

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Broadband, Video and Market Branch**

**RESOLUTION T- 17521
July 14, 2016**

R E S O L U T I O N

Resolution T-17521: Approving the Final Initial Study/Environmental Assessment and Mitigated Negative Declaration prepared in compliance with the California Environmental Quality Act for the Winterhaven Underserved Broadband Project; and authorizing the release of California Advanced Services Fund grant monies to Winterhaven Telephone Company dba TDS Telecom (U-1021-C) to Construct the Winterhaven Underserved Broadband Project.

I. SUMMARY

This Resolution approves the Final Initial Study/Environmental Assessment and Mitigated Negative Declaration (Final IS/EA MND) prepared in compliance with the California Environmental Quality Act (CEQA)¹ for the Winterhaven Underserved Broadband Project (Winterhaven Project). This Resolution also authorizes the release of California Advanced Services Fund (CASF) grant funding to Winterhaven Telephone Company (Winterhaven) dba TDS Telecom (U-1021-C) to construct the Winterhaven Project. The Winterhaven Project will extend high-speed internet service to approximately 15 square miles covering the Winterhaven community and other areas of unincorporated Imperial County, including the Quechan Indian Reservation.

II. BACKGROUND

On October 4, 2013, the Commission adopted Resolution T- 17410, conditionally authorizing a CASF grant of \$2,063,967 to Winterhaven to construct the Winterhaven Project, subject to the Commission's completion of CEQA review. The grant represented 60% of the total estimated project cost of \$3,439,945 with Winterhaven contributing the remaining 40%.

¹ California Public Resources Code Sections 21000 et seq.
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III. ENVIRONMENTAL COMPLIANCE DISCUSSION

The Commission's decision in Resolution T-17410 to conditionally grant funding under the CASF triggers the requirement that the Commission act as the lead agency for environmental review pursuant to CEQA. Consistent with the Commission's requirements, Winterhaven provided a Proponent's Environmental Assessment (PEA) to the Energy Division's Infrastructure Permitting and CEQA Unit (CEQA Unit) on April 30, 2015. The PEA included measures proposed by Winterhaven to reduce the environmental impacts of the Winterhaven project. CEQA Unit deemed the PEA complete on June 24, 2015. CEQA Unit determined that it would be appropriate to prepare an Initial Study (IS) - Mitigated Negative Declaration (MND) for the Winterhaven Project.

Of the 15.31 miles of underground fiber optic cable that would be installed as part of the Winterhaven Project, 6.30 miles would be installed within the Fort Yuma Indian Reservation, which requires the United States Department of the Interior, Bureau of Indian Affairs (BIA) to grant right-of-way. BIA's granting of right-of-way within the Reservation is a federal action that is subject to National Environmental Policy Act (NEPA) review. BIA advised CEQA Unit that an Environmental Assessment would be appropriate for the required NEPA review. Once BIA's Fort Yuma Agency Superintendent determines that the Environmental Assessment is adequate, the Superintendent will issue a Finding of No Significant Impact (FONSI). CEQA Unit anticipates that BIA will issue a FONSI for the proposed project by summer 2016.

CEQA Unit prepared a joint IS/EA MND document to meet both CEQA and NEPA requirements. A public scoping meeting was held on August 26, 2015 at Paradise Event Center in Yuma, Arizona. A Notice of Preparation of an IS/EA was circulated, and the public comment period extended from August 26 through September 28, 2015. BIA received the administrative Draft IS/EA MND from CEQA Unit in December 2015 and provided comments in January 2016. BIA's comments were incorporated into the document, and the Draft IS/EA MND was published with a Notice of Intent to Adopt on January 13, 2016. This opened a public comment period on the Draft IS/EA MND that ended on February 15, 2016. No comments were received.

CEQA Unit determined that the Winterhaven Project would not have a significant effect on the environment with the incorporation of mitigation measures identified in the IS/EA and listed in the Mitigation Monitoring, Reporting, and Compliance Plan (IS/EA Section 5.0). CEQA Unit finalized the IS/EA MND on February 22, 2016. The Final IS/EA MND is available on the project website at:

<http://www.cpuc.ca.gov/environment/info/horizonh2o/winterhaven/index.html>.

IV. RELEASE OF CASF FUNDS

Resolution T- 17410 awarded Winterhaven a CASF grant of \$2,063,967 to construct the Winterhaven Project contingent on compliance with applicable environmental requirements. Given BIA and CEQA Unit conclusion as discussed in the prior section, Winterhaven has satisfied the CEQA Compliance Requirements stated in Resolution T-17410. Therefore, the Commission shall authorize CASF grant funds to be released for the construction of the Winterhaven Underserved Broadband Project, in accordance with the scope and budget specifications provided in Resolution T-17410. In the unexpected event that a FONSI is not issued, Winterhaven's grant would be subject to the CASF agreement terms and CASF funds may be withheld from the project.

