81230

Any such notice or other communication shall be effective when received as indicated on the return receipts. Either Party may by similar notice given, change the address to which future notices or other communications shall be sent. The use of facsimile transmission is specifically prohibited from usage in notice communications.

27. MISCELLANEOUS.

27.1 Complete Understanding. It is hereby mutually agreed and understood that this License contains all agreements, promises and understandings between University and Licensee and that no other agreements, promises or understandings with respect to the subject matter of this License shall or will be binding on either University or Licensee in any dispute, controversy or proceeding at law, and that any addition, variation or modification to this License shall be void and ineffective unless in writing and signed by the Parties hereto.

27.2 Jurisdiction and Venue. This License shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the City and County of Denver, State of Colorado.

27.3 No Beneficial Interest. The signatories aver that to their knowledge, no University or State of Colorado employee has any personal or beneficial interest whatsoever in the service or property described herein, and that they are familiar with C.R.S. § § 18-9-201 et seq. (Bribery and Corrupt Influences) and C.R.S. § § 18-8-401 et seq. (Abuse of Public Office), and that no violation of these provisions is present.

27.4 Force Majeure. Neither Party shall be considered to be in default in performance of any obligation hereunder if failure of performance is due to forces beyond the control of the party affected, including, but not limited to, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, labor disturbance, power outage, sabotage, and restraint by court order or public authority, which by exercise of due foresight the party could not reasonably have avoided, and which by exercise of due diligence is unable to overcome; *provided, however,* that the party whose performance is delayed or prevented gives the other party written notice thereof within fifteen (15) business days of any such event or occurrence and exercises its best reasonable efforts to resume performance as soon as possible.

27.5 Independent Contractor Relationship. The relationship between the Parties is that of independent contractor. Nothing herein contained shall be deemed or construed as creating the relationship of principal and agent, partnership, joint venture or any other relationship other than independent contractor. Licensee shall perform obligations hereunder as an independent contractor and not as an employee. Licensee and Licensee's employees, subcontractors, sublicensees, and agents shall not, under any circumstances, be considered agents or employees of the State of Colorado or the University or be entitled to workers' compensation benefits from University as a result of the duties to be performed hereunder. Licensee may be obligated to pay federal and state income tax on any moneys earned pursuant to this contractual relationship, and such obligations are in no way the responsibility of University. Licensee shall have no authorization, express or implied, to bind the University or the State of Colorado to any agreements, liability, or understanding except as expressly set forth herein.

27.6 Subordination. This License and Licensee's rights under this License are subject and subordinate to any ground or underlying lease, license, mortgage, indenture, deed of trust or other lien encumbrance (each a "Superior Lien"), together with any renewals, extensions, modifications, consolidations and replacements of any such Superior Lien, now or after the Commencement Date affecting or placed, charged or enforced against the Property, or any portion thereof or any interest of University in them or University's interest in this License (except to the extent any such instrument will expressly provide that this License is superior to such instrument). This provision will be self- operative and no further instrument of subordination will be required in order to affect it. Notwithstanding the foregoing, Licensee will execute, acknowledge and deliver to University, within twenty (20) calendar days after written demand by University, such documents as may be reasonably requested by University or the holder of any Superior Lien to confirm or effect any such subordination.

27.7 Estoppel Certificates. From time to time, and within twenty (20) calendar days after prior written request by University to Licensee, Licensee will execute, acknowledge and deliver to University, a certificate certifying to the best of its knowledge (a) that this License is unmodified and in full force and effect or, if there have been modifications, that this License is in full force and effect, as modified, and stating the date and nature of each modification; (b) the date, if any, to which Fees and other sums payable under this License have been paid; (c) that no written notice of any default has been delivered to University which default has not been cured, except as to defaults specified in said certificate; (d) there is no Event of Default or default by University under this License, except for defaults specified in said certificate; and (e) such other matters as may be reasonably requested by University, provided that the terms of the certificate are consistent with the terms of this License. Any such certificate may be relied upon by any prospective purchaser or existing or prospective mortgagee or beneficiary under any deed of trust of the Property or the Licensed Space. If University receives no response within said twenty (20) calendar days, it shall make a second request. If Licensee fails to deliver such a certificate within ten (10) calendar days of receiving or refusal of receipt of said second request, Licensee's failure will be conclusive evidence of the matters set forth in it.

27.8 Inspection. University (or a designated representative) reserves the right to enter, upon reasonable prior notice to Licensee, the Licensed Space to inspect the same.

27.9 Time of the Essence. Time is of the essence of each and every provision of this License.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

In witness whereof, the parties hereto have executed this License as of the day and year written above.

Site User Licensee: **Board of County Commissioners of the County of Gunnison, Colorado** **By: Phil Chamberland** **Chairperson for the Board** By (Name): _____ Title: _____ _____ *Signature	**STATE OF COLORADO** **John W. Hickenlooper, GOVERNOR** Acting by and through the TRUSTEES OF WESTERN STATE COLORADO UNIVERSITY for the use and benefit of Western State Colorado University By: _____ Sherry Ford, Manager, Business Services Western State Colorado University Date: 11/27/17

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The SE1/4, Section 6, All of Section 7, T49N, R1E, NMPM

EXHIBIT B
DESCRIPTION OF LICENSED SPACE

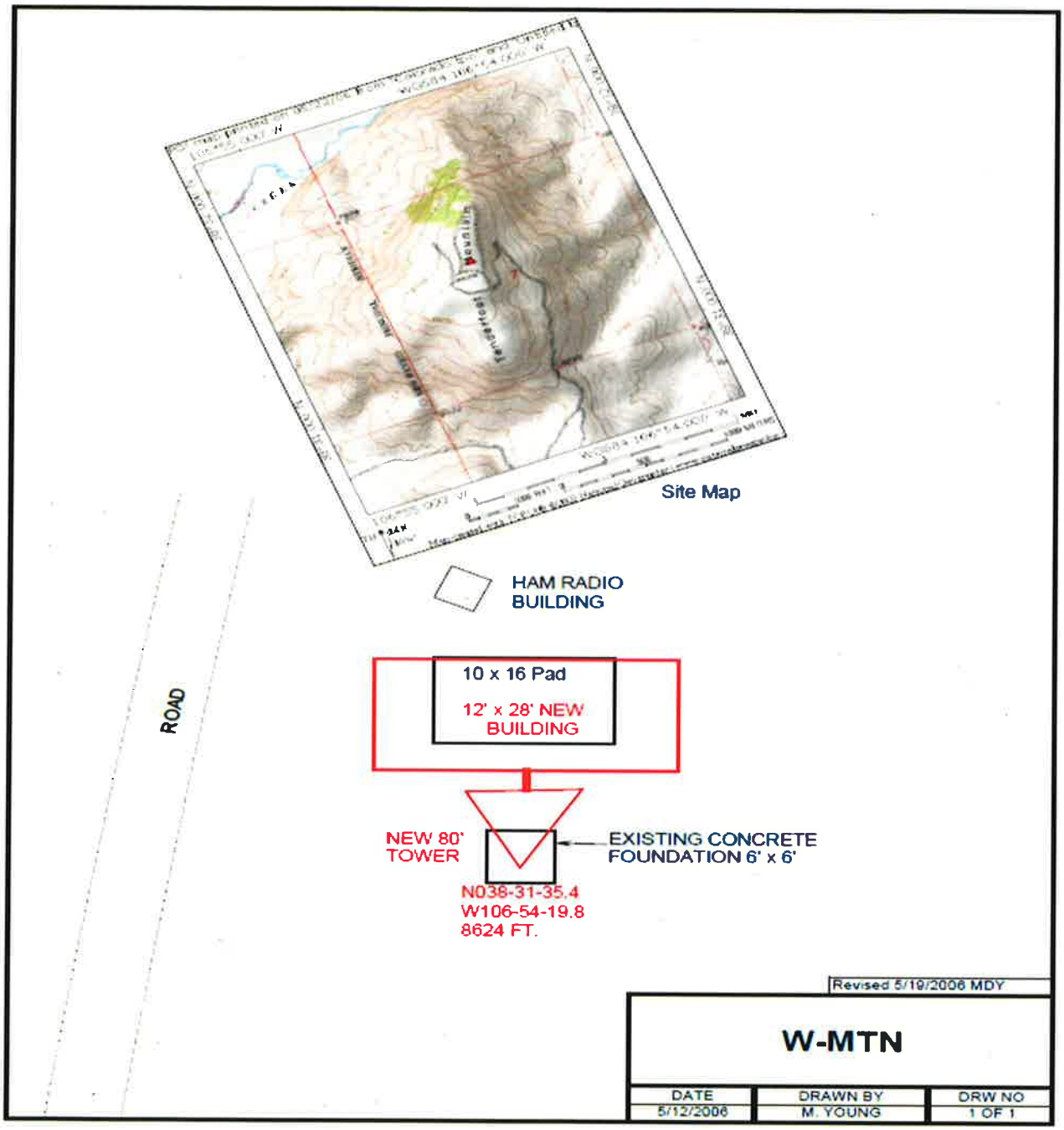


EXHIBIT C

USES AND FREQUENCIES

Gunnison Incident Repeater Rx=155.115, Tx=153.845, Tones= 151.4
Gunnison Regional Law Repeater Rx=156.2100 Tx=159.4350 Tones=136.5
Gunnison Fire Repeater Rx=154.430, Tx=153.770, Tones=151.4 E/107.2 D
GVH EMS Repeater Rx=151.115, Tx=155.400, Tones=100.0
Gunnison County Public Works Rx= 155.925, Tx=103.5, Tones=151.4
City of Gunnison Public Works Repeater Rx=155.58, Tx=154.71, Tones=151.4
5 channel digital trunked radio system maintained by State of Colorado
USFS frequencies to include T=164.8250, R=170.4625, 127.3, E-123.0D

EXHIBIT D

EQUIPMENT LIST

The equipment includes but is not limited to:

20' x 12' prefabricated building;
80' free-standing tri-leg tower;
Kohler 25Kw diesel generator (Model 20REO2JB, serial number 2133071);
Kohler transfer switch (model number KCT-APNA-01045, serial number).

EXHIBIT E
PROPERTY USE RULES

Licensee shall take all necessary precautions to prevent damage to the Property including but not limited to the designated roads used by Licensee to access the Licensed Space. Licensee shall utilize the Licensed Space for only those activities expressly outlined in the License. During visits to the Licensed Space, Licensee shall abide by the following property use rules:

1. Except in an emergency identified by Licensee, prior to accessing the Property, Licensee shall first check-in with University by calling the telephone number (970) 943-7052 and leaving a message stating the date, time, phone number, and name of Licensee who will be accessing the Property. Upon leaving the Property, Licensee shall check- out by calling the same phone number and leaving a message stating the date and time that Licensee is checking out.

2. Licensee and all of Licensee's employees, agents, subcontractors or sublicensees shall complete the Property Training Program (as defined in Section 7.1 of the License) prior to accessing the Property for the first time.

3. Licensee shall limit, to only those necessary, the visits to the Licensed Space.

4. Licensee shall limit, to a minimum, the number of workers and/or vehicles required to visit the Licensed Space.

5. Licensee or its workers shall stay on designated roads at all times. If Licensee requires travel off designated roads, Licensee shall seek prior University consent. University, at its sole discretion, may deny any request for off-road travel.

6. Except in emergency situations, Licensee shall elect a time for visits to the Licensed Space when the road surface is firm.

7. When possible, Licensee shall use low-impact tires on all vehicles which impart less damage to the road surface.

8. When possible, Licensee shall make joint trips with other users to limit the traffic on the Property.

9. Licensee shall maintain the Licensed Space free of all garbage and unnecessary debris.

10. Licensee shall not, at any time, remove or disturb any artifacts or anything that does not belong to Licensee.

11. Licensee shall not, at any time, dig up or disturb the soil without prior written consent of University. University, at its sole discretion, may deny any request to dig up or disturb soil.

