

Idaho Broadband Fund: CARES Act Broadband Grant Challenge

Challenge Period:

5:00pm MDT 7/20/2021 through 5:00pm MDT 7/23/2021

RE: Idaho Broadband Fund: CARES Act Broadband Grant

Subj: Challenge to IRON proposal for Wallace, ID grant request

Application: APP-004761

Proposed Service: Open Access Mid-Mile

J&R Electronics is a last mile fixed wireless provider based in Rathdrum, Idaho and has been serving rural communities with reliable internet since 2002. From the previous grant cycle, J&R has delivered in every situation as proposed and on time.

J&R Electronics has reviewed the grant proposal from IRON for the Silver Valley and challenge it for the following reasons.

- This project is proposing infrastructure that does not fit into the immediate need for service to the home. According to responses by IRON, it would exclude service to the home, which goes against the stated purpose and stated goal of the CARES Act Broadband Grant.
- IRON response on page 6 of their Grant Application states – “The Idaho Regional Optical Network (IRON) will be the owner of the system and will supply all the support and initial services. The services will be available to any entity within the IRON charter, including local, state and federal agencies, educational, healthcare and other not for profit organizations.” 3. Eligible Applicants Eligible applicants must be a local government or tribal government within the state of Idaho, or an Idaho state agency. For ease of administration, the Broadband Grant adopts the definition of local government as described in Idaho Code section 67-1226. Additionally, a county and an unincorporated community may agree in writing to have the county submit an application for a Broadband Grant award on behalf of the unincorporated community.
- The IRON proposal is not a good fit for the Silver Valley in this grant cycle, as it does nothing to improve or deliver service to residents, where it's lacking and needed most.
- Shoshone County remains in the moderate risk category according to Panhandle Health District. Residents must have reliable service to the home in the event of a spike in COVID cases occurs and the need to close in person activities becomes necessary once again. With the minimal amount in the grant and the increased probability of an infection spike, these grant dollars would be better served in providing service to the home.
- The guidelines are clear and specific for this grant and the IRON proposal simply does not meet the requirement under the Eligible Projects category as stated below.

GUIDELINES

2. Eligible Projects

A. To be eligible for funding under the Broadband Grant, projects MUST meet the following eligibility criteria:

- I. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.
 - II. Projects must be necessary due to the COVID-19 public health emergency.
 - III. Projects must expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety. Projects that would not be expected to increase capacity to a significant extent until the need for telework, telehealth, distance learning, and public safety have passed due to this public health emergency would not be necessary due to the public health emergency and therefore would not be eligible uses of Broadband Grant funds. Projects must provide broadband service within the proposed project areas.
- Projects would need to be completed and able to meet the criteria listed above by 12/31/21.

Signed by James M. Lemm, Pres. 

Dated 7-23-21

July 23, 2021

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Via E-Mail: broadband@commerce.idaho.com

Mr. Eric Forsch
Broadband Development Manager
Idaho Department of Commerce Broadband Office

Re: Challenge of CARES Act Broadband Grant (APP-004761)

Dear Mr. Forsch:

Consistent with the schedule set in your July 19, 2021 email providing notice of CARES Act Broadband Grant Applications, Spectrum Pacific West, LLC (“Spectrum”) hereby submits its challenge to **APP-004761** submitted by the Idaho Regional Optical Network, Inc. (“IRON” or the “Applicant”) requesting \$3,130,000.00 in CARES Act Funding to construct, acquire and provision a dark-fire Dense Wave Division Multiplexing (“DWDM”) system between Spokane, Washington and Wallace, Idaho (the “Application”).

For the reasons detailed in this challenge letter, the Application should be denied. To the extent the application is not denied in its entirety, Spectrum respectfully requests that conditions be imposed on the funding to restrict the Applicant from using the proposed facilities to serve areas in which Spectrum already provides service.

A. The Application Should Be Denied

1. Background

The CARES Act provides economic assistance to address the coronavirus pandemic in the United States. Idaho’s implementation of the CARES Act is subject to guidance provided by the U.S. Treasury. With regard to funding infrastructure projects, such as here, the Federal government makes clear that use of CARES Act Fund to expand rural broadband capacity to assist with distance learning and telework “would only be permissible if [the fund payments] are necessary for the public health emergency.”¹ Further, reimbursement of the “cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed...would not be eligible uses of Fund payments.”² Moreover,

¹ See <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>.

² Id. at FAQ 36.

to be eligible for recovery, costs under the CARES Act must be “incurred during the period that begins on March 1, 2020, and ends on December 31, 2021.”³

In response to the CARES Act, in 2020, the Idaho Department of Commerce (“IDOC”) originally solicited applications from interested parties to the State of Idaho Broadband Grant Program. Consistent with the CARES Act, the original Program Guidelines for Household Grants contained the principal of prohibiting overbuilding as a fundamental funding criterion. Specifically, Section 2(A)(ii) and (iii) stated as follows:

- ii. Meet the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, facilitate distance learning, and improve public safety...
- iii. Be a project that serves underbuilt areas **and does not overbuild existing broadband service**.... (emphasis added)

The same concepts were included in the Guidelines for Public Safety and Local Government programs in Sections 2.A.iii and iv. Section 2(A)(iv) stated that in order to be eligible a project must:

- iv. Be a project that **does not overbuild existing broadband infrastructure at the required speeds** to a local government facility for public safety and local governance. (emphasis added)

In 2021, the IDOC solicited grant applications to allocate remaining CARES Act funds and issued slightly modified grant guidelines. The new guidelines continue to require the project to satisfy the CARES Act guideline “to address key areas of public health and safety by improving opportunities to telework, facilitate distance learning, and improve public safety...”⁴ and “must be necessary due to the COVID-19 public health emergency.”⁵

The 2021 Guidelines further required that:

- iii. Projects must expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety. Projects that would not be expected to increase capacity to a significant extent until the need for telework, telehealth, distance learning, and public safety have passed due to this public health emergency would not be necessary due to the public health

³ *Id.*

⁴ 2021 Guidelines, § 2.A.i.

⁵ *Id.*, §2.A.ii.

emergency and therefore would not be eligible uses of Broadband Grant funds. Projects must provide broadband service within the proposed project areas.

Finally, the 2021 Broadband Guidelines specifically require that:

- iv. **Projects must be completed and operable and verified no later than December 31, 2021.** (original emphasis)

The original language specifically prohibiting overbuilding found in the 2020 Guidelines appears to have been omitted in the 2021 version. Nevertheless, it would be impossible to meet the remaining 2021 guidelines for an area that already has high speed broadband service given that the 2021 guidelines require *expansion* of capacity in the project area to improve telework, telehealth, distance learning, and public safety. An area that is already served, particularly an area capable of speeds up to 1 Gbps, as is the case in Spectrum's impacted service territory, already meets those needs.

The Application requests nearly one-third of the remaining funds to build a middle mile facility from Spokane, WA to Wallace, Idaho. Spectrum acknowledges that the Applicant here alleges that the funding will improve service to Wallace and Kellogg which are currently unserved, as well as Coeur d'Alene and Post Falls which Spectrum currently serves. As detailed here, the Project fails to meet the CARES Act criteria and the program guidelines for multiple reasons, including it does nothing to respond to the COVID-19 pandemic, will not be completed and operable by December 31, 2021 in terms of providing broadband service to any residents to assist with telework, telehealth, distance learning or public safety, and will potentially overbuild Spectrum's existing service in the region.

2. The Proposed Project Fails to Satisfy the CARES Act Criteria and the Program Guidelines

As described above, the CARES Act Criteria are very clear that funding should only be provided to projects that will provide emergency relief closely related to the COVID-19 pandemic and in response to the public health emergency. Equally clear is the requirement that an appropriate use of CARES Act funds requires a nexus to projects that can be implemented in an emergency manner to address pandemic-related needs for telework, telehealth or distance learning. Moreover, the project must expand capacity, rather than overbuild existing service.

The proposed project fails on all these points. First, the funding is proposed to be used to construct or acquire middle mile capacity and will not, by itself, expand any service capacity to any resident to be used for pandemic-related telehealth, distance learning, remote work and certainly does not reflect costs incurred during the covered period (from March 31, 2020 through

December 31, 2021). Rather, this proposal seeks funding for a long-term infrastructure development lacking any remotely-related exigent need resulting from COVID-19. Indeed, the Application makes clear that the project will not connect even one household to Internet service until sometime in the future when another entity takes advantage of the Points of Presence (“POP”) locations. When and if such entity takes advantage of the POP is unclear. Significantly, the Application’s response to the request to state the “[n]umber of households that will be connected to broadband service...” is “N/A”. Lacking any connectivity to households, it is impossible for the Applicant to show that there will be any emergency assistance to residents from funding. On this basis alone, funding should be denied.

Second, the proposed project appears to fall squarely into the category of “projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed,” thus making it ineligible for funding. Even if the Applicant could complete the middle mile facility by December 31, 2021, there appears to be no entity that stands ready to provide broadband service to households or anchor institutions during the COVID-19 pandemic, and particularly before December 31, 2021.

Third, as discussed further below, in major portions of the project area in Coeur d’Alene and Post Falls, Spectrum already provides high-speed broadband service making any asserted “expansion” in these areas illusory and contrary to the CARES Act and IDOC guidelines that would prevent funding to an area that is already served, especially an area where it would not even expand the level of service in that area.

Overall, the proposed project falls outside of the range of projects eligible for funding under the CARES Act, and the Application should be rejected.

3. The Proposed Project Will Not Provide Service to Idaho Residents Prior to the December 31, 2021 Deadline

A critical element of any CARES Act funding, under the specific rules set forth in the IDOC guideline, is that the project will be complete and operable by December 31, 2021 such that benefits can be obtained from the project during the COVID-19 related pandemic. In this situation, Applicant asserts that this is possible to do so but provides no documentation to support this claim.⁶

In any event, absent increasing any capacity by providing any actual broadband service to a single residence during the covered period, an award of funding to Applicant runs directly afoul of the CARES Act guidelines. Even assuming that the Applicant could complete the middle mile facility by December 31, 2021, it is inconceivable that such facility could then be used to expand

⁶ It may be possible that the Applicant included more details in an attachment. However, the link to the PDF with the Project Schedule was inoperative.

service to residents impacted by the pandemic -- a significant criteria under the CARES Act. The Application concedes as much in noting that some other unspecified entity will need to build out additional facilities from the POP to provide service by December 31, 2021 or at some time during the continued state of emergency. In short, no plan for last mile connections are contemplated by the Applicant to expand service as required.

4. The Proposed Project Would Overbuild Spectrum's Existing Service Area

As described above, the 2021 Guidelines appear to omit the restriction that funding should not be awarded to overbuild service. Even without this explicit guideline, however, such restriction is implicit. If another provider is already meeting the needs of the residents for telework, distance learning, telehealth, etc., it is impossible that any project will expand broadband capacity for this health emergency situation in the project development.

Although the Application highlights the possibility of expanded service (with no timelines or guarantees) to Wallace and Kellogg, the proposed project runs squarely through areas already served by Spectrum. A map that shows Spectrum's existing service area in the region is attached hereto as **Attachment A** and shows extensive service along the I-90 corridor.⁷ The Applicant freely acknowledges that its project, funded by millions of CARES Act dollars, could be used to serve the Post Falls and Coeur d'Alene communities, which Spectrum already serves, and that Applicant is positioned to profit from selling access to its POPs in these communities to retail providers. Nor has the Applicant provided any evidence that the project will expand service in Wallace and Kellogg and not just in Post Falls and Coeur d'Alene. The Applicant's proposed use of scarce public funds is inconsistent with the CARES Act program and reflects bad policy.

B. If Funding is Approved, the Grant Should Contain Restrictions on Serving Areas Already Served by Spectrum

As detailed above, Spectrum has demonstrated that the Application should be denied and that no funding be provided for the proposed project. However, in the event that funding is nevertheless provided, Spectrum recommends that the grant be conditioned to restrict IRON from selling access to its publicly-funded project to any entity seeking to overbuild Spectrum's existing territory. Such condition would be consistent with the CARES Act intention to use public funds only to expand capacity in unserved areas to address crisis needs during the COVID-19 pandemic. Wallace and Kellogg may very well be unserved or underserved areas, but Post Falls and Coeur d'Alene are already served by Spectrum as shown on Attachment A. In these areas, Spectrum already provides service at speeds up to 1 GB -- funded by private capital -- and

⁷ The challenge period was only three days. If IDOC permits, Spectrum could supplement this information with additional information on its service tier.

Mr. Eric Forsch
July 23, 2021
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residents already enjoy access to broadband more than capable of meeting their remote working, distance work, telehealth and public safety needs.

C. Relief Requested

The IRON Application seeks public funding to build a facility that will not expand service needed for emergency needs related to the COVID-19 pandemic. Accordingly, Spectrum respectfully requests that funding be denied for APP-004761. If, however, funding is granted for all or part of the proposed project, Spectrum requests that restrictions be placed on such grant prohibiting the Applicant from utilizing the facilities to provide service in areas in which Spectrum already provides service as shown on Attachment A.