V. SAFETY IMPACT

The Winterhaven Project will play a key role in enhancing public safety in the Winterhaven community and other areas of unincorporated Imperial County, including the Quechan Indian Reservation.² By providing access to schools and a planned health care center and by improving reliability, the Winterhaven Project is expected to enhance public safety in the Imperial County. The Winterhaven Project will require construction work, including work in roadways. As discussed in the Final IS/EA MND, the safety risks associated with this work will be mitigated by responsible agencies, by means of permit conditions and oversight for compliance with all applicable health and safety laws.

VI. COMMENTS ON DRAFT RESOLUTION

In compliance with PU Code §311(g), a notice letter was emailed on June 14, 2016, informing all parties on the CASF Distribution List of the availability of the draft of this Resolution for public comments at the Commission's documents website at <http://www.cpuc.ca.gov/documents/>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at the same website. No parties submitted opening or reply comments.

VII. FINDINGS

1. Commission Resolution T-17410 (issued October 4, 2013) conditionally authorized a CASF grant of \$2,063,967 to Winterhaven to construct the Winterhaven Project, subject to the Commission's completion of CEQA review.

² Resolution T-17410, Section IV. D., issued October 4, 2016, at 6.

2. The Commission is the lead agency under CEQA for environmental review of the Winterhaven Project.
3. The applicant provided the required PEA on April 30, 2015, and Energy Division's CEQA Unit deemed the PEA complete on June 24, 2015.
4. The CEQA Unit determined that it would be appropriate to prepare an IS and MND for the proposed project.
5. 6.30 miles of 15.31 miles of underground fiber optic cable for the Project will be installed within the Fort Yuma Indian Reservation, which requires the United States Department of the Interior, BIA to grant right-of-way.
6. BIA's granting of right-of-way within the Reservation is a federal action that is subject to NEPA review.
7. BIA advised the CEQA Unit that an EA would be the appropriate environmental document for the required NEPA review.
8. CEQA Unit prepared a joint IS/EA MND document to meet both CEQA and NEPA requirements.
9. A public scoping meeting was held on August 26, 2015 at Paradise Event Center in Yuma, Arizona, with a public comment period from August 26 through September 28, 2015.
10. BIA received the administrative Draft IS/EA MND from CEQA Unit in December 2015 and provided comments in January 2016, which were incorporated into the document.
11. The Draft IS/EA MND was published with a Notice of Intent to Adopt on January 13, 2016, which opened a public comment period on the Draft IS/EA MND that ended on February 15, 2016.
12. No comments were received on the Draft IS/EA MND.
13. The CEQA Unit determined that the proposed project would not have a significant effect on the environment with incorporation of the mitigation measures identified in the IS/EA and listed in the Mitigation Monitoring, Reporting, and Compliance Plan (IS/EA Section 5.0).

14. On February 22, 2016, CEQA Unit finalized the IS/EA MND, which is available on the project website at:
<http://www.cpuc.ca.gov/environment/info/horizonh2o/winterhaven/index.html>.
15. The Final IS/EA MND reflects the Commission's independent judgment.
16. Once BIA's Fort Yuma Agency Superintendent determines that the Environmental Assessment is adequate, the Superintendent will issue a FONSI.
17. The measures identified in the Mitigation Monitoring, Reporting, and Compliance Plan (IS/EA Section 5.0) are conditions of project approval and the MMRP should be adopted.
18. With the adoption of this Resolution, the Commission has satisfied the conditions of Resolution T-17410 required to release funds for the construction of the Winterhaven project.³
19. Winterhaven is required to comply with all provisions in Resolutions T-17410 and T-17521.
20. A notice letter was e-mailed on June 14, 2016, informing all parties on the CASF distribution list of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/PUC/documents/>. This letter also informed parties that the final confirmed Resolution adopted by the Commission will be posted and available at this same website. No parties submitted opening or reply comments.

THEREFORE IT IS ORDERED THAT:

1. The Final Initial Study/Environmental Assessment and Mitigated Negative Declaration for the Winterhaven Underserved Broadband Project is adequate for the Commission's decision-making purposes and is hereby adopted pursuant to the requirements of the California Environmental Quality Act, Public Resources Code §§ 21000 et seq. See at:
<http://www.cpuc.ca.gov/environment/info/horizonh2o/winterhaven/index.html>.
2. All applicant-proposed mitigation and other mitigation measures identified in the Mitigation Monitoring, Reporting, and Compliance Plan are adopted and hereby imposed on Winterhaven Telephone Company and made conditions of project approval. See in above link, Chapter 5.

³ Resolution T-17410, Section V. A., issued October 4, 2013, at 6.

3. The Commission shall authorize CASF grant funds to be released for the construction of Winterhaven Project, in accordance with the scope and budget specifications provided in Resolution T-17410.
4. The Commission shall reimburse Winterhaven in accordance with the payment guidelines adopted in Resolution T-17410.
5. Winterhaven shall comply with all guidelines, requirements, and conditions associated with the CASF funds award as specified in Resolutions T-17410 and T-17521.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 14, 2016. The following Commissioners approved it:

TIMOTHY J. SULLIVAN
Executive Director