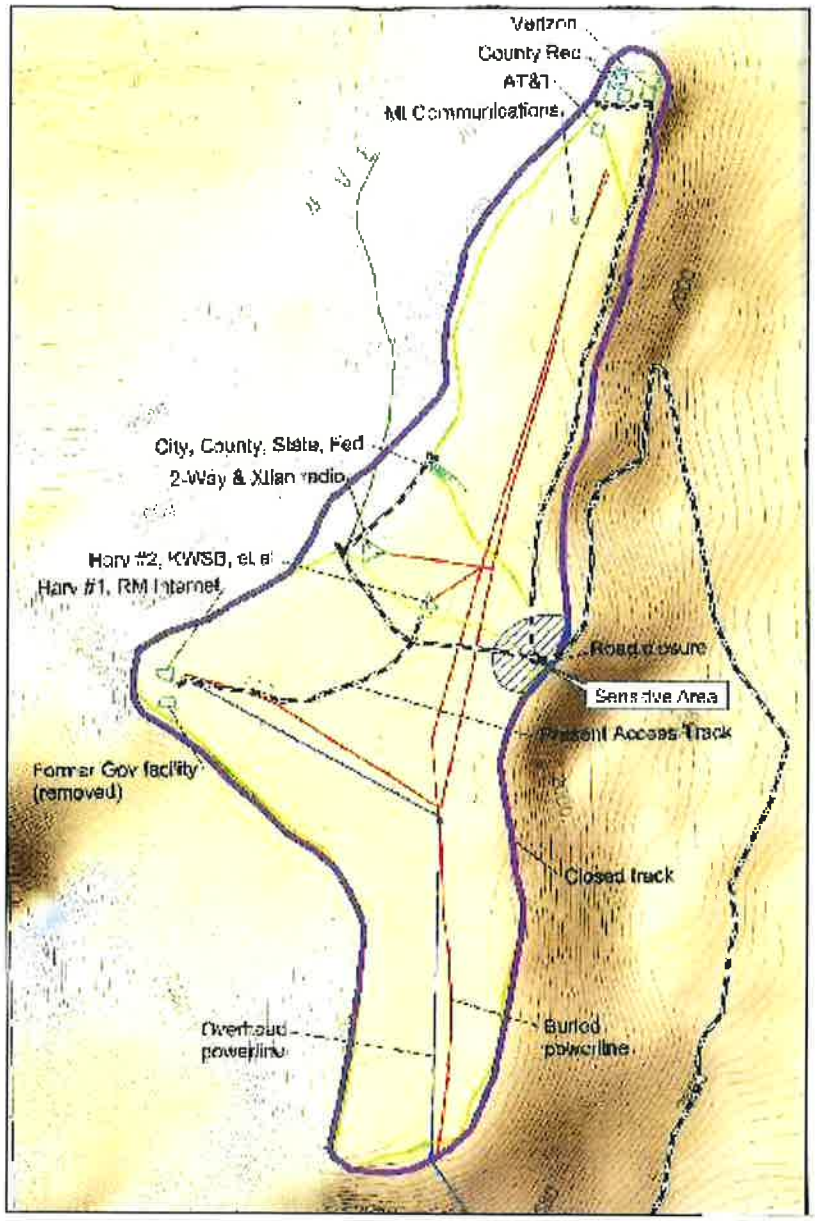
12. University will maintain a gate or gates across the access road to deter unauthorized persons from accessing the Property. All gates are to remain closed and locked at all times.

13. The maximum speed limit on the top of Tenderfoot Mountain is 5 MPH.

14. Licensee shall abide by University's key code policies provided with University's key agreement form, including but not limited to, the prohibition against key duplication.

15. Review and comply with the attached Map showing the approved access routes for travel on the Property.

EXHIBIT E



Approved Access
Sensitive Area
Site Boundary
Overhead Power line
Buried Power line
Closed Track

Figure 10. Map of the Mountaineer Site showing the current site boundary and the sensitive area on the eastern side of the site.

0 170 340 510 680 Feet
0 50 100 150 200 Meters

N

1:0,000

cra

CONFIDENTIAL

EXHIBIT F

See attached Cultural Resource Management Plan
for the Mountaineer Site

EXHIBIT G
RFR COMPLIANCE

In accordance with the Rules and Regulations of the FCC, Licensee, its employees, agents, subcontractors, sublicensees, successors and assigns and all other lessees and licensees utilizing the Property (collectively, "Users" as used in this Exhibit G) are jointly and severally responsible for complying with the applicable guidelines of the American National Standards Institute ("ANSI Guidelines") and, therefore, must coordinate their maintenance and repair activities and take appropriate steps to insure that no humans are exposed to radiation in excess of ANSI Guidelines.

Specifically, in the case of multiple radiators located on the same or nearby towers, all Users are jointly responsible for complying with the ANSI Guidelines as outlined in Public Notice No. 24479 issued by the FCC on 19 August 1992.

All Users will be required to reduce power, or cease operations, as necessary to assure workers' safety with respect to radio frequency radiation when construction or maintenance is to be performed at the Licensed Space. All Users will be responsible for the safety of their employees and agents and University assumes no responsibility for any injuries for the failure of a User to comply with this Rule.

Power will be reduced, or operations ceased, as determined necessary by University in accordance with the ANSI Guidelines, prior to anyone commencing work on or near an antenna located at the Licensed Space. University has sole discretion in interpretation of the Rule should it become an issue between Users.

The terms and provisions of this Exhibit G shall in no way limit Licensee's obligations or University's rights set forth in Section 17.5 (Radio Energy Exposure).

Contract Publication Series 13-219

A CULTURAL RESOURCE MANAGEMENT PLAN FOR THE MOUNTAINEER SITE (5GN2477): IDENTIFICATION OF ISSUES, ANALYSES, AND MANAGEMENT RECOMMENDATIONS

by
Ronald J. Rood, MA, RPA

Prepared for

Western State Colorado University

This project was partially funded by a State Historical Fund grant award from the Colorado Historical Society

Prepared by

cra
cultural resource analysts, inc

Kentucky | West Virginia | Ohio
Wyoming | Illinois | Indiana | Louisiana | Tennessee
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By
Ronald J. Rood, MA, RPA
Principal Investigator

Prepared for

Western State Colorado University
Gunnison, Colorado

Prepared by

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Woods Cross, Utah 84010
Telephone: (801) 797-9122
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Website: www.crai-ky.com
CRA Project Number: U13W001

This project was partially funded by a State Historical Fund grant award from the Colorado Historical Society

September 11, 2013

ABSTRACT

Western State Colorado University (Western) has contracted with Cultural Resource Analysts, Inc. (CRA) in Woods Cross, Utah, to prepare a Cultural Resource Management Plan (CRMP) for the Mountaineer Site (5Gn2477). This site covers the entire top of Tenderfoot Mountain on property owned by the State of Colorado in trust to Western (Figure 1). Management of the property is under the jurisdiction of Western in accordance with Colorado law. Western currently has several lease holders on the site who operate various radio and cellular telephone communication facilities. These facilities are subject to Federal Communications Commission (FCC) and / or Federal Aviation Administration (FAA) permitting and are therefore subject to compliance with Section 106 of the National Historic Preservation Act (NHPA) and with the National Environmental Policy Act (NEPA).

The goal of this plan is to provide a framework and to present details on how this fragile and very ancient archaeological site can be protected. At the same time, existing use of the site by a variety of stakeholders must continue. The people of the Gunnison Valley need to have reliable communication facilities for local law enforcement, fire, and for day to day communication and recreation. There are management recommendations in this plan that are specific to facility users and lease holders, and there are management recommendations that are specific to Western.

Through an analysis of the issues at hand, this CRMP can be used as a guide to ensure protection of the Mountaineer Site, while at the same time allowing for continued utilization of Tenderfoot Mountain for communication facilities and the maintenance of those facilities. For the plan to be successful, facility users must accept the fact that their use of Tenderfoot Mountain makes them responsible for the protection of the Mountaineer Site. Western must accept the fact that they, as an institution, are the responsible land managing agency for this site.

Protecting the Mountaineer Site and continuing to use and maintain important communication facilities located on Tenderfoot Mountain are not mutually exclusive endeavors.

LIST OF TERMS

ACHP – Advisory Council on Historic Preservation. The Advisory Council on Historic Preservation (ACHP) is an independent federal agency that promotes the preservation, enhancement, and productive use of our nation's historic resources, and advises the President and Congress on national historic preservation policy. The Advisory Council was formed in 1966 as part of the National Historic Preservation Act (NHPA).

Adverse Effect – When an undertaking alters, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register of Historic Places (NRHP) in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration should be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the NRHP. Adverse effects may include reasonably foreseeable effects that may occur later in time, be farther removed in distance, or be cumulative.

Archaeological Site – A place of past human behavior that is at least 50 years old.

Artifact – Any item made or used by people.

APE – Area of Potential Effect.

B.P. – Before Present. Term used with radiocarbon dating to indicate years prior to A.D. 1950.

Cairn – An archaeological feature consisting of deliberately stacked or cluster of rocks. Cairns could be marking a trail or a drive line.

Compliance Bond - A compliance bond is often required in real estate transactions or property developments to ensure that a contractor, builder, or realtor is acting in compliance with all regulations and requirements.

CRA – Cultural Resource Analysts, Inc. A cultural resources (archaeological and historical) consulting firm based in Lexington, Kentucky.

Cultural Resource – Can be defined as any structure or location older than 50 years that has historic or prehistoric significance. Archaeological sites and historic properties can be referred to as cultural resources.

Cumulative Visual Effect - A cumulative visual effect is a visual impact on an historic property that increases by successive additions to the landscape.

Drive Line – Prehistoric people constructed artificial routes using rock, wood, and brush to move target animals like bighorn sheep or bison into enclosed areas where they could be killed.

Effect – An alteration to the character of a historic property qualifying it for inclusion in or eligibility for the National Register.

FAA – Federal Aviation Administration.

FCC – Federal Communications Commission.

Historic – The time period dating after European contact in North America.

Historic Property – A prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that meet the NRHP criteria.

5Gn2477 – The Smithsonian Site Number for the Mountaineer Site 5= Colorado, Gn = Gunnison County, 2477 – sequence of numbers assigned by the Office of Archaeology and Historic Preservation at History Colorado.

MOA – Memoranda of Agreement.

NAGPRA – Native American Graves Protection and Repatriation Act.

NEPA – National Environmental Policy Act.

NCSHPO – National Conference of State Historic Preservation Officers.

NHPA – National Historic Preservation Act.

Non-Substantial Changes - Any alterations to an existing facility that will not result in any ground disturbing or potential ground disturbing activities. For example, a collocation on an existing tower would be considered a non-substantial change.

NRHP – National Register of Historic Places is the official list of the Nation's historic places worthy of preservation.

OHV – Off road highway vehicle.

Prehistoric – The time period prior to European contact in the United States.

SHPO – State Historic Preservation Office/Officer

SHF – State Historical Fund

Substantial Changes – Any alteration to an existing facility that will, or will potentially, result in any ground disturbing activities at the facility. For example, the installation of a new shed, pad, tower, utility line, parking area, access road, propane tank, fence, or gate would be considered a substantial change.

Undertaking – As defined by the Advisory Council on Historic Preservation, an undertaking is "any project, activity, or program that can result in changes in the character or use of historic properties, if any such historic properties are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of a Federal agency, or licensed or assisted by a Federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements not previously considered under Section 106 (www.achp.gov)."

Visual Effect - Visual effects can be adverse with regard to a historic property. Adverse visual effects are those that diminish the property's integrity, which negatively affects its historic significance and hence its eligibility for listing in the NRHP.

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I. INTRODUCTION

Archaeological site 5Gn2477, known as the Mountaineer Site, is on the top of Tenderfoot Mountain just outside the town of Gunnison, Colorado. The Mountaineer Site covers the entire top of Tenderfoot Mountain, and it extends off the western and eastern flank of the mountain (Figure 1). Since the mid-1990s, archaeological research has been conducted on the site by Western State Colorado University (Western) and Southern Methodist University (SMU). The archaeological data obtained from the Mountaineer Site has dramatically changed how archaeologists look at archaeological sites in the Colorado high country, and this work has changed the perception of how people lived during what archaeologists call the Folsom period. The Mountaineer Site is a significant and complex archaeological site that contains archaeological components that date from the end of the last ice age (about 10,500 years ago) through what archaeologists call the Archaic period (8,000–3,000 years ago).

The top of Tenderfoot Mountain is also home to several existing communication facilities. These communication facilities provide important and needed services to the Gunnison Valley, and it is not the intention of Western to have these communication facilities removed or have the development of future facilities thwarted. However, future development of any facilities on Tenderfoot Mountain must be undertaken thoughtfully and with deference to the significant archaeological resources located on the mountain. It is the intention of Western to establish a consistent program concerning access and expansion of existing facilities and the potential addition of new facilities on Tenderfoot Mountain without compromising the integrity of the Mountaineer Site. Existing facilities and any potential new facilities on Tenderfoot Mountain are subject to compliance with Section 106 of the National Historic Preservation Act (NHPA) and Federal Communication Commission (FCC) guidelines.

What is an Archaeological Site?

Archaeological sites are places of past human behavior. They can be large and complex sites like the Mountaineer Site or Cliff Palace at Mesa Verde National Park, but they can also be small scatters of only a few artifacts. Through detailed and systematic study of the artifacts people left behind, archaeologists can reconstruct what life was like when the site was occupied. Archaeological sites can be “prehistoric” or “historic” and many contain components that date to both time periods. In western Colorado, there are many types of archaeological sites that are in part, a reflection of the function of the site (see Reed and Metcalf 1999). The Mountaineer Site is an area consisting of multiple and complex prehistoric occupations that includes a scatter of artifacts on the surface and buried, sub-surface features such as pithouses and fire pits or hearths. Additionally, the surface expression of the Mountaineer Site also exhibits evidence of rock features, known as cairns, and deep pits that may have served as ancient hunting blinds. Current archaeological evidence indicates the Mountaineer Site was used by prehistoric hunter-gatherers for thousands of years dating from roughly 10,500 years ago until 4,000 years ago (Stiger 2006).