Respectfully submitted,



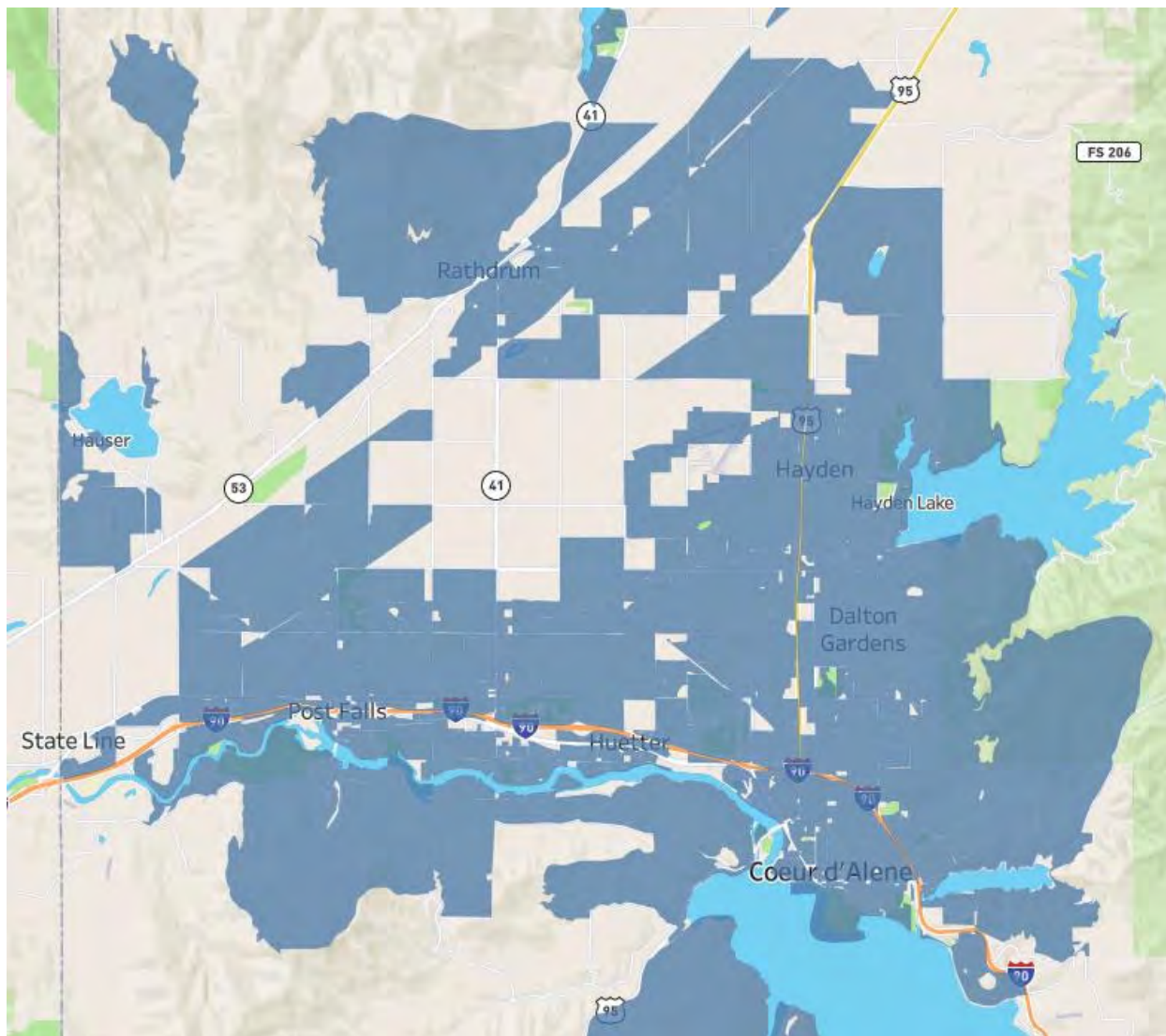
Erika E. Malmen

Attachment

ATTACHMENT A

Charter Communications Service Territory in Idaho in the areas of Post Falls, Coeur d'Alene, and Rathdrum.

July 22, 2021



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Michael V. Woodhouse

William C. Cole (Of Counsel)

Kenneth L. Pursley (1940-2015)
James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

July 22, 2021

Via Email

Idaho Broadband Advisory Board
700 W. State Street
Boise, Idaho 83702

Idaho Department of Commerce
700 W. State Street
Boise, Idaho 83702

**Re: Grant Application of Idaho Regional Optical Network Inc.
Applicant ID. APP-004761**

Dear Ladies and Gentlemen,

On behalf of our client, Syringa Networks LLC (“Syringa Networks”) please accept this correspondence as its challenge to Idaho Regional Optical Network Inc.’s (“IRON”) grant application to use \$3,130,000 of government COVID funds to purchase dark fiber and resell access to the dark fiber to other providers and users.

Pursuant to the grant application program description, the Idaho Broadband Advisory Board (the “Board”), “seeks to fund broadband projects across the state that are necessary for the COVID-19 public health emergency,” and the grant “is designed to meet the CARES ACT criteria, helping Idaho rebound from the COVID-19 public health emergency.” Government COVID funds were not intended to be used to provide funding capital for a private, not-for-profit business to further their own business interests – exactly what IRON’s application proposes to do.

The “COVID-19 Federal Funding: Idaho’s Approach to Use of Funds” Question and Answer document states, in part:

Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

“COVID-19 Federal Funding: Idaho’s Approach to Use of Funds,” Alex J. Adams, Administrator, Division of Financial Management, p. 4 (emphasis-in-the-original).

IRON proposes to levy government money to buy its own system, pay themselves for the support of the system purchased for them and then charge others for use of the new system. Specifically, IRON wishes to acquire and purchase the right to use dark fiber between Spokane, WA and Wallace, ID for the next 20 years. IRON Application at pp. 3 and 4. Once purchased, IRON intends to provide access to other providers for a price – such price information has not been provided to the Board. *Id.* at 4 (“Other eligible providers will have access to the system to deliver services.”) Purportedly, the project will connect to IRON’s existing network and “include Point of Presence (POP) locations in Post Falls, Coeur d’Alene, Cataldo, Kellogg and Wallace, ID.” *Id.* IRON will also be “the initial provider.” *Id.* At some undisclosed point, it will allow other “eligible” providers to access the system to deliver the services. It will be the “owner of the system and will supply all the support and initial services.” *Id.*

The application fails to provide material information for the Board to make its decision. There is no information as to what IRON will be charging for the system that, essentially, this Board will purchase for them if the application is approved. The application is silent as to when, where, how or even how much such access would cost users or other providers. The only reference is IRON’s vague representation that when IRON is ready, “[o]ther eligible providers will have access to the system to deliver services.” *Id.* Incredibly, the application also does not provide any information or warranties that if the application is approved, the amount requested would even be sufficient to purchase the dark fiber. There is no letter of intent attached, no documentation that such dark fiber exists, or even a description or identification of the vendor that purports to want to sell the dark fiber.

CARES Act funds were not created simply to give money to an entity and trust them to charge whatever prices they want. Rather, such funds were meant to address the public health emergency — not subsidizing a broadband provider’s business to the detriment of its competitors.

IRON's application seems to suggest that because they are a non-profit, the Board should simply "trust" them and give them the money. As many on the Board know, a non-profit essentially means that a company cannot distribute dividends. It may still provide significant salaries to its executive employees, and charge hospitals, schools, government entities and other non-profits for its services. Here, IRON's 990 suggests total 2019 revenues from charges in excess of \$3.1 million and expenses of \$2.3 million – leaving approximately \$800,000 in "profit."

Finally, Syringa Networks has entered into an agreement with ITD to provide fiber in the Coeur d'Alene, Cataldo, Kellogg and Wallace area. The agreement was not a request for funds. Rather, it was a negotiated agreement to use ITD's conduit on I-90 and in return, Syringa Networks would provide ITD with 48 strands of fiber to use, sell, lease—all of which will provide income for the State of Idaho. We have been told by ITD officials that they are currently working on performing on this agreement. In the Syringa Networks/ITD agreement, the State of Idaho received the benefit of the bargain.

For the reasons set forth herein, Syringa Networks respectfully requests that IRON's application be denied.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Chou". The signature is stylized with a large "J" and a cursive "Chou".

Jeremy C. Chou

FyberCom LLC



Broadband Grant Challenge

Prepared by: George Swanson

July 22, 2021

Application Challenging: APP-004764

BASIS OF CHALLENGE

Overview

FyberCom challenges grant application APP-004764 for failure to meet the application criteria. FyberCom has a significant financial investment in building, maintaining, and expanding the broadband infrastructure in the Island Park area. On application APP-004764, it's also claimed that 1390 locations will receive fiber. This number is misleading due to the 2019 Census report. The population of Island Park is only 185. The 1390 locations come from vacation cabins that filled with airbnb, campers, and seasonal/weekend visitors. This fiber build is not benefiting 1390 locations. However it does benefit the ISP in gaining access to funds for a project they already have been working on (page 9 paragraph 4).

Availability of Service

FyberCom is servicing this area currently with 90% of the proposed area covered by its Fixed Wireless products and services with 50 x 10Mbps. FyberCom currently services hundreds of the businesses and residences in the proposed area with its 50 x 10Mbps product. Refer to picture 2 for current data on FyberCom's availability of service. See picture BLANK to see FyberCom's current coverage map. See below map with current served homes and business serviced by FyberCom.

Criteria of Application

According to Form 477 of the FCC's broadband map, located at broadbandmap.fcc.gov, FyberCom is currently servicing and exceeding all of the proposed grant area exceeding minimum speeds required. FyberCom has already built out the proposed area with its private funds. FyberCom has spent several years building the infrastructure in the proposed area. According the FCC data there are 6 other providers who also cover this area. Including Blackfoot Communications claiming 40 x 5Mbps in the grant requested areas. This proposed grant is an overbuild of the Island Park area. This is a remote area for airbnb, campers, and seasonal/weekend visitors. See Form 477 data below that covers each census block in the proposed grant area.

Meeting the deadline of 12/31/2021 for this many cabins and vacations homes, is a tall order to complete. The biggest concern with the grant request is the use of 5.7 million of the 10 million available dollars to buildout a fiber network to cabins and vacation homes. The main purpose of the CARES Act Broadband Grant is to further Idahoans access to better broadband and have an underlying criteria of improving distance learning, telehealth, telework, and public safety. Application APP-004764 does not meet that criteria.

Speed Tests Submitted

The submitted speed tests are not valid due to grant requirements. These speed tests are completed on an internal speed test system, they do not show direct speed at the premise. Also to note some the tests posted are close to customers FyberCom's current network, in most cases 100 feet away. Multiple customers are on Balsam, Two Top Rd, Big Springs, Caribou Dr, Lodgepole St, Fawn run, and Sandstone. Each customer is on 40 x 10Mbps

477 Form Data

FRN: 0023650807 FyberCom LLC

Here is FyberCom's 477 Form data providing proof of the serviced area and data speeds available:

Island Park FBD Data

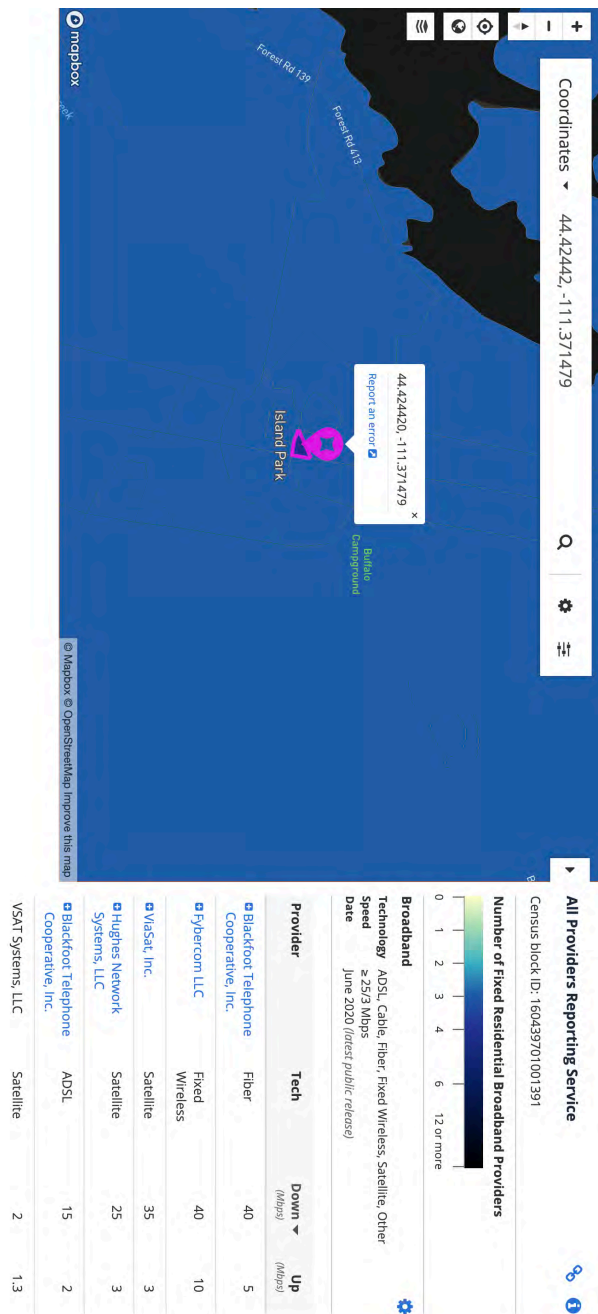
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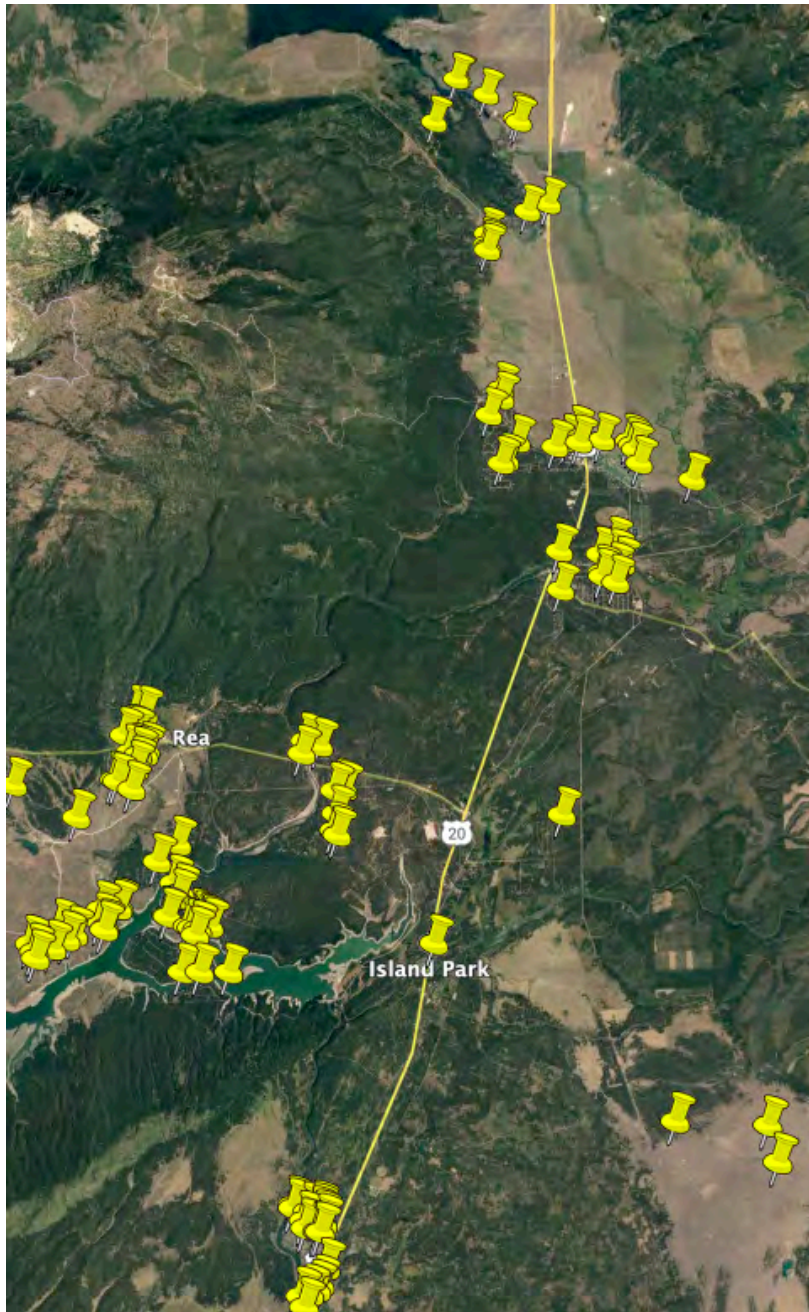
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Picture 2: FyberCom's FCC Broadband Map Data