Laws or Statutes That Protect Cultural Resource Sites in Colorado

In Colorado, archaeological sites like the Mountaineer Site are protected under both Federal and State Law. As the Mountaineer Site is on State property, the most important level of protection is Colorado State Statute CRS 24-80-401-411. This code covers ownership of historic properties and cultural resources, the establishment and duties of the State Archaeologist, archaeological permits, and specifically, Section 24-80-409 discusses damages to archaeological sites. That section of the statute is presented below:

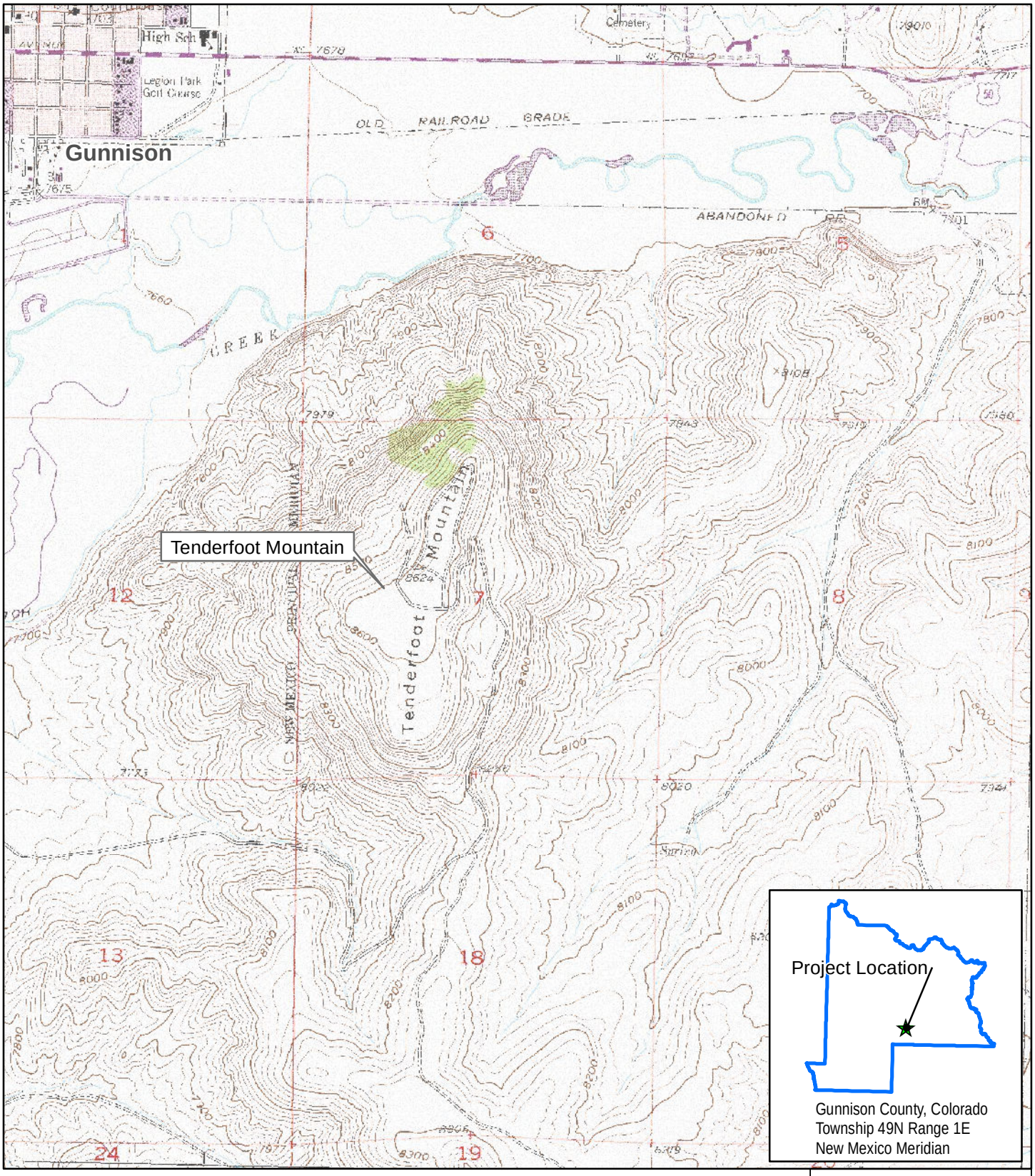

Figure 1. Map showing the location of Tenderfoot Mountain, Gunnison, Utah, 7-5 minute USGS Quadrangle.

0 0.25 0.5 0.75 1 Kilometers

0 0.25 0.5 0.75 1 Miles

N W E S

1:24,000

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cultural resource analysts, inc
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Created By:	T.M.	Date	9/16/2013
Project Number:	U13W001		

Section 28-80-409. Penalty – injunction – temporary restraining order.

(1) Any person who knowingly appropriates, excavates, injures, or destroys any historical, prehistorical, or archaeological resource on land owned by the state or any county, city and county, city, town, district or other political subdivision of the state without a valid permit is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fines and imprisonment. All articles and materials illegally taken and all moneys and materials derived from the sale or trade of the same shall be forfeited to the society.

(2) When the society has cause to believe that a person has engaged in or is engaging in any unlawful conduct as defined in subsection (1) of this section, it may apply for and obtain, in an action in any district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedures prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof.

In the event that human remains are encountered at the Mountaineer Site, Colorado Statute CRS 24-80-1301-1305, specifically Section 24-80-1303, would apply. In addition, the Federal Native American Graves Protection and Repatriation Act (NAGPRA) would also apply.

At the local level, the Mountaineer Site is listed by the Gunnison County Historic Preservation Commission as a Gunnison County Historic Landmark (www.gunnisonhistoricpreservation.org). Undertakings that take place on Tenderfoot Mountain, specifically those licensed or permitted by Federal agencies are subject to review under Section 106 of the NHPA. The National Historic Preservation act was passed in 1966 and it has been amended several times; most recently in 2006. Section 106 of the Act requires Federal agencies to take into account the effect undertakings may have on historic properties included in or eligible for the National Register of Historic Places. This includes any undertakings that take place on Federal or Tribal lands, are funded with Federal money, or are subject to any Federal permitting. In the case of Tenderfoot Mountain and the placement of communications facilities, the most applicable Federal Agency would be the Federal Communications Commission or FCC.

The FCC and Section 106 Compliance

The Federal Communications Commission (FCC) is the federal agency that licenses and approves communication facilities and, as they are a federal agency, they must comply with the NHPA. To streamline the process, the FCC entered into a Programmatic Agreement (PA) with the Advisory Council on Historic Preservation (ACHP) and the National Conference of State Historic Preservation Officers (NCSHPO) to facilitate compliance with the NHPA. A copy of this PA is included here as Appendix A. All of the existing facilities on top of Tenderfoot Mountain are subject to approval and review by the FCC.

Essentially, communications facilities and all associated activities (including access) are considered undertakings under Section 106 of the NRHP. There are exemptions in the PA but only when there are no historic properties involved. In this case, the presence of the Mountaineer Site means there must be SHPO, FCC, and Western consultation on every new or collocation facility on the top of Tenderfoot Mountain.

Brief overview of the Prehistory of Western Colorado

How long have people lived in the Gunnison Basin? Where does the Mountaineer Site fit into this chronology? Archaeological research in Western Colorado over the past 100 years has demonstrated a long history of human occupation of the high mountains and valleys of the region. Archaeologists have divided the prehistory of the region into several general time periods that in part, reflect how people were utilizing the landscape and making a living. A generalized chronology or culture history of Western Colorado is presented in Table 1.

Table 1. General Chronology of Western Colorado (adapted from Reed and Metcalf 1999).

Time Period		General Lifeways
Paleoindian		
Clovis	13,000 – 12,500 years B.P.	Hunters and Gatherers. Great Plains of the United States, Western Colorado. Some Clovis Points known from the Gunnison Basin. Associations of humans with now extinct ice-age mammals.
Goshen	13,000 – 12,700 years B.P.	Hunters and Gatherers. Northwestern Great Plains, North Park Colorado.
Folsom	11,800 – 10,500 years B.P.	Hunters and Gatherers. Mountains of Colorado. **Mountaineer Site (5Gn2477). Documented use of pithouses at the Mountaineer Site.**
Foothill- Mountain	11,000 – 7,500 years B.P.	Hunters and Gatherers. Mountains of Colorado, Gunnison Basin.
Archaic		
Early (Pioneer)	8,000 – 6,500 years B.P.	Hunters and Gatherers. Archaic sites are well documented in the Gunnison Basin and across Western Colorado. **The Mountaineer Site 5Gn2477 has several Archaic components.** Documented use of pithouses at the Mountaineer Site, the Tenderfoot Site and several other sites in the Gunnison Basin.
Middle (Settled)	6,450 – 4,450 years B.P.	
Late (Transitional)	4,450 – 2,950 years B.P.	
Terminal Archaic	2,950 – European Contact	
Formative		
Gateway Tradition	400 B.C. to A.D. 1250	Hunters and Gatherers and some incipient farming. Use of corn, beans, squash. Formative sites are typically associated with horticulture, manufacture and use of pottery, bow-and arrow, and a more settled lifeway. Formative period sites are rare in the Gunnison Basin.
Late Prehistoric / Historic Aboriginal		
Late Prehistoric / Protohistoric A.D. 1600 – A.D. 1880		Native groups acquire horses and other trade goods from Europeans. Ute's are removed from Colorado in 1881.

Overview of Archaeological Work at the Mountaineer Site

According to the files at the Colorado Office of Archaeology and Historic Preservation (OAHP), there have been several professional archaeological inventories conducted on the top of Tenderfoot Mountain (Table 2). It should be noted that several of these projects were completed under the authority of the NHPA.

Table 2. Previously Conducted Archaeological Work on the Mountaineer Site.

Project	Cultural Resources Identified	Testing	Reference
NewVector Cellular Site	No	No	Greubel 1994a
Cellular One Cellular Site	One Isolated Artifact	No	Greubel 1994b
Cellular One Utility Line and Archaeological Monitoring of Cellular One Site	Identification of 5Gn2477, The Mountaineer Site	Yes	Pope and Greubel 1994
KUBC/KKXK Radio Tower	3 Pieces of Lithic Debitage	No	Tickner and Greubel 1994
Archaeological Testing at 5Gn2477, Gunnison County, Colorado for Cellular One.	Yes - buried intact archaeological deposits.	Yes	Rood et al. 1995).
The Mountaineer Site: A Large Folsom Camp near Gunnison, Colorado. Annual Report: Permit #2001-43 and 2001-44	Folsom Components – Structural evidence	Yes	Stiger and Bjornstad (2002)
The Mountaineer Site: A Large Folsom Camp near Gunnison, Colorado. Annual Report: Permit #2001-43 and 2001-44	Folsom Components – Structural evidence	Yes	Stiger (2003)
Archaeological Monitoring of Construction Work Conducted at a Cellular Tower Location on the Mountaineer Site, 5Gn2477	None	No	Greubel (2007)
Excavation of Block C, Summer 2005, The Mountaineer Site, 5Gn2477	Folsom Component – Structural evidence	Yes	Stiger (2008)
Excavation of Block F, The Mountaineer Site, 5Gn2477	Folsom Component – Structural evidence	Yes	Stiger (2009)

The first professional archaeological works completed on Tenderfoot Mountain were inventories completed by Alpine Archaeological Consultants, Inc. for a NewVector Cellular site (Greubel 1994a) and for a Cellular One site (Greubel 1994b). No archaeological sites were recorded during these surveys but one isolated artifact was found and documented. This is not surprising given that the areas surveyed for the NewVector and Cellular One locations were relatively small areas and only a surface inspection of those areas was completed. Subsequently, Alpine Archaeological Consultants returned to Tenderfoot Mountain to conduct an archaeological survey for an underground power line and to monitor the construction of the Cellular One site (Pope and Greubel 1994). It was at this time they found what they described as "a generally sparse scatter of lithic artifacts including debitage, cores, and flaked stone tools located on the gently sloping top of Tenderfoot Mountain (Pope and Greubel 1994)." The site was discovered as they conducted an archaeological survey for the buried utility line which had unfortunately already been constructed through the site. Pope and Greubel (1994) excavated a single 1-x-1 m test unit on the site and found intact, buried archaeological material below the surface. Pope and Greubel (1994:8) evaluated the site, then designated as 5Gn2477, as a significant site eligible for nomination to the NRHP. They further recommended the site be avoided by any potential impacts and if avoidance was not possible, archaeological mitigation and monitoring were recommended. Pope and Greubel (1994) stated the site had been significantly impacted by the construction of the utility trench to the Cellular One facility.

Also in 1994, Tickner and Greubel (1994) conducted an inventory for a new KUBC/KKXK tower location. They recognized the new tower location was within the boundary of the Mountaineer Site

and they did find three pieces of debitage. However, they recommended the tower would not adversely affect the site.

The Mountaineer Site was tested by Western State College in 1995 at the request of Cellular One. Because the power line to a Cellular One facility had been completed prior to the archaeological survey (e.g. Pope and Greubel 1994), the Office of the State Archaeologist requested some additional work be completed at 5Gn2477, and Western State was contracted to complete that work. A small block excavation consisting of 16 sq m in a block, and four additional test units were excavated within the artifact concentration identified by Pope and Greubel (1994) and centered on their 1-x-1 m test unit. Numerous pieces of chipped stone and several tools were recovered from this excavation (Rood et al. 1995).

In addition to the small-scale Section 106 compliance related surveys, Western has been conducting archaeological research at the Mountaineer Site (5Gn2477) since the mid-1990s. In recent years, this research has resulted in the discovery and documentation of some of the earliest domestic architectural structures (pithouses) known in North America. These early houses are associated with the Paleoindian Folsom period (e.g. Stiger and Bjornstad 2002; Stiger 2003, 2008, 2009). The term "Folsom" comes from the site type located in New Mexico where this style of spear point was first discovered in association with the bones of now-extinct ice age mammals (see Figgins 1927). Folsom points, like the earlier Clovis points have a distinctive flute along both faces of the tool where the point was hafted to a spear. An article was published in 2006 in the international scientific journal *American Antiquity* describing these Folsom house structures and the Mountaineer Site (Stiger 2006). Work at the Mountaineer Site continues today with students excavating an Archaic period component at the site (Stiger 2013, personal communication).