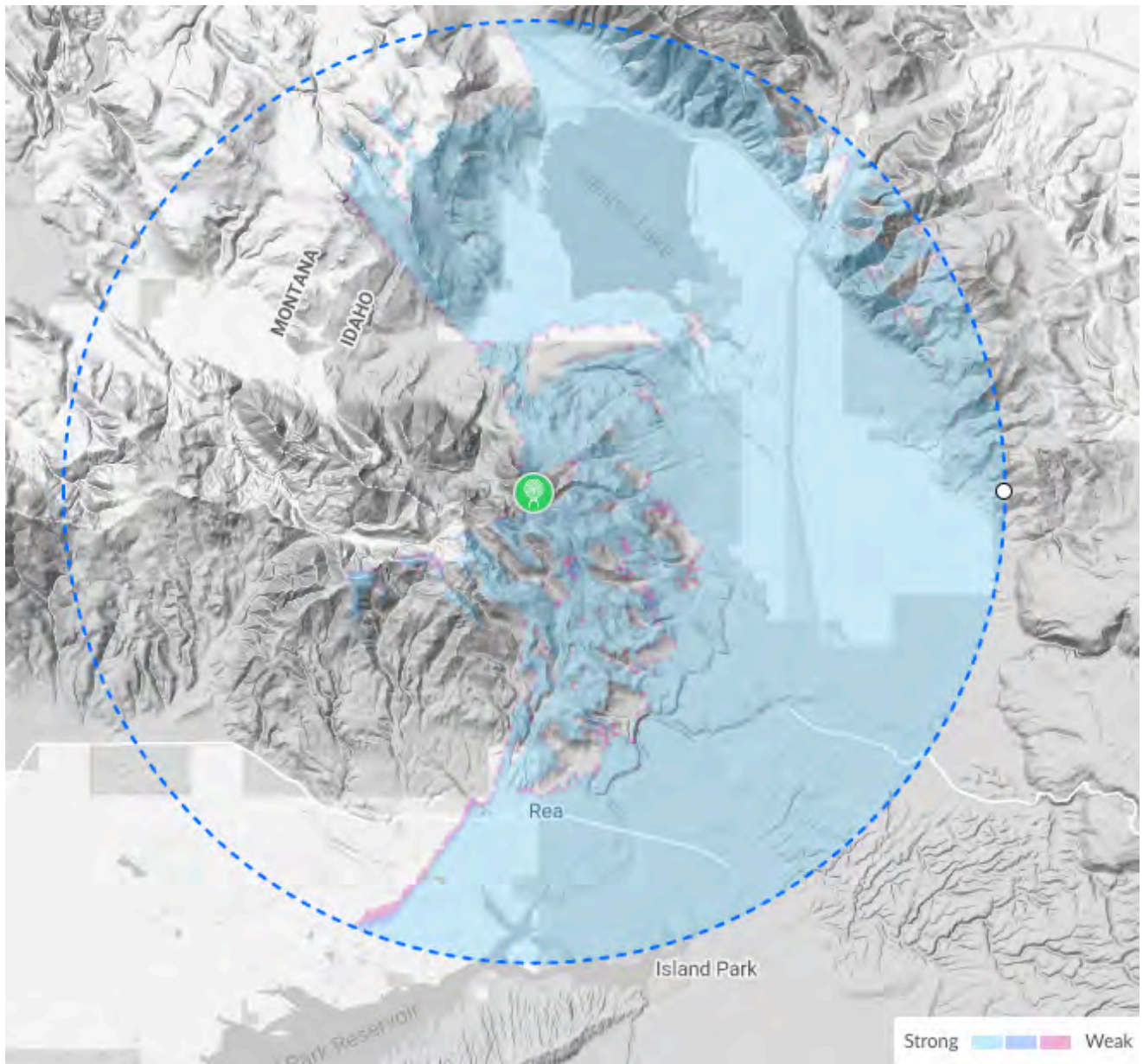


Picture 3: FyberCom current customer base with capabilities of 50 x 10Mbps.

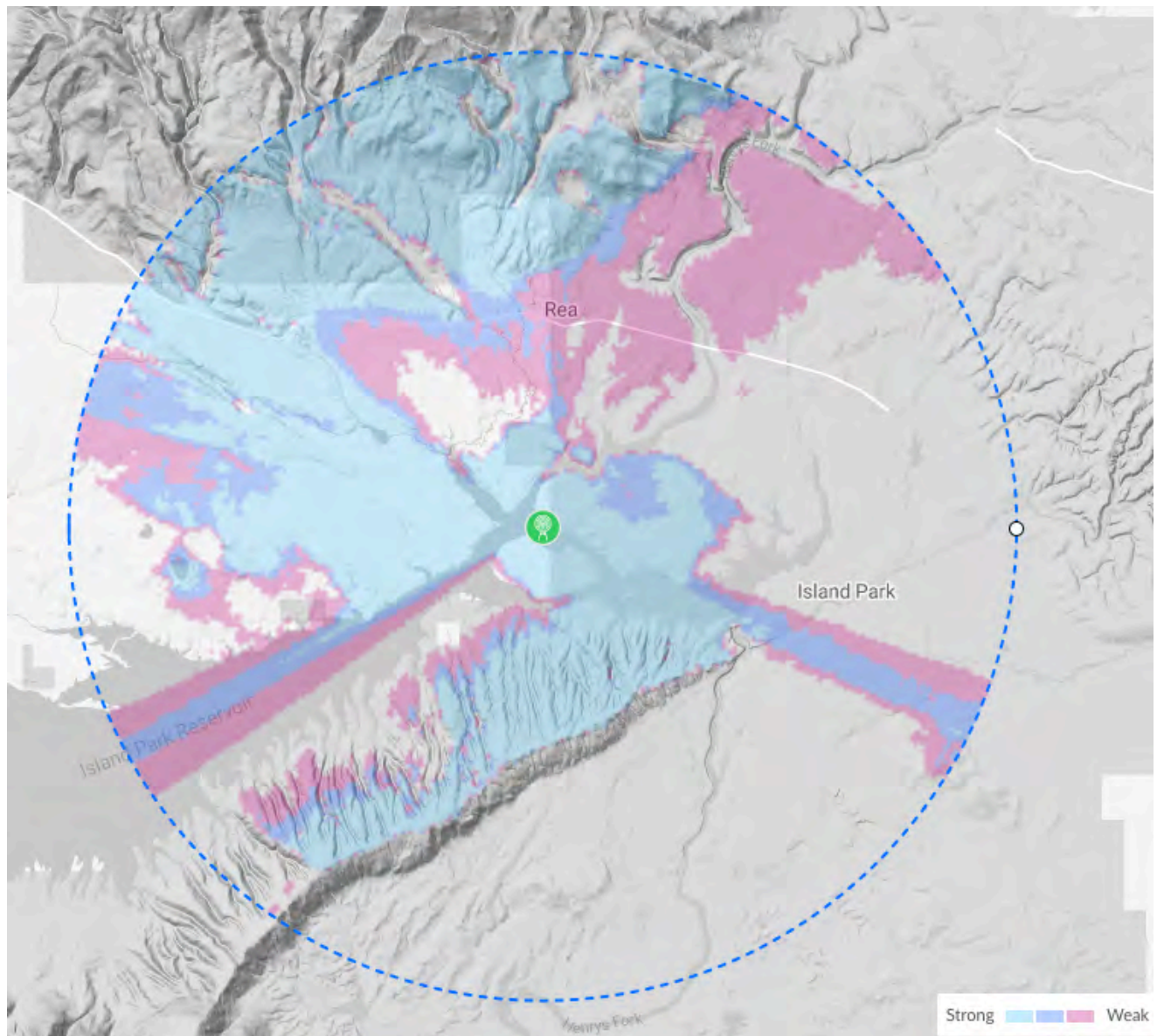


Picture 4: FyberCom network coverage, with its 4 towers surrounding Island Park.

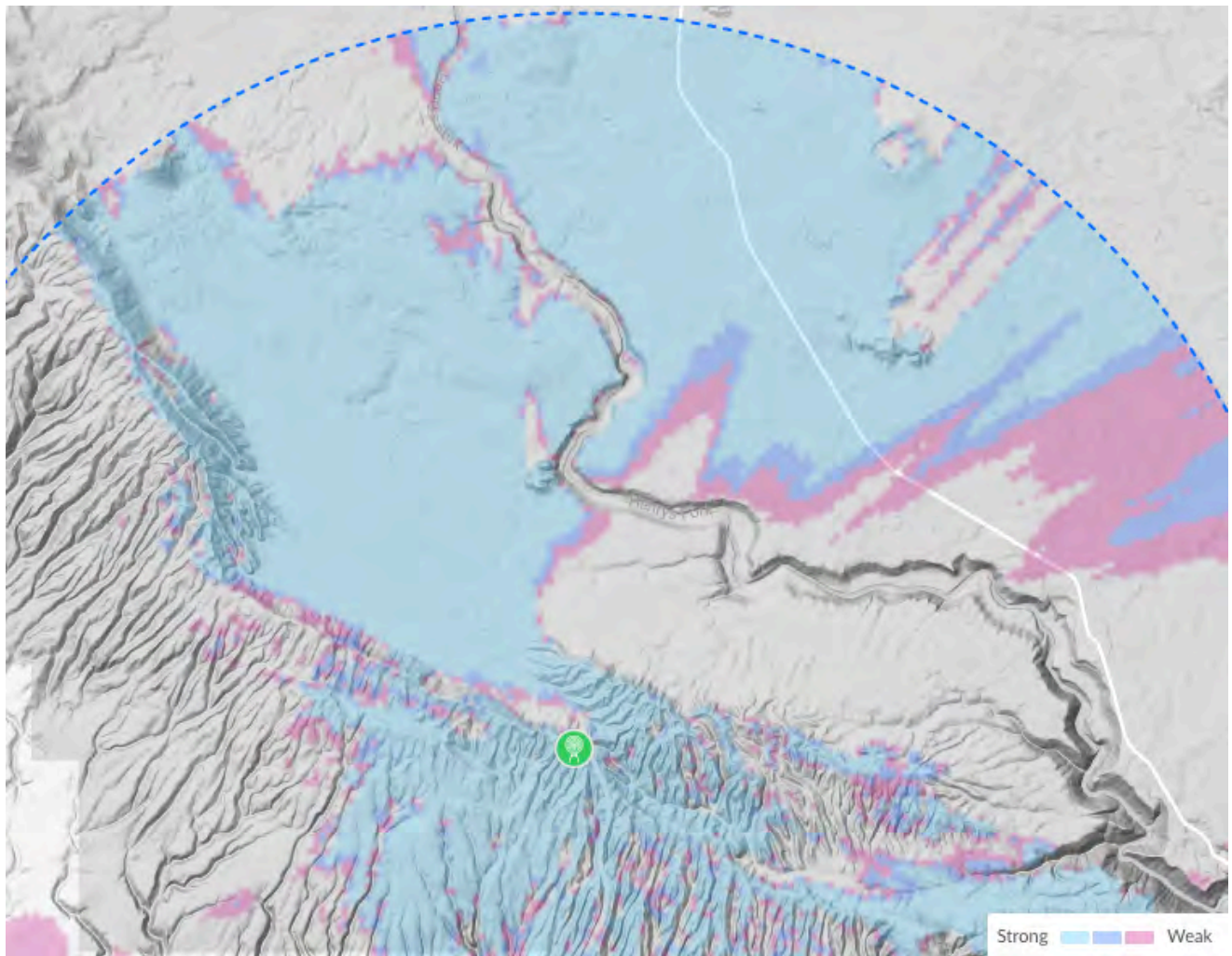
Tower 1-



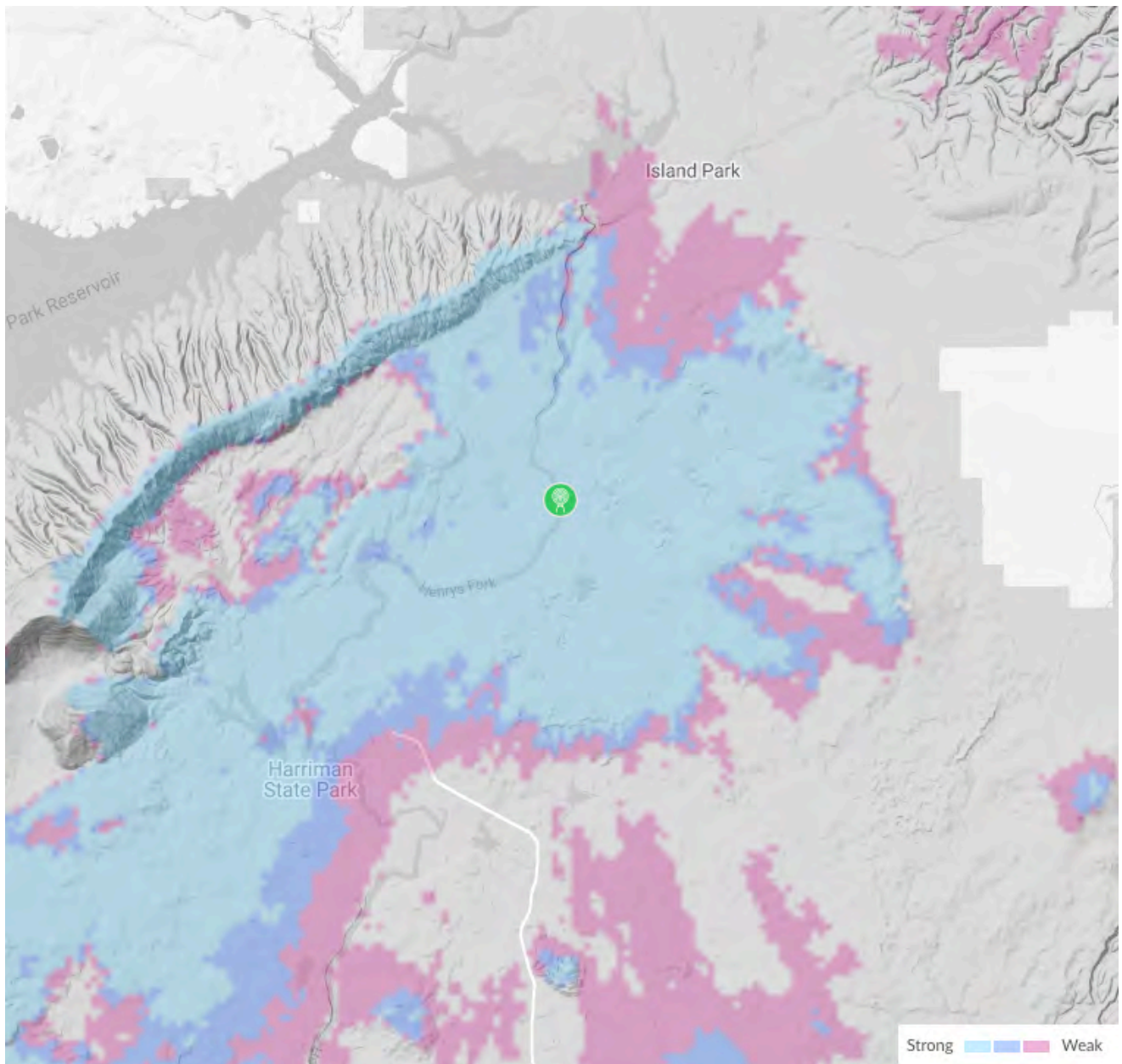
Tower 2-



Tower 3-



Tower 4-



Final Remarks

FyberCom has been providing broadband to Island Park ID since 2018. FyberCom continues to invest private funds to build out the proposed grant area. This area does NOT meet the grant criteria.

From: [Travis Kohlrus](#)
To: [COM Broadband](#)
Cc: [Marie Censogiano](#); [Andy Parrott](#); [Travis Kohlrus](#)
Subject: Applicant ID - APP-004772
Date: Friday, July 23, 2021 2:28:53 PM
Attachments: [Image002.png](#)

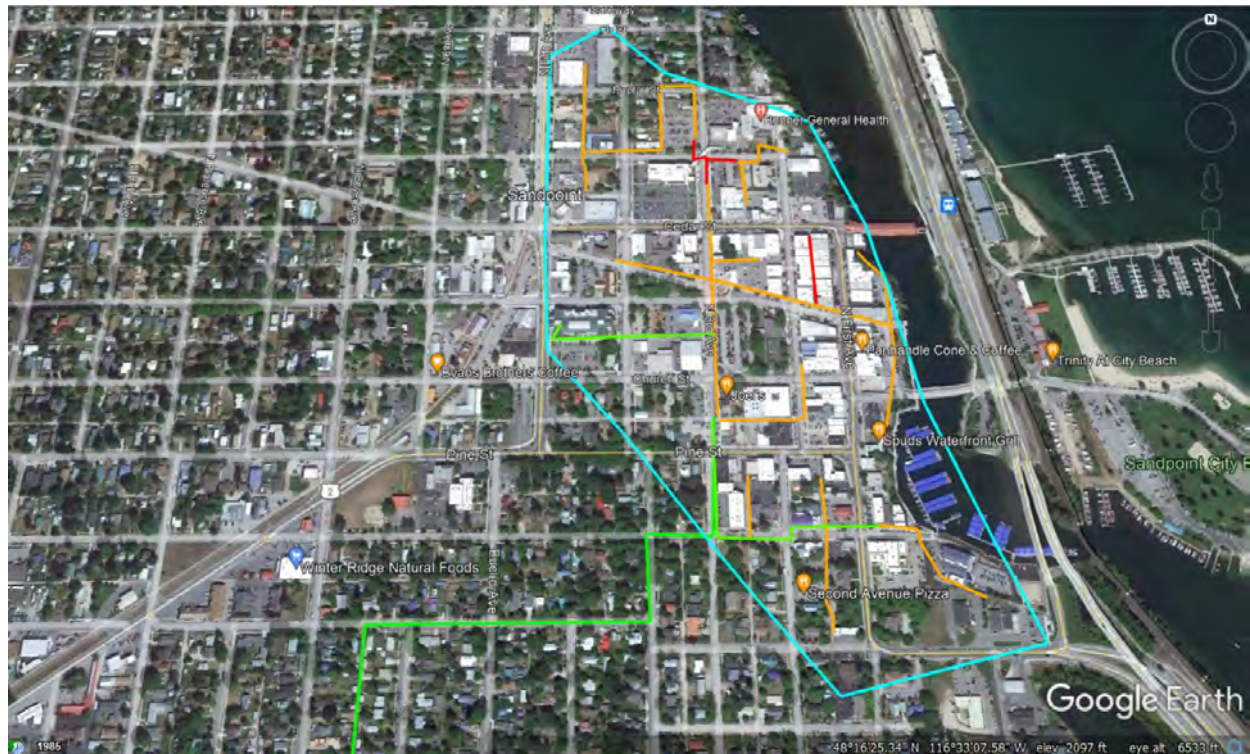
To Whom it May Concern:

Northland Cable Properties, Inc. (d/b/a Vyve Broadband) hereby challenges Sandpoint's (Applicant ID - APP-004772) Idaho Broadband Fund application. We note that Sandpoint's application covers the construction of conduit and does not seem to describe a project that would actually deliver broadband services to existing businesses.

Northland has existing fiber as indicated by the green lines on the attached map. Currently, this fiber is capable of delivering 960 Mbps (scalable to 10+ Gbps) symmetrical service to businesses within a block of the green line at reasonable rates. Northland has an active project in the final approval stage to extend our fiber with private capital as indicated by the orange and red lines on the map. This extended fiber would provide coverage to the businesses inside the blue polygon. We expect our project to be completed by the end of 2021. This project would be considered Phase II of the project. Phase I of the project is currently ongoing in the neighboring community of Ponderay and is expected to be completed within sixty days. Phase II of the project is downtown Sandpoint, outlined on the map below. We note that Northland was purchased in 2019 and the new ownership has sparked significant new investment as evidenced by the upgrade of our HFC network in the entire community of Sandpoint such that the residences and businesses in our service areas are able to receive 960 Mbps download speeds.

Northland would be interested in discussing potential solutions with the City to leverage Northland's infrastructure to address the City's goals.

Please contact me at travis.kohlrus@vyvebb.com or 785-650-8110 to discuss.



Best,
Travis Kohlrus
Regional Vice President
(785) 301-2096 | Office
(785) 650-8110 | Cell
www.vyvebroadband.com

2703 Hall St. Suite 15
Hays, KS 67601



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22 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004772

Company Name: Sandpoint

Application Title: City of Sandpoint Downtown Broadband Build Out and Public

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge. We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a “necessary expenditure” incurred “due to the public health emergency” as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for “Necessary Expenditures Incurred Due to the Public Health Emergency” (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID–19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID–19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

Second, to the extent the proposed project claims to enable telework and distance learning for those students and workers required to telecommute upon a Covid-19 positive diagnosis, we still submit that the project is still not "necessary" to respond to the public health emergency, because the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Application Section: Scored Criteria

Question: Explain how your project meets Cares Act Criteria, is necessary for the public health emergency, and mitigates similar disruptions in the future?

Answer. Public access to Wi-Fi has proven to be a significant issue during the COVID pandemic. Rural broadband access is extremely limited and often very expensive.

Challenge. We submit that the application's proposed project is not necessary to respond to the public health emergency, nor is it needed to mitigate future disruptions and, thus, does not meet the CARES Act criteria. The application's target area is already sufficiently served by other broadband providers. On <http://broadbandmap.fcc.gov>, the city center of Sandpoint is served by no fewer than 5 providers delivering services that meet or exceed the FCC definition of Broadband at 25/3. The information provided in response to this section of the application downplays the available broadband coverage currently available in the area. Wired or Wireless currently provides speeds up to 30Mbps DL by 10 Mbps UL via a fixed wireless network from multiple tower sites in the area. The Sandpoint area is well served by providers who continue to compete, increase investment, expand, and improve Broadband and related services in the area.

Application Section: Additional Requested Information

Question: Submit 10 or more, recent, fixed location Speed Tests.

Challenge. Speed test results submitted do not accurately reflect the existing availability of broadband service, specifically via Wired or Wireless product offerings. Below are capacity tests from existing Wired or Wireless subscribers in Sandpoint. We believe these demonstrate the capability of service already offered in the Proposed Service Area.



Result Location: +48.321453, -116.425920 7/21/2021 14:05 PDT

Downlink

111.77 Mbps

99% Efficient

Signal to Noise Ratio: 26 dB V, 34 dB H

Uplink

39.05 Mbps

96% Efficient

Signal to Noise Ratio: 29 dB V, 32 dB H

Result Location: +48.163881, -116.526860 7/21/2021 14:08 PDT

Downlink

72.87 Mbps

98% Efficient

Signal to Noise Ratio: 26 dB V, 25 dB H

Uplink

33.68 Mbps

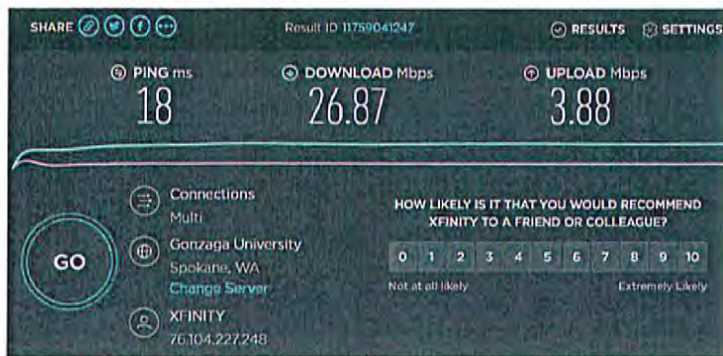
95% Efficient

Signal to Noise Ratio: 19 dB V, 26 dB H

Please note: Speed tests do not always show the available speed to a location. The speed test shows the excess speed available to a location which is above what is currently being used. According to statista.com, the average home has over 10 connected devices in the US in 2020. For example, my home in Spokane, WA where I am writing this is on a Comcast 100/5 connection. I took the first speed test below when my computer was syncing with the cloud. The speed test was severely impacted and only shows 0.94 Mbps down. I took the second speed test below a little later once my computer was done syncing. Though I am on a 100/5 connection, my computer is using my 2.4 GHz Wi-Fi connection that is a 20 MHz channel and therefore only cable of 27/4 where my computer is in my house. This test is much better at nearly 27/4.

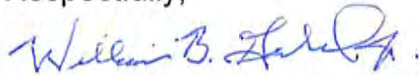
Speed tests often do not reflect the true speed of a broadband connection because so many other variables may affect the indicated speed.





Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. The free market is alive and working in Sandpoint. Private investment brought Broadband service to Sandpoint and continues to expand it. Providing a grant to a municipality that is not required to compete in the market is NOT the best way to help the community of Sandpoint or any other similar community.

Respectfully,



William B. Geibel, Jr.
BSEE/RCDD/NTS
President
Wired or Wireless, Inc.

FyberCom LLC



Broadband Grant Challenge

Prepared by: George Swanson

July 22, 2021

Application Challenging: APP-APP-004786

BASIS OF CHALLENGE

Overview

FyberCom challenges grant application APP-004786 for failure to meet the application criteria. FyberCom has a significant financial investment in building, maintaining, and expanding the broadband infrastructure in the Salmon area. On application APP-004786, it's also claimed that previous CARES Act Grant funds were not used for this requested area. However they were used on last year's CARES Act on application APP-004137 dated 07/15/2020. Those funds were used to provide fixed wireless of 50 x 10Mbps. This service currently covers the requested grant area of South St Charles and Cemetery Lane Area of Salmon.

Availability of Service

FyberCom is servicing this area currently with 100% of the proposed area covered by its Fixed Wireless products and services with 50 x 10Mbps. FyberCom currently services a large number of the businesses and residences in the proposed area with its 50 x 10Mbps product. Refer to picture 2 for current data on FyberCom's availability of service. See picture 3 to see FyberCom's current coverage map. See below map with current served homes and businesses serviced by FyberCom in the proposed area.