The ongoing research conducted by Western and SMU has involved several facets beyond the excavations. They have repeatedly mapped and made collections of surface artifacts; they have made maps of the rock cairn alignments and likely hunting blinds located on the site; they have conducted experiments on how freezing-thawing displaces artifacts; they have reconstructed a Folsom house; and they have conducted experiments on fire-hearth use. The mapping of artifacts on the surface of the site has demonstrated that artifacts are present across the entire top of Tenderfoot Mountain, but there are several distinct concentrations of surface artifacts. The presence of rock cairns and hunting blinds are especially interesting. Communal hunting of large-game animals, such as bighorn sheep and bison, was an activity of great importance to prehistoric peoples (e.g. Kornfeld et al., 2010; Benedict 1975, 1996; LaBelle and Pelton 2013). The evidence suggests the Mountaineer Site was part of an extensive prehistoric game-drive complex used during the Archaic and perhaps during Paleoindian times.

In 2007, Alpine Archaeological Consultants, at the request of Western and Mountain Wireless Construction, Inc., monitored the installation of a propane-powered generator at the Verizon facility on the northern end of Tenderfoot Mountain (Greubel 2007). Archaeological monitoring can be a useful and important tool at a site like 5Gn2477. In this case, the needs of the facility user (Verizon) were met and through the use of an archaeological monitor, no damage was caused to the site.

In summary, the Mountaineer Site is a highly significant archaeological site that has yielded and will continue to yield important information about Colorado's prehistoric past. The nature of the site, a scatter of chipped stone debris across a large area may not be impressive to the untrained eye, but below the surface of the site lay intact and discrete archaeological components dating to more than 10,000 years ago. Soils on the site are thin so these ancient components lay just below the modern surface. The resource is fragile and can easily be damaged. Folsom period sites are extremely rare.

Lessons Learned from Previous Archaeological Research at the Mountaineer Site

From an archaeological perspective, the Mountaineer Site is a bit enigmatic. Surface artifacts, although present, can be difficult to identify (Figure 2). Some of the raw materials used by prehistoric people is very similar in color to the natural outcrops of rock on the site, and artifacts can be easily missed, even by the well-trained archaeologist. Additionally, the surface expression of the Mountaineer Site may not be reflective of what is buried just below the surface (e.g. Stiger and Bjornstad 2002; Stiger 2003, 2008, 2009). For example, an area of only a few artifacts on the surface could reveal hundreds of artifacts through subsurface testing (Rood et al. 1995). At the Mountaineer Site, it is important to realize the surface expression does not necessarily reflect what is just below the surface.

Soils on portions of the Mountaineer Site are very shallow. However, within these shallow soils there are intact archaeological deposits that can be more than 10,000 years old (Figure 3). At the nearby Tenderfoot Site, Stiger (2001) demonstrated that intact archaeological materials can be present at sites where there is little or no soil development. These archaeological materials at both the Mountaineer Site and the Tenderfoot Site are spatially discernible. In other words, they retain their integrity and have not been compromised by natural soil movement.

The traditional manner in which archaeological sites are tested needs to be re-evaluated for sites like the Mountaineer Site. The absence of artifacts on the surface does not indicate a lack of intact buried deposits and a modified sub-surface testing approach must be considered. For example, a cultural resource survey where the archaeologist finds no artifacts on the surface may, in fact, not be adequate to fully assess potential impacts to a site like the Mountaineer Site.

Figure 2. Artifact on the surface of the Mountaineer Site (pen for scale).

Figure 3. Excavation block at the Mountaineer Site illustrating the shallow nature of the soils above a 10,000 – 10,500 year old archaeological component.

Why is the Mountaineer Site Important?

The Mountaineer Site is important for a number of reasons. Evaluating the importance of an archaeological site can be a difficult task but in the case of the Mountaineer Site, the evaluation is relatively straight forward. The Mountaineer Site, 5Gn2477 is important for the following reasons:

- The Mountaineer Site contains intact archaeological material that is more than 10,000 years old;
- The Mountaineer Site contains intact Folsom- and Archaic-age house structures;
- The site contains archaeological evidence indicating long-term use of the site by prehistoric peoples;
- There is evidence suggesting the use of the site as a game-drive or communal hunting area;
- The site contains significant archaeological information relating to early Native American lifeway's in the Colorado High Country; and
- The Mountaineer Site represents a very rare site type.

The National Register of Historic Places

According to the official website of the National Park Service, "The National Register of Historic Places (NRHP) is the official list of the Nation's historic places worthy of preservation. Authorized by the National Historic Preservation Act of 1966 (NHPA), the National Park Service's NRHP is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources (www.nps.gov)." Within the framework of the NHPA, criteria are used to evaluate any given cultural resource for significance and eligibility for nomination to the NRHP. The Mountaineer Site is considered by the Colorado Office of Historic Preservation (OAHP) to be "eligible" for nomination to the NRHP under Criterion D; and considered to have yielded, or may be likely to yield, information important in history or prehistory.

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or

B. That are associated with the lives of significant persons in our past; or

C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. That have yielded or may be likely to yield, information important in history or prehistory.

Covenant

Currently, History Colorado holds a covenant on the Mountaineer Site that was enacted in 2004 and will last for a period of 20 years. This covenant is associated with the State Historic Fund grants, which have been used to fund most of the archaeological research that has been conducted on the Mountaineer Site. The covenant essentially states that Western will protect the site and that History Colorado must be informed of, and consulted on, any activities that take place on the site that have the potential to damage any of the archaeological components present.

In addition to the funding for the SHF, research at the Mountaineer Site has been financially supported by the City of Gunnison and the National Geographic Society.

II. GOALS OF THIS CULTURAL RESOURCE MANAGEMENT PLAN

In most cases, a CRMP will have to focus on hundreds if not thousands of known or yet undiscovered cultural resource sites (e.g. Cushman 2010; McCarthy, 2003) but in this case, our efforts are focused on one site. The goals of this CRMP are as follows:

1. To provide recommendations to Western on how to manage various uses of the Mountaineer Site area while, at the same time, insuring this archaeological resource is not intentionally or unintentionally damaged.

2. To provide an initial framework on how facility users and Western can better work together to insure the Mountaineer Site is not intentionally or unintentionally damaged and to foster site stewardship and cooperation between Western, the facility users, and the general public.

III. IDENTIFICATION, ANALYSIS AND RECOMMENDATIONS CONCERNING THE MOUNTAINEER SITE, 5GN2477

In consultation with Western State Colorado University five major issues have been identified that could be potentially damaging to the Mountaineer Site. These issues include:

- Access and Security;
- Communication Facilities and Associated Maintenance;
- Recreational use of Tenderfoot Mountain;
- Continued Archaeological Research at 5Gn2477; and

- Compliance with Section 106 of the National Historic Preservation Act and Colorado Law.

These topics were chosen by CRA after visiting the site on July 17, 2013, and in consultation with Mark Stiger, Janice Wellborn, Julie Feier, and Maria-Claudia Tomany, of Western.

Access and Security

Who should have authorized access to the top of Tenderfoot Mountain?

Currently, the main access to the top of Tenderfoot Mountain is from Gold Basin Road just south of Gunnison. From there, access is via BLM Road 3070 to an unnamed road that climbs in elevation along the east side of Tenderfoot Mountain. A locked gate is located near the top of the mountain (Figure 4). There is one lock on the gate and according to Western staff there are a number of keys to this lock. Personnel (users and staff from Western) needing access to the existing facilities on the top of the mountain have a key. Currently, there is not a sign on the gate but there is a sign on route to the gate saying "Restricted Access" and "Authorized Personnel Only" (Figure 5).

Members of the public can also access the top of Tenderfoot Mountain along the same route. Without a key, they can simply park at the locked gate and walk to the top of the mountain or walk to the top of the mountain from just about any location. Members of the public may want to access the site because they have heard about the significant archaeological discoveries and they want to learn more about the site. They may want to illegally collect artifacts or they may just be curious. In addition, OHV operators have simply driven around the existing gate to access the top of the mountain or they have driven cross-country.

Authorized access to the top of Tenderfoot Mountain should be limited to only facility users who need access for ongoing maintenance of their facilities and to Western personnel. Western should consider providing a key to local law enforcement, fire, and to the BLM.

Figure 4. Main access road and locked gate near the top of Tenderfoot Mountain.

Figure 5. Signage on the access road to the top of Tenderfoot Mountain.

Management Recommendations:

1. A new and more substantial gate needs to be installed. The new gate should be designed and constructed to prevent OHV vehicles from driving around the gated portion of the road.

2. Western should consider changing the lock on the main access gate and then issue keys to persons or companies that have current, active leases on the top of the mountain. Lease holders must obtain permission from Western prior to giving their key to other people. Keys for the new lock should be clearly stamped "Do Not Duplicate" to minimize unauthorized access to the site via vehicular traffic. By replacing the lock and issuing new keys, Western should be able to have a better idea on the number of keys in circulation, and Western will be able to ensure that only authorized individuals or companies have keys to the gate. All users must make sure the gate is locked after entering and leaving the mountaintop.

If there are continued access issues or violations within the first six months after the CRMP has been adopted, Western may want to consider implementing a key check-out plan where there is only one key and facility users will have to obtain the key from Western and then return the key when finished. Western may also want to consider implementing a 24-hr notification procedure where all authorized access to the top of Tenderfoot Mountain must be pre-approved by Western.

3. Signage should be placed along the main access to Tenderfoot Mountain stating that only authorized personnel can access the top of the mountain. Wording on the signage should reflect the significant archaeological resources that are protected by Colorado State law, but they should also reflect appropriate language stating that the existing communication facilities on the top of Tenderfoot Mountain are not subject to public access.

4. There should be a sign on the gate that identifies the top of the mountain as a significant cultural resource, and the sign should reference Colorado Code 24-80-409 (Figure 6). Similar signs should be placed along the perimeter of the mountaintop at locations likely used by hikers, hunters, and OHV operators.

Figure 6. Example of signage that could be placed on the Mountaineer Site.

5. Western should consider a robust public education program to showcase the Mountaineer Site to the local community. This can be done in a manner to provide the citizens of Gunnison with basic information about the site, the ongoing research, and the significance of the site to the local community. Additionally, an education program will likely increase public awareness and reinforce positive stewardship for the Mountaineer Site by all. Western should consider offering special, periodic public tours of the site as an outreach and education tool for the public. A toll-free number with pre-recorded information about the site and upcoming tours, along with a website where visitors can learn more about the site, would be positive outreach efforts on the part of Western.

6. Do not leave an unlocked gate behind you.

Should access be limited or restricted beyond its current level?

During a visit to the Mountaineer Site in July 2013, there was some evidence of off-road travel to some of the existing facility locations. However, none of the off-road access appears to be recent (i.e. within the last few months). One area was noted where excess concrete had been poured directly on the ground in an area where Western had documented numerous surface artifacts (Figure 7). A substantial amount of concrete had been dumped on the surface, but volunteers and students from Western's anthropology program removed most of the concrete from the site (Mark Stiger, personal communication, July 2013). To prevent any additional damage to the Mountaineer Site, vehicular access should be restricted to those areas on the top of the mountain that are identified in this plan as being "Approved Access" (Figure 8). Access routes on the top of Tenderfoot Mountain should be marked and any "pioneer roads" or unauthorized access roads should be clearly marked with a "ROAD CLOSED" sign (Figure 9). This has been done to some extent on the Mountaineer Site, but several of these signs have been removed or knocked down. These approved access routes, with one exception that will be discussed below, are currently being used and represent the best access to existing facilities on Tenderfoot Mountain while keeping impacts to the Mountaineer Site to a minimum.

Figure 7. Example of concrete dumped on the surface of the Mountaineer Site.

Management Recommendations:

1. New leases should be explicit in how the user is to access their facility. A map showing "Approved Access" routes will be issued to each lease holder.

2. Existing leases should be updated to explicitly state approved access and parking locations. Western should establish "Approved Parking Areas" for each of the existing lease holders and these areas should be clearly defined on a map and on the ground using markers or signs.

3. "Road Closed" signs should be placed and maintained at road junctions where there is not an approved travel route. Facility maintenance personnel should be made aware of the closed roads, and they should assist Western in making sure the road closed signage is visible, not knocked over or removed from the area.

4. Markers that are tall enough to be visible during the winter months should be placed along both sides of approved access roads on Tenderfoot Mountain. These markers should be clearly visible, have a reflector panel on the top and should be placed at 9.1 m (30.0 ft) intervals along both sides of the approved access. Access outside of these markers will not be permitted.

5. Vehicular access should be limited to those areas defined within this document and a map of approved access routes should be included with all new lease materials. Lease agreements should contain a signature sheet that stipulated that the users will agree to the CRMP.

6. No new roads should be constructed and no new access routes should be used on the top of Tenderfoot Mountain without prior archaeological consultation with Western and the SHPO. If it is found that a new road or access is required, an archaeological inventory would be required. Minimum standards and methods for conducting archaeological work in relation to new roads are presented in Section 4 of this document.