Criteria of Application

According to Form 477 of the FCC's broadband map, located at broadbandmap.fcc.gov, FyberCom is currently servicing all of the proposed grant area exceeding minimum speeds required. FyberCom has already built out the proposed area with its private funds. FyberCom has spent several years building the infrastructure in the proposed area. According the FCC data there are 7 other providers who also cover this area. One of these providers is Custer Telephone Cooperative supplying 1000 x 200Mbps.

477 Form Data

FRN: 0023650807 FiberCom LLC

Here is FiberCom's 477 Form data providing proof of the serviced area and data speeds available:

Island Park FBD Data

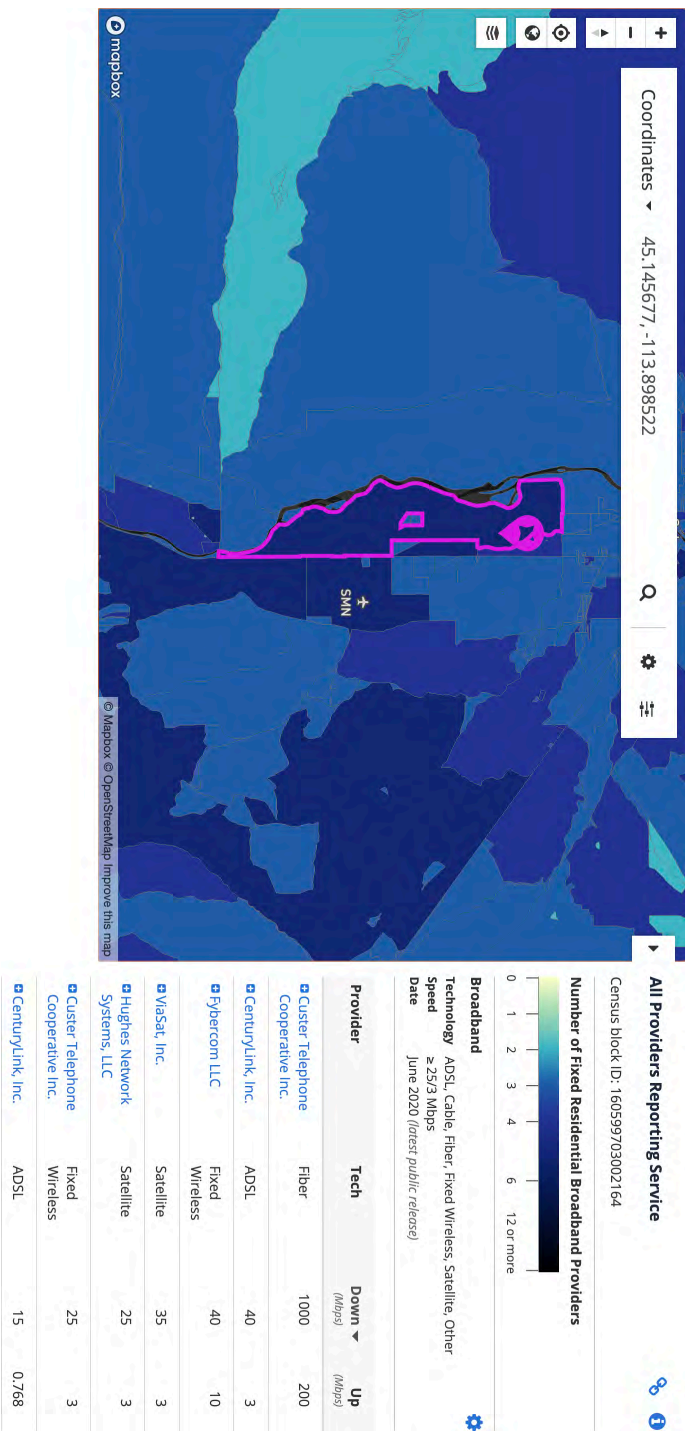
Census Block	Name	Download	Upload
160599703002231	FYBERCOM LLC	41	11
160599703002220	FYBERCOM LLC	41	11
160599703002218	FYBERCOM LLC	41	11
160599703002216	FYBERCOM LLC	41	11
160599703002186	FYBERCOM LLC	41	11
160599703002183	FYBERCOM LLC	41	11
160599703002182	FYBERCOM LLC	41	11
160599703002167	FYBERCOM LLC	41	11
160599703002166	FYBERCOM LLC	41	11
160599703002164	FYBERCOM LLC	41	11
160599703002126	FYBERCOM LLC	41	11
160599703002079	FYBERCOM LLC	51	16
160599703002054	FYBERCOM LLC	41	11
160599703002053	FYBERCOM LLC	41	11
160599703002043	FYBERCOM LLC	41	11
160599703002033	FYBERCOM LLC	41	11
160599703002030	FYBERCOM LLC	51	16
160599703002002	FYBERCOM LLC	41	11
160599703002001	FYBERCOM LLC	41	11

160599702003102	FYBERCOM LLC	41	11
160599702003098	FYBERCOM LLC	41	11
160599702003097	FYBERCOM LLC	41	11
160599702003085	FYBERCOM LLC	41	11
160599702003080	FYBERCOM LLC	41	11
160599702003079	FYBERCOM LLC	41	11
160599702003068	FYBERCOM LLC	51	16
160599702003059	FYBERCOM LLC	41	11
160599702003058	FYBERCOM LLC	41	11
160599702003053	FYBERCOM LLC	41	11
160599702003051	FYBERCOM LLC	41	11
160599702003050	FYBERCOM LLC	41	11
160599702003048	FYBERCOM LLC	41	11
160599702003038	FYBERCOM LLC	41	11
160599702003036	FYBERCOM LLC	51	16
160599702003019	FYBERCOM LLC	41	11
160599702002333	FYBERCOM LLC	41	11
160599702002297	FYBERCOM LLC	41	11
160599702002291	FYBERCOM LLC	41	11
160599702002289	FYBERCOM LLC	41	11
160599702002279	FYBERCOM LLC	41	11
160599702001056	FYBERCOM LLC	41	11
160599702001052	FYBERCOM LLC	41	11
160599702001048	FYBERCOM LLC	41	11
160599702001045	FYBERCOM LLC	41	11
160599702001044	FYBERCOM LLC	41	11
160599702003102	FYBERCOM LLC	41	11

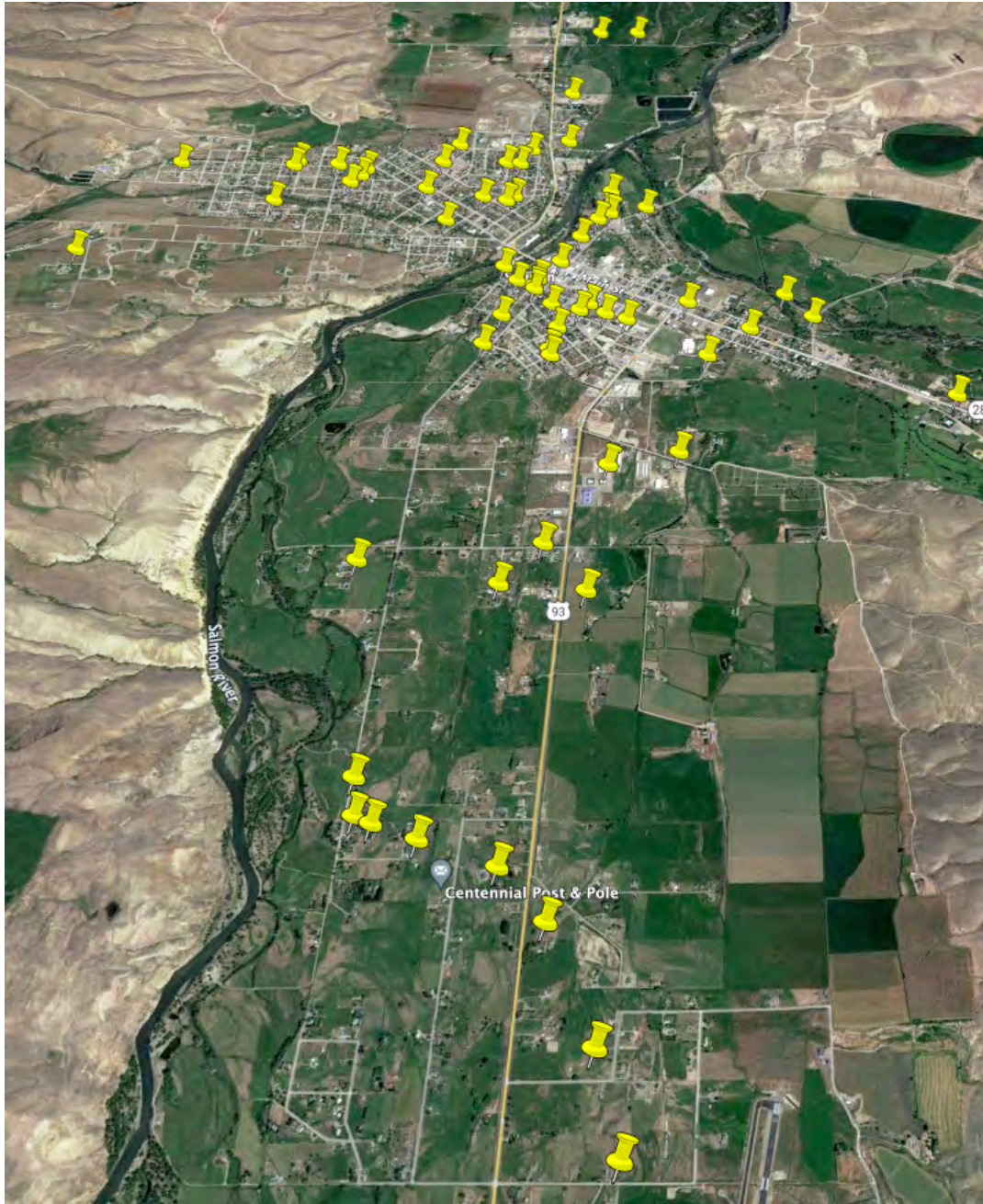
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160599702001036	FYBERCOM LLC	41	11
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160599702001024	FYBERCOM LLC	41	11
160599702001017	FYBERCOM LLC	41	11
160599702001014	FYBERCOM LLC	41	11
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160599701001726	FYBERCOM LLC	41	11
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160599701001703	FYBERCOM LLC	41	11
160599701001689	FYBERCOM LLC	41	11
160599701001688	FYBERCOM LLC	41	11
160599701001677	FYBERCOM LLC	41	11
160599701001652	FYBERCOM LLC	41	11

Picture 1: FyberCom's FCC Broadband Map Data

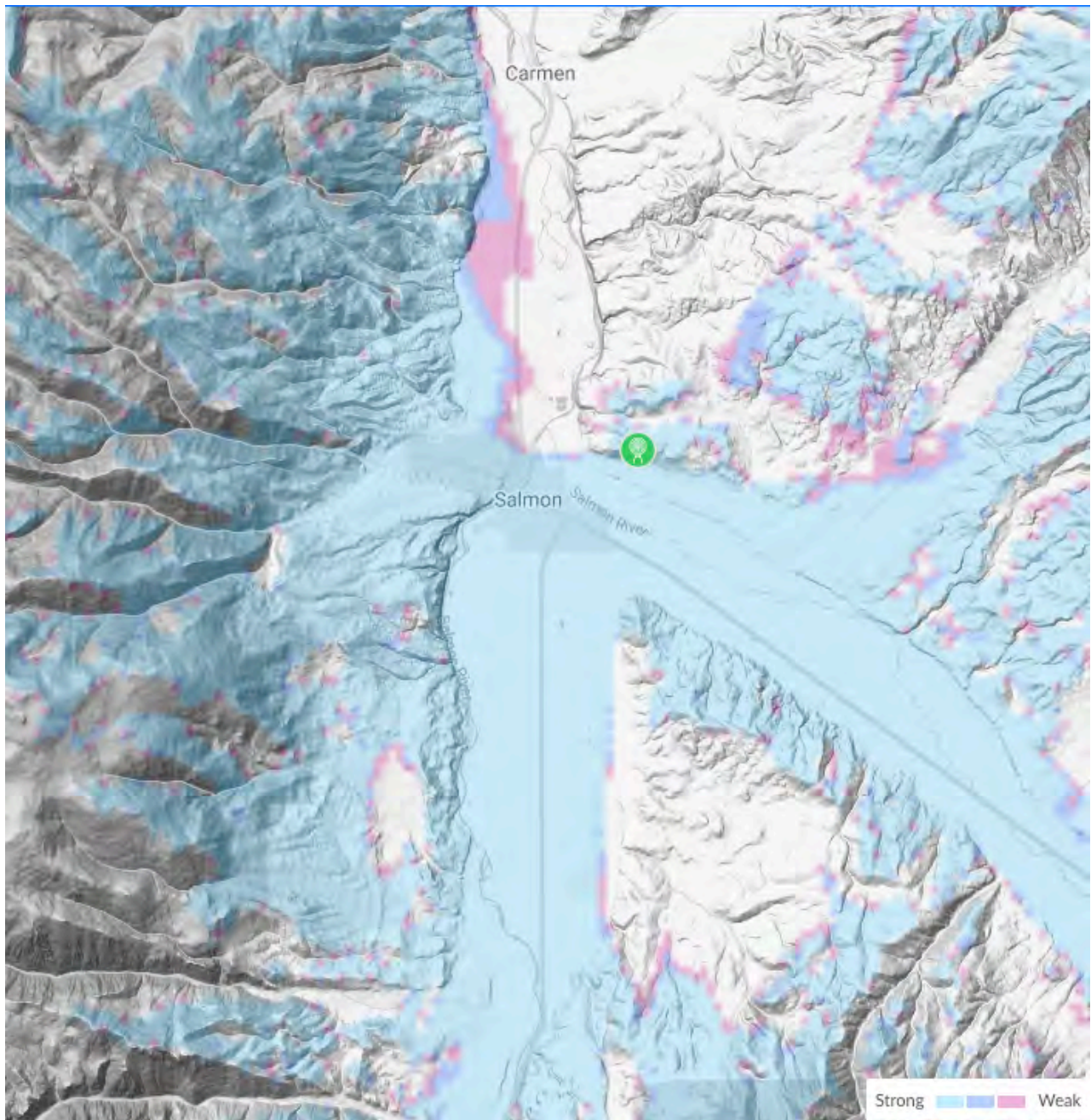


Picture 2: FyberCom current customer base with capabilities of 50 x 10Mbps.

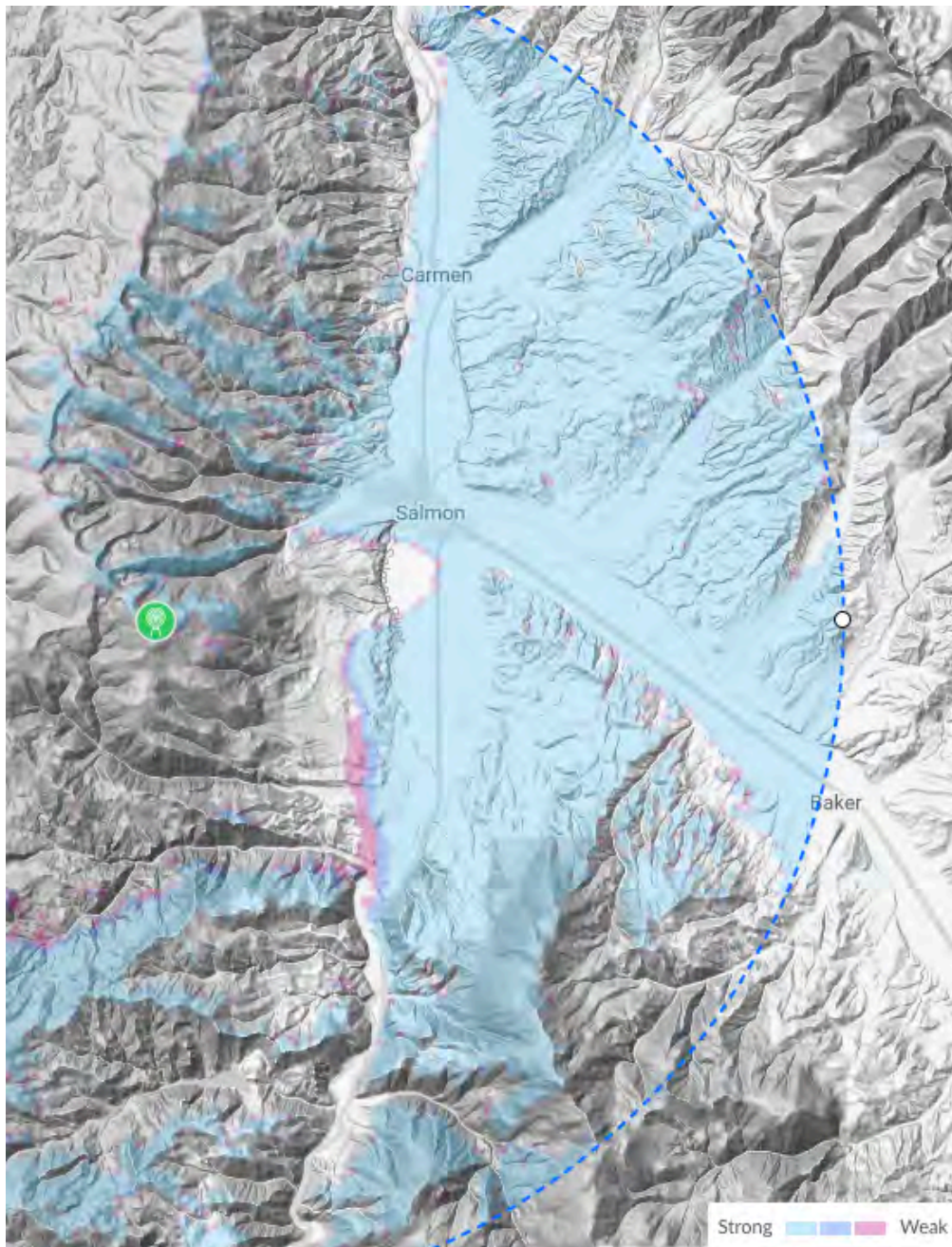


Picture 3: FyberCom network coverage, with its 3 towers surrounding Salmon.

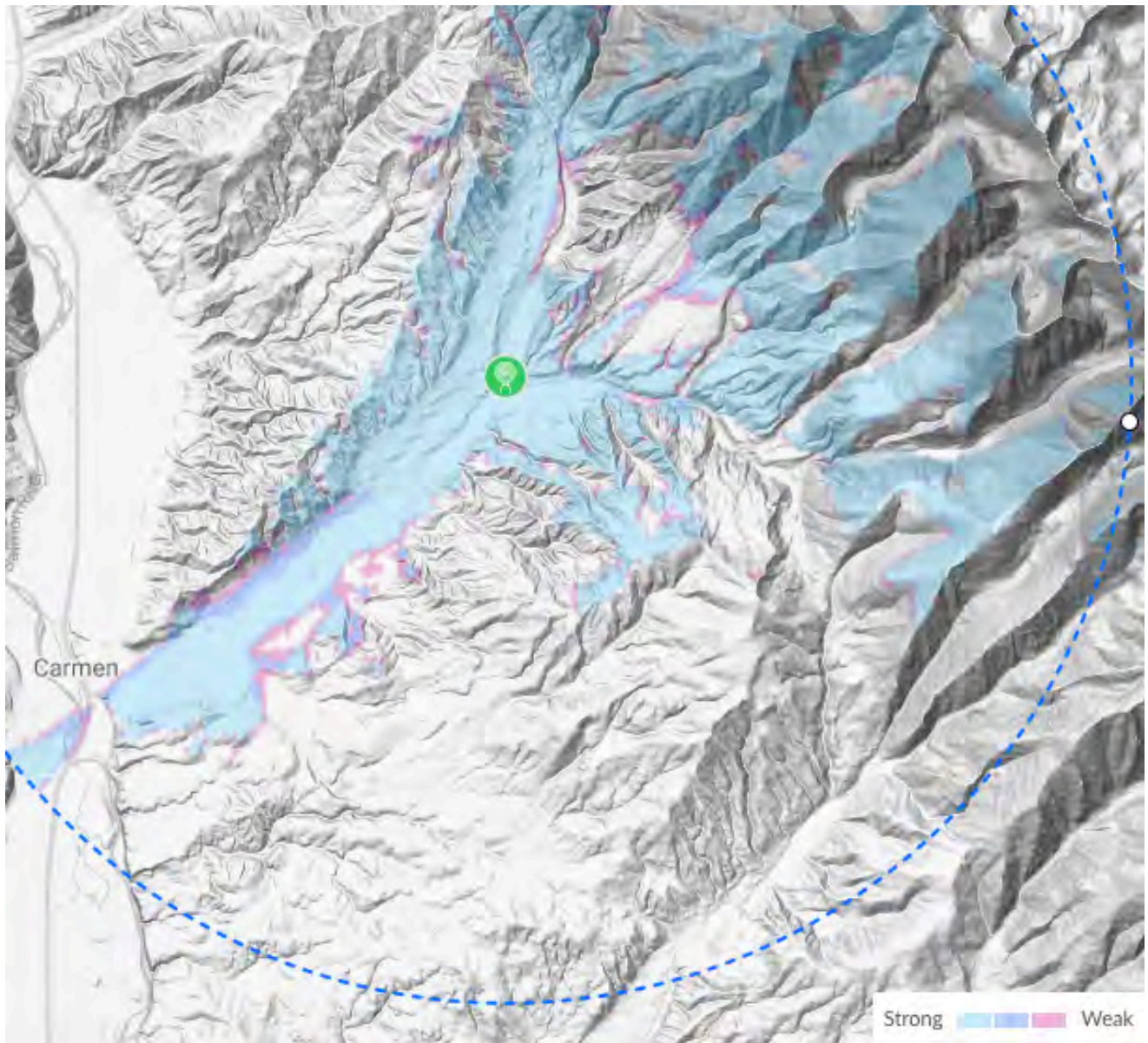
Tower 1-



Tower 2-



Tower 3-



Final Remarks

FyberCom has been providing broadband to Salmon since 2019. Last year's grant funds from the CARES Act helped supply coverage to this year's requested area. FyberCom continues to invest private funds to build out the proposed grant area.



23 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004803
Company Name: Shoshone County
Application Title: Silverton

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge: We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a “necessary expenditure” incurred “due to the public health emergency” as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for “Necessary Expenditures Incurred Due to the Public Health Emergency” (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID–19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID–19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

Second, the proposed expenditures are clearly not "necessary" under the grant's guidelines in that the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Additionally, the proposed expenditures will not be incurred "due to" the public health emergency as defined by the Act. CARES Act expenditures are "due to" the public health emergency if they are used to "respond to the public health emergency". The area targeted by the application is currently served by multiple broadband companies offering internet

coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to “respond to the public health emergency.” Thus, instead of addressing the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

Finally, FAQ 28 on page 4189, Volume 86 No. 10 of the Federal Register states that capital improvement projects that broadly provide potential economic development in a community are not eligible for Fund payments unless they are necessary expenditures incurred due to the COVID-19 public health emergency. This further highlights that not all capital improvements that generally promote economic development or benefit the community qualify for CARES Act grants---only those that are "necessary" and incurred "due to" the public health emergency. And the fund payments must only be used for expenditures necessary to address the current COVID-19 public health emergency, not in anticipation of future emergencies. (See FAQ 41, page 4191).

Application Section: Additional Requested Information

Question: Has your project area received or been awarded any federal funds (CAFII/RDOF/USDA Reconnect) in the past two years, or will it receive federal funding over the next two years? If so, explain why additional funding was/is necessary in the project area?

Answer: No

Challenge: The proposed area is a recipient of CAF II funds. See the Connect America Fund Broadband Map.



Universal Service
Administrative Co.

Connect America Fund Broadband Map



Legend



Question: Question: Has your project area received state funds (Cares Act Broadband Grants, E-Rate, etc.) in the past two years? If so, please explain what state funds were received and why the additional state funding was necessary in the project area.

Answer: No

Challenge: The applicant failed to properly answer the question. The Schools and Libraries in the proposed area all receive E-Rate funds.

Signature

Your identity has been authenticated through the login process with a unique email address and password available only to you. You agree that by typing your name, title and date below, you are electronically signing the application. By electronically signing the application, you acknowledge and represent that you understand and accept all the terms and conditions stated within the application and declare that the information provided is true and that the documents you are submitting in support of your application are genuine and have not been altered in any way.

Challenge: This section was Not Answered by the applicant. This should void the application.

Question: Submit 10 or more, recent, fixed location Speed Tests.

Challenge: Speed test results submitted do not accurately reflect the existing availability of broadband service, specifically via Ziply. See screen shots below.

Provider	Tech	Down (Mbps)	Up (Mbps)
Northwest Fiber, LLC Ziplay Fiber Northwest Fiber, LLC dba Ziplay Fiber	ADSL	115	7
ViaSat, Inc.	Satellite	100	3
Hughes Network Systems, LLC	Satellite	25	3
Altice	Cable	25	5
Northwest Fiber, LLC	ADSL	12	1
Northwest Fiber, LLC	ADSL	6	1
VSAT Systems, LLC	Satellite	2	1.3

In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already sufficiently served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. This grant should not be funded to help keep the playing field equal.

Respectfully,



William B. Geibel, Jr.
BSEE/RCDD/NTS
President
Wired or Wireless, Inc.

July 21, 2021

Idaho Broadband Committee

Eric Forsch

Idaho Department of Commerce

To Whom it May Concern:

PMT is submitting an official challenge to the Cares Act Applications for both the City of Heyburn and the City of Burley. PMT currently has a robust fiber infrastructure within the Cities of Heyburn and Burley offering up to speeds of 10-gigabits.

PMT offers redundant broadband pathways to both Boise and Salt Lake City where customers would not have affected service if the long-distance fibers were cut. PMT offers diversification through Syringa Networks and other Providers.

PMT currently has fiber connections into every school in Minidoka County and Cassia County within our serving area. Additionally, PMT provides fiber connections to Minidoka County and Rupert City offices as well as Cassia County and the Burley Library.

PMT currently does not have active services to the Cities of Heyburn and Burley so PMT cannot verify the speeds shown in their respective applications citing PMT speeds.

PMT currently has fiber across the street from the Burley City offices and within five city blocks of the Heyburn City offices. Both of these locations can offer up to 10-gig services. PMT has previously quoted the City of Burley a complete fiber network connecting each of their offices as well as wastewater and lift station locations, however our bid was rejected by the City. The City stated our quote which was at \$1 million was too much. The city of Burley is now requesting \$1 million plus to construct the same network using various technologies including wireless which is not considered stable in comparison to fiber.

PMT is a community based non-profit cooperative serving the Mini-cassia area for over 100-years. PMT offered free internet services to over 200-families during the COVID School closures during the Spring of

2020. PMT was the only company offering these free services to families with no charges for installation or equipment. No other provider or City offered free services during this time. For the City of Burley and the City of Heyburn to officially state that PMT has let down our communities is completely uncalled for.

PMT believes both of these applications for the City of Burley and the City of Heyburn, do not comply with the guidelines stated within the Cares Act applications for funding. PMT is officially challenging both of these applications.

Thank You



Dan Hoover

President & CEO

507 "G" St.

Rupert, ID 83350

Direct 208-434-7138 | Cell 208-430-1357 | Fax 208-434-7218

pmt.org | dh Hoover@pmt.coop



July 22, 2021

Idaho Department of Commerce
Broadband Office

RE: Applicant ID: APP-004824
 Challenge to Idaho Broadband Fund

I am writing this challenge against applicant ID: APP-004824- Ziply Fiber.

The applicant is applying for funds to build a Fiber network for the City of Priest River, Idaho. This application does not meet the Cares Act criteria. The City of Priest River is well serviced via Legacy Copper Broadband, Fiber, GPON, FTTH and wireless providers. All the available providers exceed the FCC definition of Broadband at 25/3. Ziply Fiber (APP-004824) themselves have Fiber throughout the city already. It is not the taxpayer's burden to fund private enterprise infrastructure in a well served area.