7. No dumping of any excess materials will be allowed anywhere on Tenderfoot Mountain.

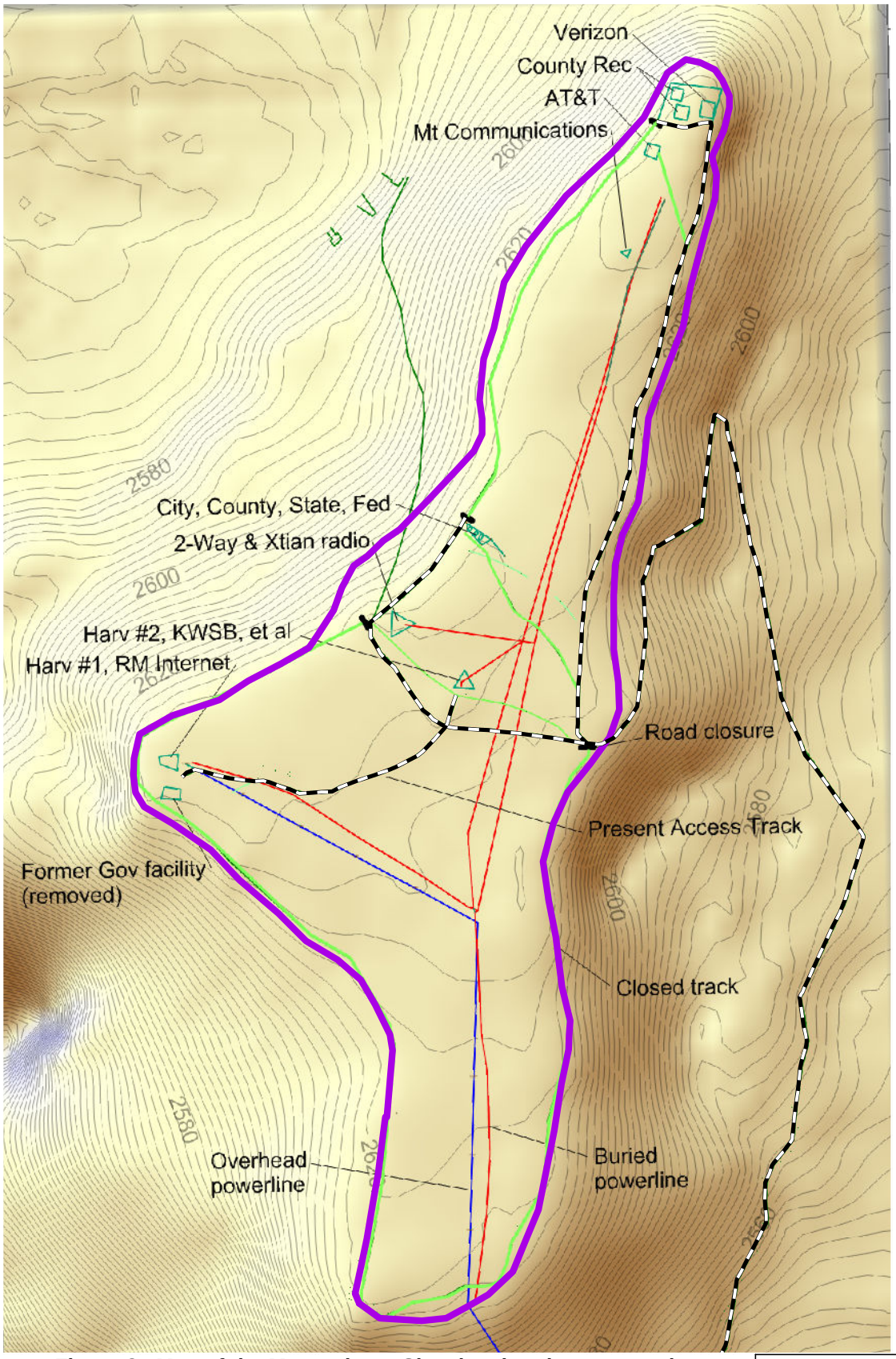

Figure 8. Map of the Mountaineer Site showing the current site boundary and approved access routes.

Approved Access
Site Boundary
Overhead Powerline
Buried Powerline
Closed Road

0 170 340 510 680 Feet
0 50 100 150 200 Meters

N W E S

1:6,000

cra
cultural resource analysts, inc
421 21st Ave, STE 8, Longmont, CO 80501
303.772.8881

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Created By:	T.M.	Date	9/16/2013
Project Number:	U13W001		

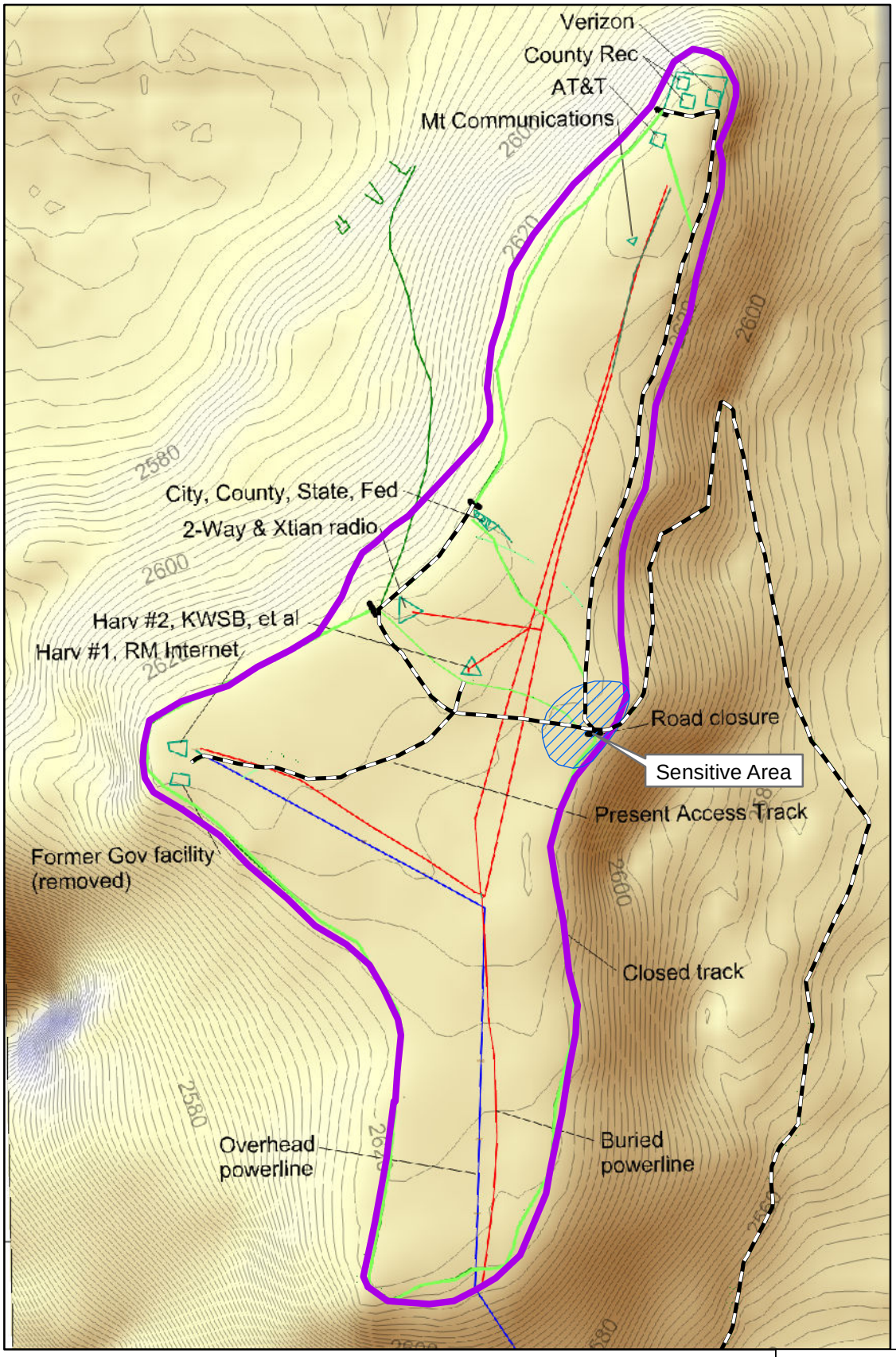
Figure 9. Existing facility and road closed sign posted by Western.

How should access be controlled or minimized to the eastern portion of the mountain to prevent further negative impacts to archaeological components?

If all users use only the approved access routes identified in this CRMP, negative impacts to the Mountaineer Site should be kept to a minimum. However, Western has identified one area on the top of Tenderfoot Mountain where ongoing access via road use is likely damaging buried archaeological deposits. This area, designated as highly sensitive, is on the eastern side of the mountain where the road going north along the eastern side of the mountain intersects with the road heading across the mountain to the west (Figure 10). A track heading south from this intersection has been closed to vehicular traffic. Testing at this location in 1995 (Rood et al. 1995) revealed a buried archaeological component, and it is likely that this area contains a buried Folsom component (Mark Stiger, personal communication, July 2013).

Currently, vehicular traffic crosses this segment of road to access communication facilities on the western and northern portions of Tenderfoot Mountain. Western accesses its current archaeological excavation areas across this same section of road and uses this road to access the "W" on the north-facing side of Tenderfoot Mountain. Continued vehicular traffic may in fact be compacting the archaeological materials on this portion of the Mountaineer Site and compacting may be causing damage to fragile artifacts such as faunal materials (bone), fragile stone tools, and buried cultural features (hearths, housepits).

Avoiding this road juncture on the eastern side of Tenderfoot Mountain would be difficult. Construction of a new access road would not solve the problem since buried archaeological deposits are likely present over this entire area (Figure 10).



Approved Access
Sensitive Area
Site Boundary
Overhead Powerline
Buried Powerline
Closed Road

Figure 10. Map of the Mountaineer Site showing the current site boundary and the sensitive area on the eastern side of the site.

0 170 340 510 680 Feet
0 50 100 150 200 Meters

N W E S

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Management Recommendations:

1. The easiest way to ensure no further damage to buried archaeological components on the eastern side of Tenderfoot Mountain at the junction of the east–west and north–south roads would be to simply close the top of Tenderfoot Mountain to all vehicular traffic. However, this would mean access to the existing facilities on the north and western sides of Tenderfoot Mountain, as well as access to the archaeological excavation areas, would be restricted to foot traffic only. Closing off the top of Tenderfoot Mountain to vehicular traffic is not a preferred alternative in this case and there are several options that should be considered.

a. Intentional burial or capping of the road segments through this portion of the Mountaineer Site is one possibility. Capping or intentional burial has been used as a "treatment" to mitigate adverse effects to archaeological sites with varied success (see Thorne 1991). To cap this portion of the Mountaineer Site would require some additional research, and there would be no guarantee that capping over the access roads would protect the buried archaeological component.

b. Another possibility would be to establish a new access route that would avoid this component of the site. Unfortunately, this too would be problematic and likely very expensive since any establishment of new access would require detailed and very extensive archaeological investigations.

c. Archaeological mitigation is another alternative. In this case, data recovery through additional excavation is probably the best alternative. This particular area may contain a Folsom-age component and perhaps a Folsom structure (Mark Stiger 2013, personal communication). Data recovery excavations will recover important information from this area of the site and thus, mitigate the potential adverse effects of continued vehicular traffic. Of course archaeological data recovery requires funding. Funding should come from multiple sources including funds from Western, possibly from the State Historical Fund (SHF), and from the users of the facilities on the northern and western sides of the mountain that use these roads for their ongoing access. Ongoing impacts to the site could be considered an adverse effect under Section 106 of the NHPA. Securing funding through multiple sources (SHF and facility users) to conduct data recovery excavations on this portion of the Mountaineer Site is strongly recommended and should be considered a priority by Western. There are several examples of how SHF monies along with funds from proponents have been pooled together to fund archaeological data recovery (e.g. Baca Land Exchange, McClain Rockshelter).

d. Until mitigation can be completed on this portion of the Mountaineer Site, it is recommended a detailed monitoring effort be implemented to evaluate potential damage to the site and to monitor for exposed cultural resources such as artifacts, bone, or archaeological features. This should be considered a short-term effort until funding can be secured to conduct data recovery excavations on this portion of the site.

2. Extreme caution should be exercised when driving through the sensitive area on the eastern side of Tenderfoot Mountain. Travel speed should be kept to a minimum, and there should be no aggressive driving in that area, which would potentially further disturb the archaeological component.

3. Maximum vehicle speed on the top of Tenderfoot Mountain should be posted to not exceed 5 mph.

How should existing access routes be maintained?

Maintenance of the roads on the top of Tenderfoot Mountain could result in an adverse effect to the Mountaineer Site. This would be especially true if maintenance includes blading of any surface or any other ground disturbing work. Due to the unique nature of the archaeological site, ground disturbing activities would include any of the following actions:

- Road blading, pushing or dragging of dirt by hand or with machinery.
- Excavation of trenches or any excavation of footings etc. for new facility locations or expansion of existing utility locations.

- The movement of any surface rock. (NOTE: Because there are documented rock cairns and aboriginal drive lines on the Mountaineer Site, the movement of any rock on the site surface could be an adverse effect.
- Dumping of excess dirt, gravel, rock, or concrete anywhere on the surface of the Mountaineer Site.

Foot traffic should be restricted to areas pre-determined within the lease. Excessive foot traffic could potentially cause damage to shallow archaeological resources.

Management Recommendations:

1. There should be no road maintenance on any of the roads within the boundaries of the Mountaineer Site.

2. Road maintenance anywhere on the Mountaineer Site must be approved by Western prior to being completed. Proposals to do any road maintenance or surface disturbing activities must be presented to Western in writing and accompanied with detailed maps and descriptions of what is being proposed. The following are considered to be "Ground Disturbing Activities" that could adversely affect the Mountaineer Site and will not be allowed without prior approval from Western.

   a. Any road blading using machinery or hand tools.

   b. Any movement of rock or dirt using machinery or hand tools.

   c. Any excavation using machinery or hand tools.

   d. Any dumping of excess materials (dirt, gravel, concrete etc.) on the site surface.

3. Any road maintenance and ground disturbing activities approved by Western must be monitored by a qualified archaeologist at the expense of the project proponent. The archaeological monitor must coordinate with Western and specifically with the Principal Investigator in charge of work at the Mountaineer Site.