Concept Communication Corporation has been providing 100% internet coverage along with its city cable television franchise since 2006. No packages are offered below 50mbps x 10mbps on Legacy as well as a minimum Fiber FTTH service 100mbps symmetrical service. Concept Communication Corporation furthers the challenge by listing all the available providers covering 100% of the City of Priest River:

Top speeds offered/available

Concept Communication Corp/MiFiber	DOCSIS 3/Legacy Copper Fiber/FTTH/GPON	125mbps x 10mbps 1000mbps x 1000mbps
------------------------------------	---	---

Wired or Wireless	Wireless	30mbs x 10mbs
YOUR T1 WiFi	Wireless	100mbs x 100mbs
Ziply Fiber	ADSL	90mbs x 5mbs

Furthermore, Concept/MiFiber provides 10GB dark Fiber for transport and resale to Wired or Wireless and additional bandwidth to YOUR T1 WiFi to increase their speeds and area coverage.

We feel justified in the challenge for funding as this represents unnecessary redundant over-building of already saturated areas with taxpayer funds. The taxpayers should be able to reap the benefits by placing the funding into areas and communities that truly are under served instead of funding monopolistic takeovers by large investor groups. The existing providers are mostly small to midsize providers investing their own funds in the communities they serve.

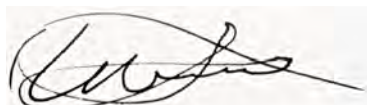
Concept Communication Corporation is available to 100% of the City's homes and businesses, we also provide commercial services in Priest River area to the following:

West Bonner School District (ERATE)	1000mbs sym
Bonner County Hospital Rehab Annex (USAC)	1000mbs sym
Priest River Airport (FAA)	1000mbs sym
City of Priest River (All Facilities)	1000mbs sym
Beardmore Commercial Offices	1000mbs sym
Priest River Fire Dept	1000mbs sym
Priest River Paramedics	1000mbs sym
Priest River Event Center	1000mbs sym
Spartan Storage	1000mbs sym
West Bonner Sheriff Substation	1000mbs sym
Aerocet Manufacturing	1000mbs sym
Lone Wolf Manufacturing	1000mbs sym
REM Manufacturing	1000mbs sym
Julbert Manufacturing	1000mbs sym

Please note actual speed test results from customers location for both Legacy Copper BB and Fiber/FTTH/GPON customers. Cutting Edge Services is our main supplier of internet so their name appears on the tests. The tests were also ran on the Idaho.speedtestcustom.com site. You can compare the two and see that the exiting providers do in fact provide bandwidth well beyond FCC requirements.

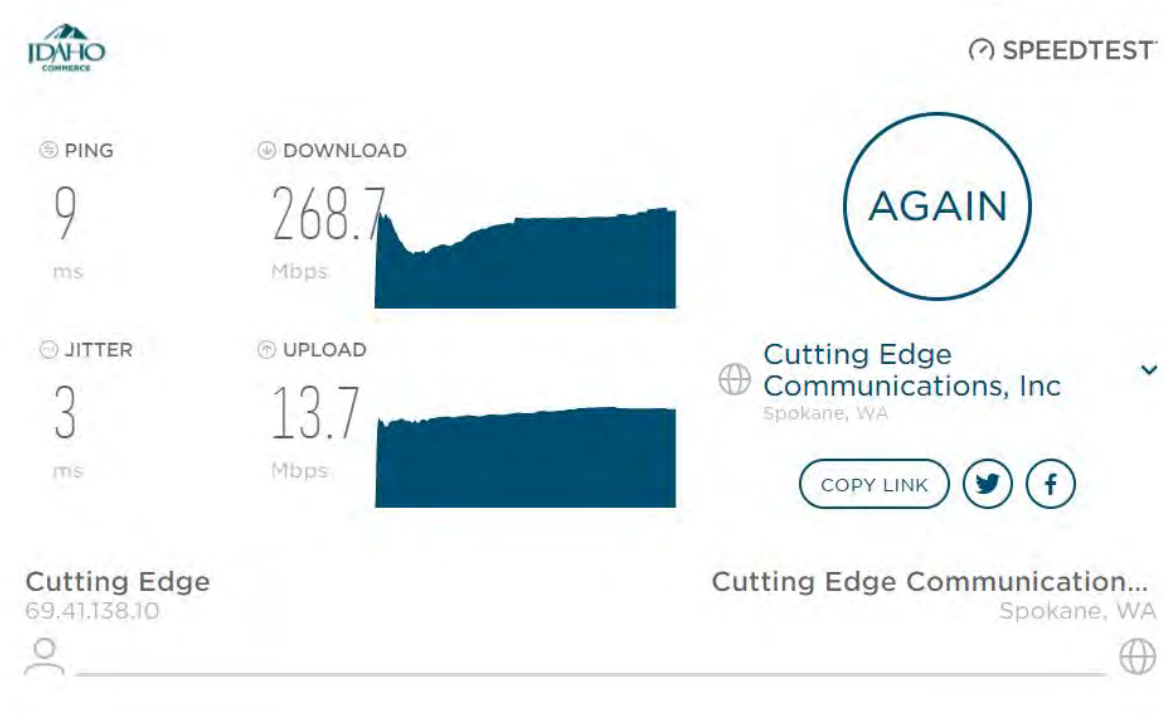
We ask that the APP-004824 be rejected as redundant and wasteful spending, and the money allocated to an area that is in need.

Sincerely,

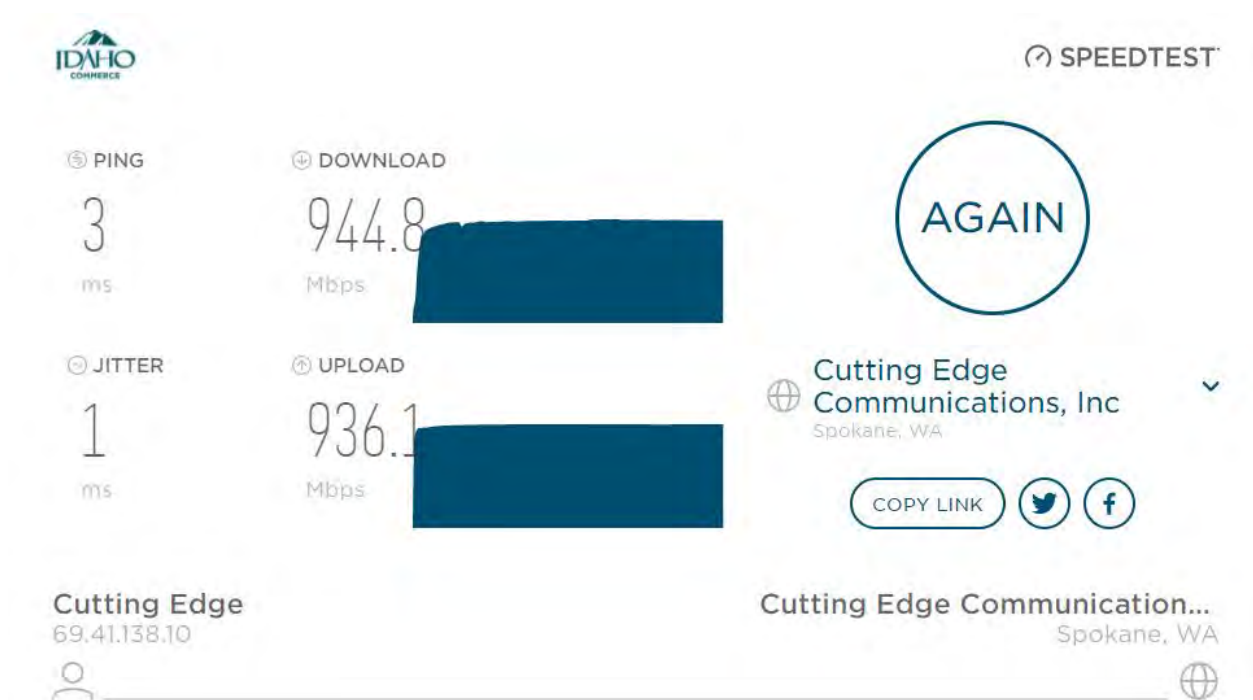
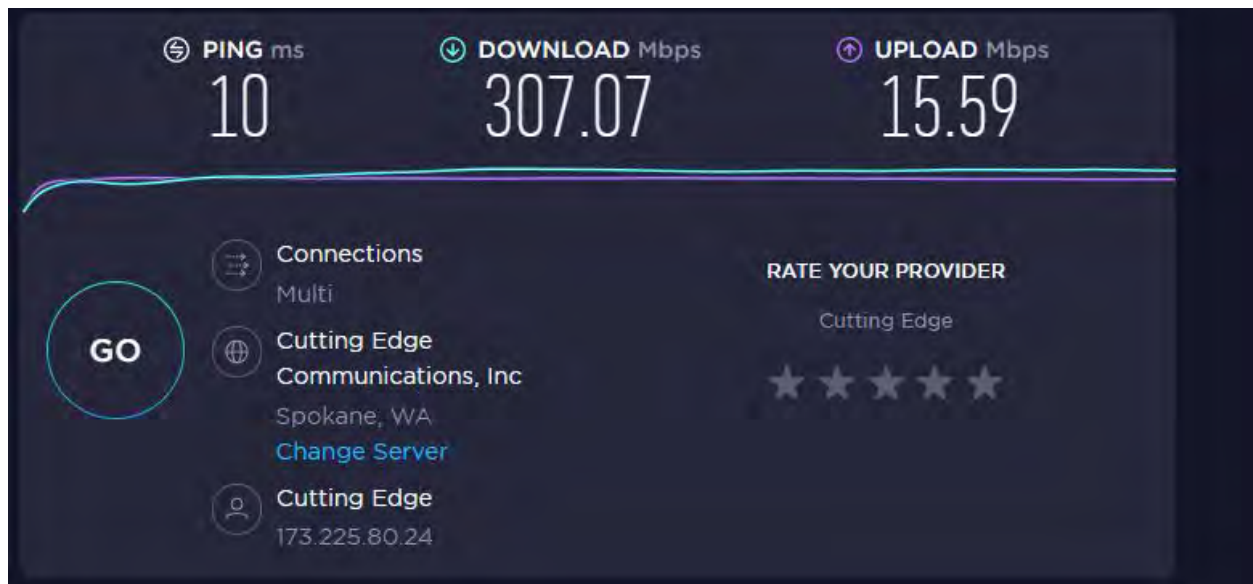


Wayne Antcliff
President
Concept Communication Corporation/MiFiber
(208) 660-7414

w.antcliff@conceptcable.com



Concept Customer test Docsis3 speed test Priest River To State of Idaho test server



Concept customer Docsis 3 speed test Priest River to Cutting Edge (provider)

Fiber FTTH/GPON speedtest from Priest River Client to State of Idaho test server



Fiber FTTH/GPON speed test from Priest River Client to Cutting Edge (provider)



22 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004824

Company Name: Priest River

Application Title: Priest River Fiber to the Home

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge. We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a "necessary expenditure" incurred "due to the public health emergency" as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for "Necessary Expenditures Incurred Due to the Public Health Emergency" (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

Second, the proposed expenditures are clearly not "necessary" under the grant's guidelines in that the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Additionally, the proposed expenditures will not be incurred "due to" the public health emergency as defined by the Act. CARES Act expenditures are "due to" the public health emergency if they are used to "respond to the public health emergency". The area targeted by the application is currently served by multiple broadband companies offering internet

coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to “respond to the public health emergency.” Thus, instead of addressing the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

Finally, FAQ 28 on page 4189, Volume 86 No. 10 of the Federal Register states that capital improvement projects that broadly provide potential economic development in a community are not eligible for Fund payments unless they are necessary expenditures incurred due to the COVID-19 public health emergency. This further highlights that not all capital improvements that generally promote economic development or benefit the community qualify for CARES Act grants—only those that are “necessary” and incurred “due to” the public health emergency. And the fund payments must only be used for expenditures necessary to address the current COVID-19 public health emergency, not in anticipation of future emergencies. (See FAQ 41, page 4191).

Application Section: Scored Criteria

Question: Explain how your project meets Cares Act Criteria, is necessary for the public health emergency, and mitigates similar disruptions in the future?

Answer. According to Broadband Now, the FCC Broadband map, Ziply Fiber is the prominent wireline provider; there are small fixed wireless providers and satellite options. Wireline networks offer the most future proof and resilient connectivity solution to meet CARES Act criteria. The proposed project to deploy a fiber to the premise capable network meets the CARES Act criteria by:

Being a broadband infrastructure (wireline) investment; Through enabling connectivity at speeds up to 1/1Gbps; Facilitating greatly enhanced access to telework, telemedicine, distance learning and public safety; and, providing service in a currently unserved area.

Challenge. We submit that the application’s proposed project is not necessary to respond to the public health emergency, nor is it needed to mitigate future disruptions and, thus, does not meet the CARES Act criteria. The application’s target area is already sufficiently served by other broadband providers. The information provided in response to this section of the application is misleading and downplays the available broadband coverage currently available in the area. Wired or Wireless currently provides speeds up to 30Mbps DL by 10 Mbps UL via a fixed wireless network from multiple tower sites in the area. Concept Cable, the incumbent Cable TV provider (who operates using the IP addresses from Cutting Edge), has a DOCSIS 3 network covering all of Priest River with speeds up to 600 Mbps DL by 50 Mbps UL. Concept Cable also has a fiber network throughout much of Priest River providing 1 Gbps or greater service to the schools, City offices, County maintenance facilities, and other government

facilities. Concept cable provides dark fiber services to Wired or Wireless facilitating connectivity back to our 10 Gbps backbone. On <http://broadbandmap.fcc.gov>, Northwest Fiber, LLC (Zipty) provides ADSL service to the area at a speed of 90 Mbps dn by 5 Mbps up. All of the above services exceed the FCC definition of Broadband at 25/3. The Priest River area is not only served, but is well served by multiple providers who continue to compete, increase investment, expand and improve Broadband and related services in the area. Additional infrastructure in this area is simply not necessary to “respond to the public health emergency” as is required by the Act.