How should access be handled during the winter months?

Users must have access to their facilities during the winter months and gaining access in the winter may be challenging especially when there is substantial snow cover on Tenderfoot Mountain. According to Western, winter access is sometimes accomplished by blading snow from the access routes. The blading of snow may not in itself constitute an adverse effect to the site, but if the blade goes below the snow into the ground surface, archaeological components may be damaged. Further, if the blading is being conducted by heavy equipment (grader, front end loader) the weight of the machinery could cause undo damage to the site, especially within the sensitive area described above. This could be especially critical if the person blading the snow blades outside of the approved access routes, which are then later used for vehicular access. Accessing user facilities during the winter via 4-wheel drive vehicles may be possible, however, should a vehicle become stuck in snow or mud, the actions of freeing the vehicle may cause an adverse effect to the Mountaineer Site. Blading snow within the boundaries of the Mountaineer Site must be done carefully and only within the established approved access areas. During winter-time access, facility users must stay within the approved access route corridors. No off-road access will be allowed at any time.

At any time of the year, access roads may be extremely muddy. In those instances, no "drive-arounds" will be permitted as "drive-arounds" can evolve into additional access routes. If the road is too muddy to be driven, access must be completed on foot.

Management Recommendations:

1. Blading of snow from the approved access within the boundaries of the Mountaineer Site must be done to insure the blading does not disturb any soils and must be limited to the approved access routes.

2. Access will be along approved access routes during all seasons.

3. Driving around muddy or snow covered areas that entails driving outside of the approved access is not permitted.

4. If the approved access road is too muddy or snow covered and driving is inhibited, access must be completed on foot.

How should access be handled during emergency situations like wildfires?

In emergency situations, emergency teams and equipment may need to travel to the top of Tenderfoot Mountain. The main access road from Gold Basin Road and then via BLM Road 3070 is the most likely route emergency crews will take. Once on top of Tenderfoot Mountain emergency crews may be required to drive off road for fire suppression or other types of emergencies.

Management Recommendation:

1. It is recommended that no fire breaks or fire lines be cut on the top of Tenderfoot Mountain as these would adversely affect the Mountaineer Site.

Communication Facilities and Associated Maintenance

How can Western State Colorado University and the existing users of Tenderfoot Mountain continue to permit and lease communication facilities on Tenderfoot Mountain while maintaining the preservation and integrity of the archaeological components at 5Gn2477?

Western has the authority to issue leases for communication facilities on Tenderfoot Mountain. Existing facility users may, in some cases, have the authority to authorize collocation or additional communication facilities on their existing towers. All parties have a responsibility to ensure new or existing facilities or collocated facilities do not adversely affect the Mountaineer Site under FCC rules and Section 106 of the NHPA.

In the past, there was likely some confusion and inconsistencies in how leases for communication facilities were approved for the top of Tenderfoot Mountain. Moving forward, having a standard lease agreement along with a clear and concise set of operational guidelines for lease holders would eliminate questions and provide for consistent application of the rules for all lease holders.

At present, under Section 106 of the NHPA and within administrative rules and policy of the FCC, there are standardized protocols with regard to historic properties and archaeological sites for the placement of new communication facilities and for the collocation of communication facilities on existing communication sites. All “undertakings” which require Federal licensing are subject to NEPA, and Section 106 of the NHPA. Communication towers, such as those on top of Tenderfoot Mountain, are licensed by the FCC or in some cases, the FAA. Facilities licensed by the FCC are subject to the FCC’s Nationwide Programmatic Agreement. This Nationwide Programmatic Agreement outlines how SHPOs in various states handle FCC licensed facilities with regard to historic properties.

Because the Mountaineer Site covers the entire top of Tenderfoot Mountain and is considered to be eligible for nomination to the National Register of Historic Places, no undertakings that are

proposed for Tenderfoot Mountain can be excluded from Section 106 review (FCC Programmatic Agreement, page B-8).

As part of the licensing process, FCC requires one of two application forms. Form 620 is for "new towers" and Form 621 is for collocations. Both of these forms have a section concerning historic properties (Appendix B). Both forms ask a series of questions about the potential effect of the tower location on any historic properties. The sections of the Form 620 and Form 621 that pertain to historic properties or cultural resources include two sections that ask about historic properties. The first is for the professional archaeological consultant that conducts the archaeological assessment of the proposed facility location. The second is a series of questions about the presence or absence of any historic properties that might be affected by the proposed facility location.

Management Recommendation:

1. For all new lease agreements, Western should establish a standardized lease that requires a complete packet of information including copies of the completed Form 620 or 621 as part of the lease application. These forms are also submitted to the SHPO as part of the FCC Programmatic Agreement compliance package.

2. Western should consider updating all existing leases to a standardized lease agreement that includes a complete packet of information, including copies of the completed Forms 620 or 621 as part of the lease application.

3. FCC Forms 620 and 621 should be completely filled out. Sections completed by the consultant should be complete and the consultant for the historic properties sections of these forms must be an individual or company that currently holds a valid cultural resources permit to work within the State of Colorado. Proponents are not permitted to complete those sections of Form 620 or 621 pertaining to Historic Properties. Applications for new facilities or applications for collocations with incomplete or inaccurate Forms 620 or 621 will not be considered by Western.

4. Under no circumstances should "No" be checked for Question 14 under "Determination of Effect" or on Question 1 or 3 under "Historic Properties" on Form 620 for any proposed facilities on Tenderfoot Mountain.

5. Under no circumstances should "No" be checked for Question 19 under "Determination of Effect" or on Questions 1 or 3 under "Historic Properties" on Form 621 for any proposed facilities on Tenderfoot Mountain.

6. Collocations on existing facilities must be approved by Western. This is to insure that individuals or companies responsible for any maintenance on the collocation facilities are aware of the CRMP and the stipulations that are associated with access on the Mountaineer Site.

7. Visual effects, including cumulative visual effects, should be taken into consideration by Western, for any new proposals for facilities on Tenderfoot Mountain.

8. Any new construction of maintenance sheds must follow all Gunnison County codes, and plans for any new construction must be reviewed by the Gunnison County Historic Preservation Commission. The Historic Preservation Commission should be consulted on any undertaking on the Mountaineer Site.

9. Western should complete an inventory of all existing facilities and user group information and keep this information current from this point forward.

How should future lease agreements be constructed to ensure archaeological components will not be adversely affected?

As legal documents, lease agreements should be as specific as possible and leave little room for alternative interpretation. Future lease agreements, and updated current lease agreements, should be specific concerning what activities are permitted at the facility, how the facility is to be accessed, and where parking is allowed.

Management Recommendation:

1. Western should construct a standardized lease that specifically addresses all of the aspects of this Cultural Resource Management Plan.

2. Western should require a compliance bond for all leases. If damages to the site occur, the bond could then be used to offset some of the potential mitigation costs.

3. New and existing leases should include a listing of all anticipated maintenance activities that may be associated with the specific facility location.

Does ongoing maintenance of the existing facilities negatively affect archaeological components and how can Western State Colorado University and the existing users of Tenderfoot Mountain ensure ongoing maintenance activities will not adversely affect archaeological components?

Typically, ongoing and routine maintenance of existing facilities will not result in any adverse effects to the Mountaineer Site unless there are violations concerning road maintenance, or any other ground disturbing activities.

Management Recommendation:

1. As part of the lease agreement, the facility user should provide Western with a listing of all potential maintenance activities they would expect to take place at their facility. This will assist Western in making decisions about what maintenance activities have the potential to adversely affect the Mountaineer Site.

2. As part of the lease agreement, Western will provide the user with an information pamphlet about the Mountaineer Site and its archaeological significance.

3. Every two years, Western will present a public forum in Gunnison on the ongoing research at the Mountaineer Site. The forum will be geared for a public audience and current users of the Tenderfoot Mountain facilities; their employees and families should be invited to attend. This forum should highlight current and new information about the site. By further educating the users of Tenderfoot Mountain, the intention is they will become stewards of the resource. This will only succeed if they believe they are making a difference in helping Western in protecting this world-class archaeological site. This forum could possibly be conducted by upper division students within the Anthropology Program at Western.

4. Western should conduct regularly scheduled on-site training programs for maintenance workers who service the existing facilities on Tenderfoot Mountain. This training should be specific to the site. A training program will make facility users more aware of the site, and they will be better informed on how they too can assist in the protection of this resource. Western should consider making this training a requirement for all lease holders and for those who conduct maintenance activities on the site.

How does the installation of new facilities along with the maintenance, expansion, and decommissioning of existing facilities affect the archaeological components at 5Gn2477.

Any new construction or new maintenance activities on Tenderfoot Mountain has the potential to adversely affect the Mountaineer Site. Any ground surface disturbance, including digging, pushing dirt by hand or with machinery, moving rocks or even dragging a prefabricated structure on skids, can significantly damage components of the Mountaineer Site. New facilities should be carefully considered, and to avoid future damage to the Mountaineer Site, alternative locations should be considered. The history of archaeological cultural resource management surveys on the top of Tenderfoot Mountain have clearly shown that the lack of artifacts on the surface of any given location on the mountaintop does not mean there are no buried deposits below the surface.

Typically, if a proponent wanted to construct a new facility on Tenderfoot Mountain, they might hire an archaeological consultant to conduct an inventory of the proposed location. A standard archaeological survey involves a surface inspection of the APE. This is done by archaeologists walking over the area, looking at the ground and looking for evidence of an archaeological site. This method, standard across much of the western United States has been shown to be inadequate at the Mountaineer Site. First, the surface expression of the site is spotty – that is to say some areas have higher surface artifact densities than others. This is perhaps a result of erosion or it could reflect areas of the site used more intensively by the prehistoric occupants of the site. Second, the artifacts, especially the chipped stone artifacts, are primarily made from local materials (quartzite) and they have a very similar color to natural, non-artifacts on the surface of the site. Third, as demonstrated by the work of Western and SMU, the archaeological expression on the surface does not necessarily reflect what is just below the surface of the Mountaineer Site.

Subsurface testing should be considered in addition to any surface archaeological inventory for new facilities and for the expansion of existing facilities at the Mountaineer Site.

Management Recommendations:

1. For any new facilities on Tenderfoot Mountain, the proponent must:

   a. Complete the Form 620 and an application to Western for a lease; and

   b. Hire a professional archaeological consultant permitted by the State of Colorado to complete an archaeological inventory of the APE plus a 25 ft buffer zone around the new facility. Additionally, any new proposed access or parking areas must also be subject to this archaeological inventory. Minimum standards for archaeological inventory are presented in Section 4 of this document.

2. Visual effects, including cumulative visual effects, should be taken into consideration by Western for any new tower facilities proposed on Tenderfoot Mountain.

How will future need for electrical power at new or existing facilities potentially affect the archaeological components at 5Gn2477?

The installation of buried power lines on the top of Tenderfoot Mountain are the most prolific visual impacts to the site and construction of these buried utilities in the past has significantly damaged components of the Mountaineer Site (Figure 11). Construction of buried utility lines on the top of Tenderfoot Mountain results in conspicuous rows of rock and dirt that can be seen from the surface of the site and from aerial photographs (Figures 11 and 12). In 1994 the construction of a buried utility line to a Cellular One location was completed before an archaeological inventory was conducted. The inspection of the backdirt from the buried utility line, and the discovery of surface artifacts adjacent to the utility line, resulted in the first recordation of the Mountaineer Site (Pope and Greubel 1994). Unfortunately, significant archaeological deposits were badly damaged.

Figure 11. Buried power line to an existing facility on the Mountaineer Site.

Currently, there is an aboveground power line that extends from the base of the mountain to the top of Tenderfoot Mountain. Several existing facilities have tied into this power line through buried utility corridors.

Management Recommendation:

1. If a proponent or facility user requires additional electrical power to an existing or a new facility, it is recommended that solar photovoltaic systems are considered in lieu of traditional buried or overhead utility lines.

2. Because of the extreme negative visual impact and the extensive damage buried utility lines have caused to the Mountaineer Site, the construction of any buried utility lines on the top of Tenderfoot Mountain is strongly discouraged. If a proponent feels they must install buried utilities, a detailed archaeological inventory would be required. This inventory must also include an analysis of visual impacts to the site. The minimum standards for conducting archaeological inventory for new utility lines are presented in Section 4 of this document.

3. Western should consider a study to determine if the existing corridors where previously buried power lines are located can be reclaimed. This study should determine the feasibility of any reclamation and to what extent any reclamation would have on the Mountaineer Site.

4. For any tie-in to the existing aboveground power line on Tenderfoot Mountain, archaeological inventory and testing must be completed for each proposed new pole location. An area no less than 9.0-x-9.0 m (30-x-30 ft) must be examined for each location. Additionally, subsurface testing, encompassing 50 person of the proposed pole location, must be completed (see Section 4). Any new access routes needed for power line construction and maintenance must be inventoried and tested as described above.

Figure 12. Aerial Photograph of the Mountaineer Site showing damages caused by buried utility lines.

0 140 280 420 560 Feet
0 40 80 120 160 Meters

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Could the decommissioning or removal of any existing facilities potentially damage the Mountaineer Site?

Any activity that may involve any dirt moving activities has the potential to damage significant archaeological resources. Any removal of existing facilities should be done in a manner to minimize any risk to the site. It should be noted that just because a facility is located in a specific area does not mean there are not intact archaeological deposits adjacent to, or even beneath, the existing facility.

If a facility is decommissioned and there is no longer need for overhead power to the facility, the removal of the power lines and poles could potentially cause an adverse effect to the Mountaineer Site.

Management Recommendation:

1. Any decommissioning of facilities on Tenderfoot Mountain must be done following a plan that is submitted to Western for prior review. This plan shall include details on how the facility will be dismantled and removed from its location.

2. If any power lines or power poles are decommissioned and slated for removal, a plan detailing how this will be done shall be submitted to Western for review. In the case of power poles, it is recommended the poles not be excavated and removed from the ground as that could unnecessarily cause damage to the archaeological components. It is recommended the poles be cut-off at the ground surface and the buried portions be left in place.

3 All facilities removal or de-construction should be monitored by a qualified permitted archaeologist.

4. All existing buildings not in use should be removed using these guidelines.

Recreational use of Tenderfoot Mountain

How can Western State Colorado University and the current users of Tenderfoot Mountain work together to protect the fragile archaeological resources on Tenderfoot Mountain?

Members of the public can access the top of Tenderfoot Mountain via existing roads or by hiking up the mountain. Members of the public may want to access the site because they have heard about the significant archaeological discoveries and they want to learn more about the site. They may want to illegally collect artifacts or they may just be curious.

As discussed in a previous section (Section 1 Access and Security), additional signage is recommended and an outreach and education program for the public and for users of the mountain should be implemented by Western.

Management Recommendations:

1. There should be a sign on the gate that identifies the top of the mountain as a significant cultural resource and the sign should reference Colorado Code 24-80-409 (see Figure 6). Similar signs should be placed along the perimeter of the mountaintop at locations likely used by hikers, hunters, and OHV users.

2. Western should consider a robust public education program to showcase the Mountaineer Site to the local community. This can be done in a manner to provide the citizens of Gunnison with basic information about the site, the ongoing research, and the significance of the site to the local community. Western should consider offering special, periodic public tours of the site as an outreach and education tool for the public. A toll-free number with pre-recorded information

about the site and upcoming tours along with a website where visitors can learn more about the site would both be positive outreach efforts on the part of Western.

Continued archaeological research at 5Gn2477

How will future archaeological research at 5Gn2477 be accomplished?

Archaeological research, especially archaeological excavation can impact the archaeological site. Fortunately, the archaeological research being conducted by Western is considered to be cutting-edge research by the professional archaeological community. Since the mid-1990s, Western has conducted research using sound and well-established archaeological methods, and this research has been conducted with all of the required permits mandated by the State of Colorado. Funding for much of this work has come from the Colorado State Historic Fund, and there also has been funding provided directly by Western.

Management Recommendation:

1. All future archaeological research conducted at the Mountaineer Site will be conducted under the authority of permits issued by the Office of the State Archaeologist and will follow current archaeological field methods and techniques.

How can the public at large, the existing users of Tenderfoot Mountain, and students at Western State Colorado University benefit from continued archaeological research at 5Gn2477?

The public, Western students, and the citizens of Colorado have greatly benefited from the archaeological research that has been conducted at the Mountaineer Site. Students attending Western and SMU have had the opportunity to work on a world-class Archaic and Folsom-age campsite under the supervision of archaeologists considered to be experts in archaeology of the Colorado Mountains, the Gunnison Basin, and in Paleoindian studies. Students not only gain valuable field experience, they have opportunities to conduct individual research, laboratory analysis of artifacts, and assist with the writing and documentation of this site. Several students have been, and are currently, using data from the Mountaineer Site to complete Masters and Ph.D. studies in the field of anthropology.

The public at large has a keen interest in archaeology. A poll conducted by the Society for American Archaeology (SAA) has shown that the public, in general, feels that archaeology and archaeological sites are important (Ramos and Duganne 2000). Many states, including Colorado, have embarked on efforts to attract tourism to sites of cultural and archaeological importance (Colorado Tourism Office 2006). States encourage heritage and cultural tourism because there is a strong desire on the part of the public to visit and learn about historic sites, historic events, and archaeological sites. Western should seek ways to engage the public further about this important archaeological site.

Management Recommendation:

1. Western should consider a robust public education program to showcase the Mountaineer Site to the local community. The public education program would provide the citizens of Gunnison with basic information about the site, the ongoing research, and the significance of the site to the local community. Western should consider offering special, periodic public tours of the site as an outreach and education tool for the public. A toll-free number with pre-recorded information about the site and upcoming tours, along with a website where visitors can learn more about the site, would both be positive outreach efforts on the part of Western.

2. Partnerships between Western and Tenderfoot Mountain facility users could be forged to promote public education efforts concerning the Mountaineer Site.

How can we modify our archaeological field techniques to make sure archaeological components at 5Gn2477 are not adversely affected by new facilities or expansion of existing facilities on Tenderfoot Mountain?

As discussed above, traditional archaeological surface inventories are not adequate enough to identify archaeological components at the Mountaineer Site. In addition to surface inventory, subsurface testing in the form of formal 1-x-1 m test units are needed to fully assess the surface and subsurface components at the Mountaineer Site (see Section 4 for details).

Management Recommendation:

1. Any Section 106 related archaeological assessment completed at the Mountaineer Site for any new facility, expansion of an existing facility, or any other potentially ground disturbing activity must follow the protocols detailed in Section 4.

Compliance with Section 106 of the National Historic Preservation Act

What procedures do Western, users of the facilities on Tenderfoot Mountain, and other Federal Agencies (FCC, FAA etc.) need to follow to make sure all parties are in compliance with Section 106?

Consultation under the NHPA involves the federal agency permitting the undertaking and the SHPO. In many cases, there are other consulting parties that may include Native American Tribes, local governments, and other organizations that could have an interest in the particular project or undertaking. Consultation under the NHPA is not new—it has been going on since the late 1960s and the process generally works. At this time, there is no need to establish any new procedures for compliance with Section 106, but the procedures must be organized, put into place, and enforced by Western.

A review of the history of consultation concerning the Mountaineer Site suggests in the past Western, facility users, and in some cases the SHPO, have made recommendations that any archaeological work required or suggested as part of facility upgrades be handled by Western. Western has indeed volunteered time and materials toward assisting facility users with compliance and in several cases, funding was provided by facility users to complete the required archaeological inventories and to test a portion of the site. Future compliance work conducted by Western on behalf of facility users should be funded by the proponent and in most cases, hiring outside archaeological consulting companies may be advantageous due to the workload involved and the limited time and resources available by Western.

Management Recommendation:

1. Western must coordinate and take the lead on all consultation with the SHPO under Section 106 of the NHPA and under Colorado law. Proponents or facility users must coordinate efforts with Western but they should not directly consult with SHPO. Western should designate a single person to have the responsibilities of coordinating with SHPO, and there should be a single point of contact at Western for facility users. Western, as the state agency, has the responsibility of making all management decisions concerning the property under their jurisdiction.

2. Future Section 106 compliance work required on Tenderfoot Mountain should be conducted by a permitted archaeological consulting company at the expense of the project proponent. If desired, and if time permits, compliance work could be conducted by Western, but Western

cannot be expected to do this work pro-bono by project proponents. Any Section 106 compliance work should be coordinated with the Principal Investigator for the Mountaineer Site.

3. After a period of two years, Western should review this CRMP and should review what has taken place on the Mountaineer Site to determine if any additional agreements or recommendations to the CRMP are needed.

4. As part of compliance with Section 106, facility users who want to make any substantial changes to existing facilities; or users who want to construct new facilities (towers, sheds, access, parking, utilities); or make any upgrades to any existing approved access, must do the following prior to any work being completed on the site:

a. A certified letter must be submitted to Western that details exactly what is being proposed on the site. This letter must include a detailed map showing the location of the proposed activity. Western will have 30 days from receipt to review the proposal and provide comments. Western may decide to go forth with the proposal or they may decide, based on the information provided, to not approve the proposal. Western will consult with SHPO on the proposal, the proposed action and their decision to approve, approve with stipulations, or not approve the proposal.

b. If Western makes the decision to approve the proposal, Western will continue consultation with the SHPO. The proponent must then begin the process of compliance with FCC rules and regulations and the stipulations within this CRMP. The proponent must hire an archaeological consultant to prepare a plan to conduct an inventory of the APE and buffer zone and a detailed testing plan. All necessary paperwork required by the FCC, including Form 620 for new facilities must be completed and submitted to Western.

c. Once the inventory plan and testing plan have been approved by Western and the SHPO has concurred with the plan, the archaeological work may begin.

d. Once the archaeological testing has been completed and a report on the findings have been reviewed by Western, a decision will be made to either approve the project with a finding of no adverse effect in consultation with SHPO or to require additional archaeological mitigation work to approve the project with a finding of no adverse effect. Western reserves the right to not approve the project if the testing results indicate archaeological deposits worthy of long-term preservation are present.

5. If a facility user wants to make any non-substantial changes to an existing facility, the user must describe what is being proposed in writing to Western via a certified letter. Western will evaluate the proposal, which must include a timeline for activity and completion, and either approve the request, deny the request, or ask for additional information. Non-substantial changes may require FCC review, the completion of FCC paperwork including Form 621, and SHPO consultation.

6. Visual impacts, including cumulative visual effects, should be considered by Western for any new facilities proposals.

Should Western consult with Native American tribes about ongoing research at the Mountaineer Site and should Western consult with tribes as part of the Section 106 process?

Western has consulted with the Ute Tribe concerning ongoing research at the Mountaineer Site. A Ute elder visited the site in 1997 and was extremely interested and supportive of the research. This elder did recommend that some areas of the top of Tenderfoot Mountain be avoided due to spiritual concerns, and these areas have been closed to vehicular traffic.

Management Recommendation:

1. The involvement of Native American tribes in archaeological research is immensely important, and Western should continue to consult with the Ute Tribe concerning ongoing research at the Mountaineer Site.

2. Western should reach out to Native American Tribes to determine if they want to be consulted on Section 106 issues that might affect the Mountaineer Site.

Additional Management Recommendations

In consultation with Western, several additional issues pertaining to potential impacts to the Mountaineer Site have been identified. These issues could be considered as "minor" but they are important as there is potential for causing damage to the Mountaineer Site, and they reflect a common courtesy that all users of the Tenderfoot Mountain should exercise. On the list below, Item #1 is not considered to be minor. Western must seriously consider nominating the Mountaineer Site to the NRHP and to the Colorado State Register of Historic Places. Listing on the Colorado State Register will offer Limited protection from state agency actions that would affect the property. Agencies must solicit the comments of History Colorado to assure that Colorado State Register properties are given consideration in the state planning process (http://www.historycolorado.org/oahp/colorado-state-register-historic-properties#sthash.sR6mco3Q.dpu).

1. It is strongly recommended Western nominate the Mountaineer Site to the National Register of Historic Places and to the Colorado State Register of Historic Properties.

2. Unleashed dogs are not permitted on Tenderfoot Mountain. Unleashed dogs could be a threat to people and wildlife and they may contaminate, through fecal deposition, components of the archaeological excavations.

3. All users of Tenderfoot Mountain should be responsible for carrying out their trash.

4. If you see trash, pick it up and dispose of it properly.

5. Do not walk through any of the open archaeological excavation areas.

6. Unauthorized persons should not approach any of the communication facilities on Tenderfoot Mountain.

7. Western should consider establishing a position where one person at the University is responsible for coordinating all facility leases on Tenderfoot Mountain and coordinates all consultation with SHPO.

8. Western should conduct research to determine what needs to be done concerning the issuance of FCC regulated tower locations in terms of compliance with NEPA.

IV. PROTOCOL FOR ADDITIONAL SECTION 106 ARCHAEOLOGICAL INVESTIGATIONS ON THE MOUNTAINEER SITE.

If a proponent or current facility user wants to construct any new facilities, make substantial changes to any existing facilities, or add additional access or utility lines, they must first obtain permission from Western. The proponent must, in writing, via certified mail, explain the nature of their proposed undertaking and this must include a detailed map showing the location of the proposed action. Western, based on this information has the option of not approving the request if the proposed action goes through or is near previously mapped and documented archaeological materials. If Western, in consultation with SHPO, determines that any proposed new facilities or substantial changes are necessary and that there are no alternatives and the proposed action does not impact any

known or previously documented archaeological components on the Mountaineer Site, Western, through the Section 106 compliance process, will require a detailed archaeological inventory and testing assessment for the proposed actions. Details of the inventory and assessment are presented in Table 3. The proponent for the new facility will completely cover all costs relating to any archaeological inventory, testing, and reporting conducted on the Mountaineer Site related to their specific project.

If substantial and intact archaeological deposits are encountered or if any archaeological features or housepits are discovered during the testing phase of the inventory and assessment, the consultant must notify Western. At that time a decision will be made by Western, in consultation with the project proponent and SHPO, to either continue with the testing and move toward a complete data recovery plan or stop the testing and preserve the archaeological deposits.

Subsurface testing in the case of the Mountaineer Site is not being used to evaluate the site for eligibility to the NRHP; the Mountaineer Site is currently considered to be significant and eligible for nomination to the National Register of Historic Places. Testing is used to characterize the subsurface archaeological potential of the area being proposed for the undertaking. Installation of any new facility on the top of Tenderfoot Mountain would be considered an adverse effect under Section 106 of the NHPA unless it can be demonstrated through adequate testing data that the proposed facility will allow an assessment of no adverse effect to be made by Western in consultation with the SHPO.

V. SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

The Mountaineer Site, 5Gn2477, is an extensive archaeological site that is considered significant and eligible for nomination to the National Register of Historic Places. The site is listed as a Gunnison County Historic Landmark. The management of this site is the responsibility of Western. This CRMP will serve as a baseline document to assist Western in the management of this important archaeological site. With funding from the Colorado State Historical Fund, as well as other funding sources, Western has been conducting archaeological research on the Mountaineer Site and as a condition of this funding, Western has the responsibility under a covenant to ensure the site is protected.

Table 3. Archaeological Inventory, Mapping, and Testing Requirements for Undertakings on the Mountaineer Site, 5Gn2477.

Proposed Action or Undertaking	Archaeological Inventory Requirements	Mapping Requirements	Subsurface Testing Requirements	Additional Considerations	Reporting
New Road, Substantial Change to Existing Road, New Parking	Class III (100%) pedestrian inventory of the APE plus a 7.6 m (25 ft) buffer around the APE. Minimum width for road is 15.2 m (50 ft).	GPS mapping (+/-1m) accuracy of the APE, buffer and all surface artifacts.	50% sample of the APE and buffer tested with 1-x-1 m units. Screened through 1/8" mesh.[1]	An analysis of any potential visual effects and cumulative visual effects should be conducted during the testing phase.	Draft report submitted to Western for review due 45 days after the completion of fieldwork.
New Facility, Tower, Shed	Class III (100%) pedestrian inventory of the APE plus a 7.6 m (25 ft) buffer around the APE.	GPS mapping (+/-1m) accuracy of the APE, buffer and all surface artifacts.	50% sample of the APE and buffer tested with 1-x-1 m units. Screened through 1/8" mesh.[1]	An analysis of any potential visual effects and cumulative visual effects should be conducted during the testing phase.	Draft report submitted to Western for review due 45 days after the completion of fieldwork.
New Utility Lines (buried or overhead)	Class III (100%) pedestrian inventory of the APE plus a 7.6 m (25 ft) buffer. Minimum survey width for utilities is 15.2 m (50 ft).	GPS mapping (+/-1m) accuracy of the APE, buffer and all surface artifacts.	50% sample of the APE and buffer tested with 1-x-1 m units. Screened through 1/8" mesh.[1]	An analysis of any potential visual effects and cumulative visual effects should be conducted during the testing phase.	Draft report submitted to Western for review due 45 days after the completion of fieldwork.
New Power Pole Location	Class III (100%) pedestrian inventory of the APE plus a 7.6 m (25 ft) buffer. Minimum survey area for power pole locations is 9.2-x-0.2 m (30-x-30 ft).	GPS mapping (+/-1m) accuracy of the APE, buffer and all surface artifacts	50% sample of the APE and buffer tested with 1-x-1 m units. Screened through 1/8" mesh.[1]	An analysis of any potential visual effects and cumulative visual effects should be conducted during the testing phase.	Draft report submitted to Western for review due 45 days after the completion of fieldwork.

This management plan is the first step to protect the site. In the past there has been inconsistency in how leases were secured, and there was a lack of clarity on what types of activities were allowed or not allowed on the site. Western must have consistent lease policies that are clear and specific so the facility users know what activities they can accomplish without damaging the Mountaineer Site. Lease holders must also realize that anything they do on Tenderfoot Mountain and specifically on the Mountaineer Site could potentially damage the site. Understanding that potential and following the rules set by Western will help the users avoid any potential for damage. Western must provide consistent and detailed information to lease holders about what can be accomplished on the site and users must recognize that their use of the top of Tenderfoot Mountain is not a right, but a privilege.

Nobody wants to intentionally damage a 10,500 year-old archaeological site that has some of the oldest house structures in North America and is eligible for nomination to the NRHP. The key in protecting the Mountaineer Site is to acknowledge that both Western and the facility users have this shared responsibility.

In Section 2, the stated goals of this CRMP include:

1. To provide recommendations to Western on how to manage various uses of the Mountaineer Site area while, at the same time, ensuring this archaeological resource is not intentionally or unintentionally damaged;

2. To provide an initial framework on how facility users and Western can better work together to insure the Mountaineer Site is not intentionally or unintentionally damaged and to foster site stewardship and cooperation between Western, the facility users, and the general public.

Beyond the listing of protocols (Section 4) and management recommendations throughout this CRMP, the most important aspects of protecting the Mountaineer Site are the simplest. Signage, locked gates, approved access routes, and listings of what can or cannot be done only go so far. Without a detailed education program for facility users and the public, the site will remain threatened no matter how many signs or locked gates are installed.

Table 4 presents a listing of responsibilities and tasks required to make sure the Mountaineer Site is protected. These responsibilities and tasks are assigned to facility users and to Western.

Protecting the Mountaineer Site and continuing to use and maintain important communication facilities located on Tenderfoot Mountain are not mutually exclusive endeavors. This responsibility is solely in the hands of Western and the facility users.

Within this management plan there are more than 40 specified management recommendations, and all of these are presented in Appendix C. Some of the recommendations for specific issues overlap with others, so Table 5 presents a summary of all the management recommendations and CRA's priority recommendations.

The management recommendations in this document are not onerous or unreasonable. The existing facilities and access routes are situated on top of a highly important and significant archaeological site. All of the management recommendations presented in this CRMP are simple and follow basic land stewardship principals (i.e. don't drive off road, pick up your trash and don't do anything that might damage the Mountaineer Site). Establishing a CRMP will provide for guidelines for continued use of the site area for communications facilities while at the same time providing for cooperative stewardship and protection of this highly significant archaeological site.

Table 4. Responsibilities and Tasks to Ensure Protection of the Mountaineer Site.

Western State Colorado University Tasks and Responsibilities	Facility Users Tasks and Responsibilities
Standardize lease agreements.	Adhere to the stipulations of the lease. If you have questions, ask.
Insure that lease agreements include copies of the CRMP and appropriate maps.	Follow the management recommendations within the final CRMP.
Install steel markers with reflector post along both sides of the approved access route from the locked gate onto the Mountaineer Site.	Be aware of any of your activities that may adversely affect the Mountaineer Site.
Consider and research including a bonding requirement on facility leases.	Attend all of the training programs offered by Western concerning the Mountaineer Site.
Consider feasibility study to determine if the existing buried utility corridors can be reclaimed.	Make sure all of your employees and collocation staff have read the CRMP and understand its contents.
Consider visual impacts and cumulative visual impacts as part of the Section 106 consultation.	Accept the fact that your utilization of Tenderfoot Mountain and the Mountaineer Site area makes you responsible for its protection.
Prepare a training program for facility users.	Do not conduct any ground disturbing activities on Tenderfoot Mountain without first consulting with Western. This includes ground disturbing activities within areas that may have been previously disturbed.
Prepare a public outreach and education program for the local community.	Do not assume that just because an area does not have any artifacts on the surface, there are not buried components. Do not assume that just because the area has been previously disturbed that intact archaeological deposits do not exist.
Seek partnerships with facility users to fund and sponsor community outreach and education programs.	
Establish a single point of contact at Western for facility users, leases, and Section 106 consultation with SHPO.	

Table 5. Summary of Management Recommendations and Priority Recommendations.

Highest Priority
Nomination of the Mountaineer Site to the State and National Register of Historic Places.
Facility users must not assume that Western will cover any costs associated with Section 106 compliance or compliance with the CRMP.
Install a new gate that will prevent OHV access.
All vehicular traffic is limited to the approved access routes and maps of the approved access shall be provided to all lease holders.
Western should designate one person for all communications and consultations concerning leases on top of Tenderfoot Mountain.
New signage should be placed along the main access road and on the top of Tenderfoot Mountain.
Western should require bonds for new and existing leases.
Buried utility lines shall not be permitted on the Mountaineer Site.
Western should establish an education program about the site for the general public and for facility users
No road maintenance is permitted without prior approval from Western.
Western and facility users must begin discussions for funding data recovery excavations on the eastern portion of the Mountaineer Site.
Western should conduct research to determine if new and existing facilities are in compliance with NEPA.
Western should establish on-site training for facility users and attendance should be a lease requirement.
For any Section 106 archaeological compliance work at the Mountaineer Site, the requirements in Section 4 of the CRMP must be followed.
Priority
Western should put a new lock on the gate and issue keys only to lease holders.
Approved access needs to be marked with upright posts with reflectors.
All users shall adhere to a maximum 5 MPH speed limit on the top of Tenderfoot Mountain.
A permitted archaeologist must be present on-site during any potentially ground disturbing activities.
"No" can never be checked for Questions 1 or 3 under "Historic Properties" or for Question 14 under "Determination of Effiect" on FCC Form 620.
"No" can never be checked for Questions 1 or 3 under "Historic Properties" or for Question 19 under "Determination of Effiect" on FCC Form 621
The Gunnison County Historic Preservation Commission should be consulted on any undertaking on the Mountaineer Site.
Western, FCC, and SHPO should consider visual impacts for new and existing facilities.
Facility users must adhere to the terms of the CRMP or risk losing access privileges.

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APPENDIX A. FCC PROGRAMMATIC AGREEMENT

APPENDIX B. FCC FORM 620 AND FORM 621

APPENDIX C. SUMMARY OF ALL MANAGEMENT RECOMMENDATIONS

Summary of all Management Recommendations

1. New lock on the new gate and the issuance of new keys labeled “Do Not Duplicate” to lease holders.

2. Signage along main access route and on the top of Tenderfoot Mountain.

3. Signage on the top of Tenderfoot Mountain that identifies the area as a sensitive archaeological site. Signs should have information on how the public can learn more about the site.

4. Western should establish a public education and outreach program concerning the Mountaineer Site.

5. New and renewed leases should be explicit and should include a map showing the approved access routes on the site.

6. Vehicular traffic is limited to the approved travel routes during all seasons of the year.

7. Leases should specify designated parking areas.

8. “Road Closed” signs should be placed and maintained on all tracks not approved for vehicular traffic.

9. Reflective markers should be placed along both sides of approved access roads at 30 ft intervals.

10. No new roads should be constructed on Tenderfoot Mountain.

12. Western should continue with a detailed monitoring program for the eastern portion of the site within the sensitive archaeological area that is bisected by two roads.

12. Western and facility users should begin discussions on funding for conducting archaeological data recovery excavations on the portion of the site within the sensitive area.

13. The maximum speed limit on the top of Tenderfoot Mountain is 5 MPH.

13. There should be no road maintenance on the top of Tenderfoot Mountain without prior approval from Western.

14. Any road maintenance approved by Western must be monitored by a qualified archaeologist at the expense of the project proponent.

15. Fire breaks are not authorized on the Mountaineer Site.

16. Western should establish a standardized lease that specifies all aspects of the CRMP.

17. Under no circumstances should “No” be checked for Question 14 under “Determination of Effect” or on Question 1 or 3 under “Historic Properties” on Form 620 for any proposed facilities on Tenderfoot Mountain.

18. Under no circumstances should “No” be checked for Question 19 under “Determination of Effect” or on Questions 1 or 3 under “Historic Properties” on Form 621 for any proposed facilities on Tenderfoot Mountain.

19. Collocations on existing facilities must be approved by Western.

20. Visual effects, including cumulative visual effects should be taken into consideration by Western and SHPO for all facilities on Tenderfoot Mountain.

21. Western should require a compliance bond for all leases.

22. Leases must include a list of all anticipated maintenance activities that are associated with the specific location.

23. Western will provide the lease holder with an information pamphlet about the Mountaineer Site and its significance.

24. Western will present a public forum on the Mountaineer Site every two years.

25. Western should devise and conduct onsite training programs for facility users.

26. For all new facilities, proposed access or proposed utility infrastructure and specific archaeological guidelines defined in Section 4 of the CRMP must be followed. All costs for archaeological work must be borne by the project proponent.

27. Additional buried utility lines should not be permitted.

28. Western should conduct a study to determine of the existing buried utility line corridors can be reclaimed.

29. The Gunnison County Historic Preservation Commission should be consulted on any undertaking on the Mountaineer Site.

30. Any decommissioning of facilities must be done in consultation with Western and any decommissioning is subject to Section 106 review.

31. All future archaeological work on the Mountaineer Site must be done under the authority of permits issued by the Office of the State Archaeologist.

33. Western and facility users should form partnerships to promote archaeological awareness in the local community.

34. Western is the lead agency in all consultation with SHPO.

35. After a period of two years Western should review the CRMP and should assess what has taken place on Tenderfoot Mountain to determine if any changes need to be made in the CRMP or if any additional agreements are needed.

36. Western should continue their relationship with the Ute Tribe concerning archaeological research at the Mountaineer Site.

37. Western should reach out to Native American Tribes to determine if they want to be consulted on Section 106 issues that might affect the Mountaineer Site.

38. It is strongly recommended Western nominate the Mountaineer Site to the National Register of Historic Places and to the Colorado State Register of Historic Properties.

39. Unleashed dogs are not permitted on Tenderfoot Mountain. Unleashed dogs could be a threat to people and wildlife and they may contaminate, through fecal deposition, components of the archaeological excavations.

40. All users of Tenderfoot Mountain should be responsible for carrying out their trash.

41. If you see trash, pick it up and dispose of it properly.

42. Do not walk through any of the open archaeological excavation areas.

43. Unauthorized persons should not approach any of the communication facilities on Tenderfoot Mountain.

44. Western should consider establishing a position where one person at the university is responsible for coordinating all facility leases on Tenderfoot Mountain and coordinates all consultation with SHPO.

45. Western should research to determine what needs to be done concerning the issuance of FCC regulated tower locations in terms of compliance with NEPA.

46. No dumping of any excess materials will be allowed anywhere on Tenderfoot Mountain.

47. Do not leave an unlocked gate behind you.

48. Get permission from Western before giving your key to another person.

49. Facility users should consider the installation of fencing around their facilities.