Application Section: Additional Requested Information

Question: Has your project area received state funds (Cares Act Broadband Grants, E-Rate, etc.) in the past two years? If so, please explain what state funds were received and why the additional state funding was necessary in the project area.

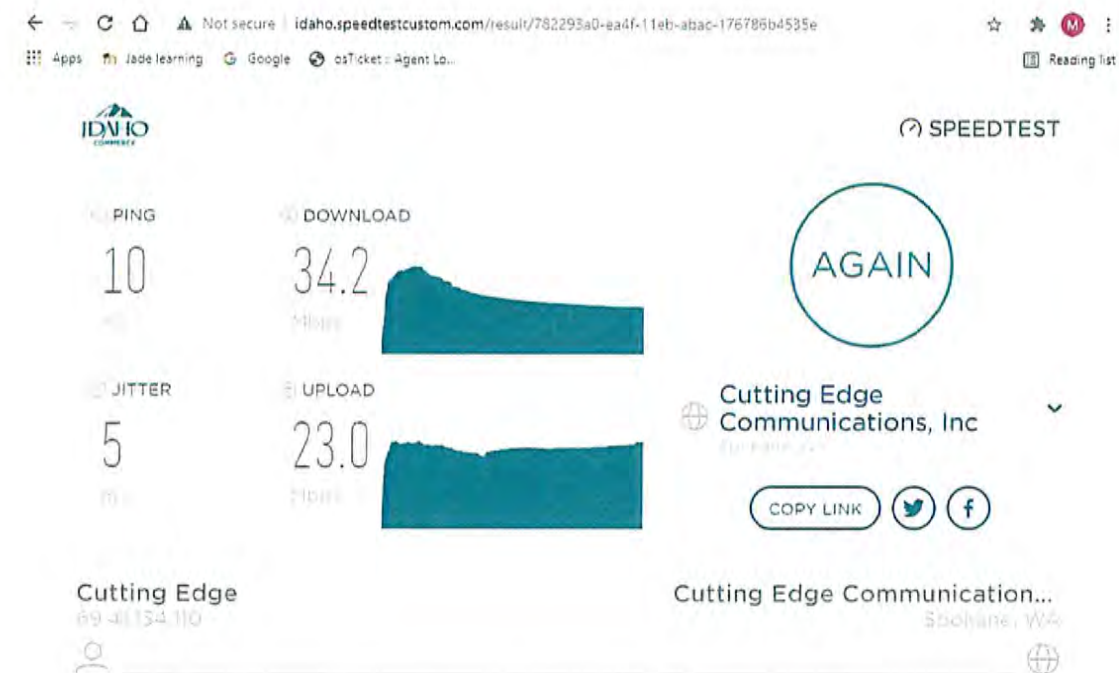
Answer. No.

Challenge. The project area has received and is scheduled to receive state funds in the future for the provision of broadband services. Concept Cable provides service to area schools under E-Rate. Wired or Wireless provides service to the area library under E-Rate. In both cases, the services are delivered using existing Fiber. Other schools and libraries in the Priest River area may also receive state funds, although the existence of such funding is unknown to the undersigned; regardless, the infrastructure is currently in place to provide the services if so desired, thereby negating the need for new or additional infrastructure.

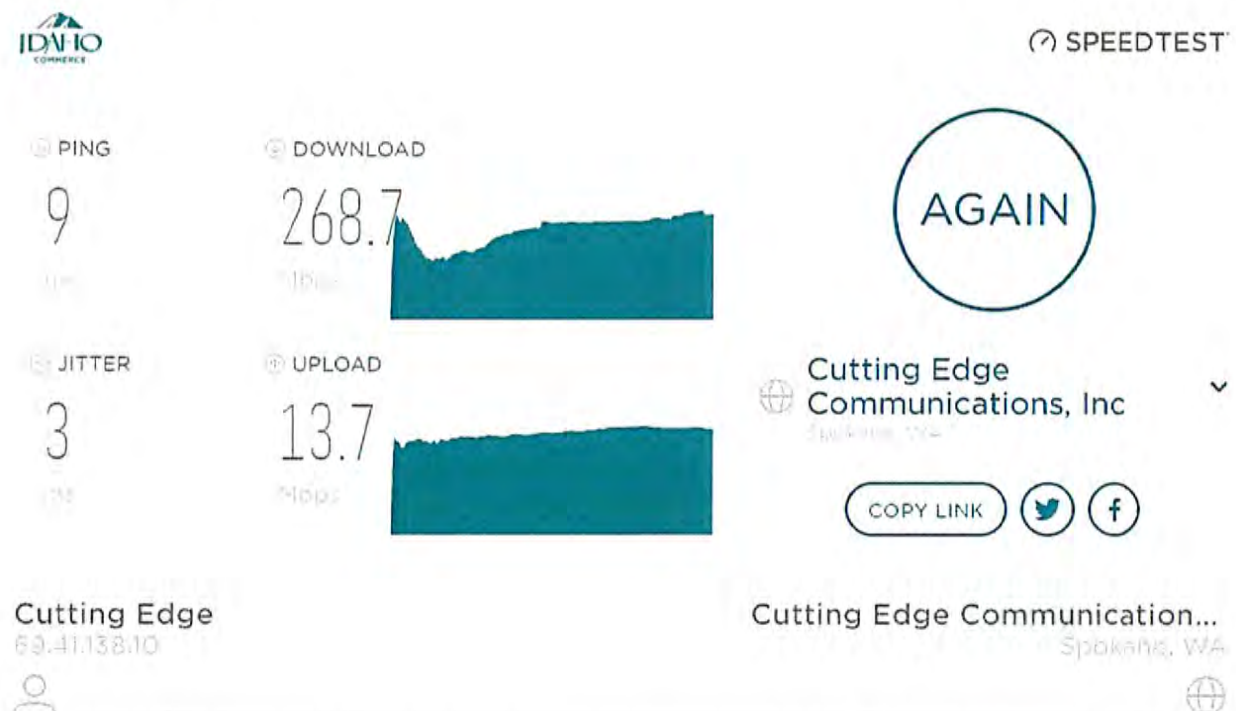
Question: Submit 10 or more, recent, fixed location Speed Tests.

Challenge. The speed test results submitted by the applicant do not accurately reflect the existing availability of broadband service, specifically via Wired or Wireless product offerings, or by Concept Cable Co (Cutting Edge) offerings. Please note that many of the speed tests provided by the applicant show services exceeding the 25/3 requirement as delivered by Cutting Edge. Attached is a speed test from the Proposed Service Area, which more accurately represent the services currently available. Also note that Wired or Wireless currently sources bandwidth for Priest River through Cutting Edge.

This speed test was taken July 21, 2021 from the Napa Auto parts parking lot in Priest River, ID by connecting to our Gold Cup tower. Towers on Hoodoo Mt and Sandpoint Baldy Mt also provide service to and around Priest River.



Below are various speed tests provided by Concept Cable throughout Priest River from both their cable system and Fiber system. The cable system usually sees up to 300M/15M. The Fiber is nearly 1G/1G.



 PING ms

10

 DOWNLOAD Mbps

227.29

 UPLOAD Mbps

16.01

GO



Connections

Multi



Cutting Edge
Communications, Inc

Spokane, WA

[Change Server](#)



Cutting Edge

69.41.138.10

RATE YOUR PROVIDER

Cutting Edge



 PING ms

3

 DOWNLOAD Mbps

948.23

 UPLOAD Mbps

920.83

GO



Connections

Multi



Cutting Edge
Communications, Inc

Spokane, WA

[Change Server](#)



Cutting Edge

69.41.138.10

RATE YOUR PROVIDER

Cutting Edge





SPEEDTEST

PING

3

ms

DOWNLOAD

944.8

Mbps

JITTER

1

ms

UPLOAD

936.1

Mbps



Cutting Edge
Communications, Inc

Spokane, WA



COPY LINK



Cutting Edge

69.41.138.10



Cutting Edge Communication...

Spokane, WA



PING ms

3

DOWNLOAD Mbps

946.77

UPLOAD Mbps

872.68

GO



Connections

Multi



Cutting Edge
Communications, Inc

Spokane, WA

[Change Server](#)



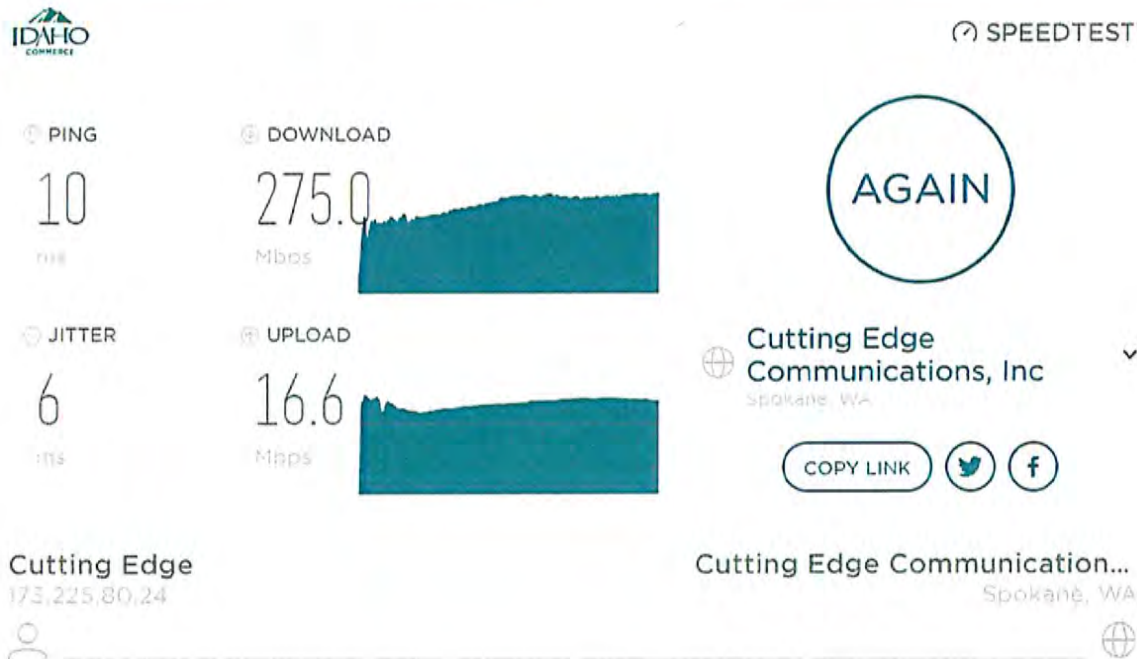
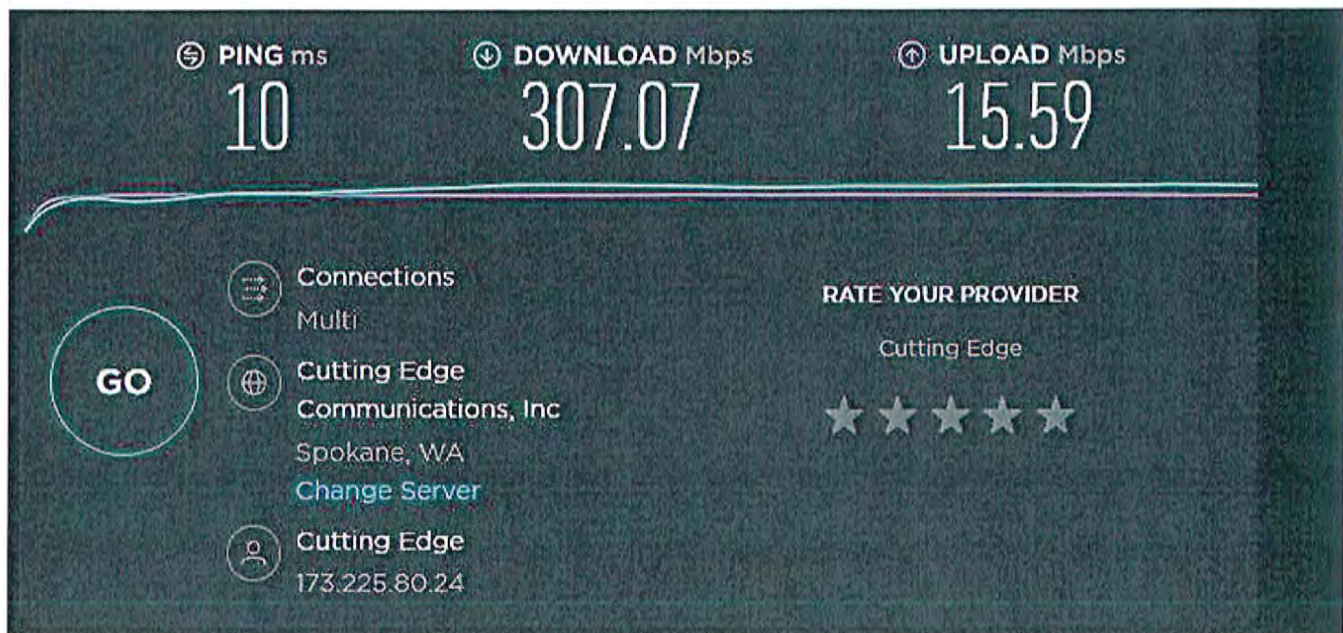
Cutting Edge

69.41.138.10

RATE YOUR PROVIDER

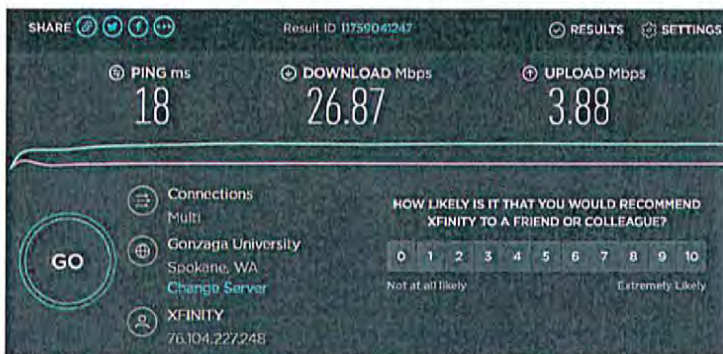
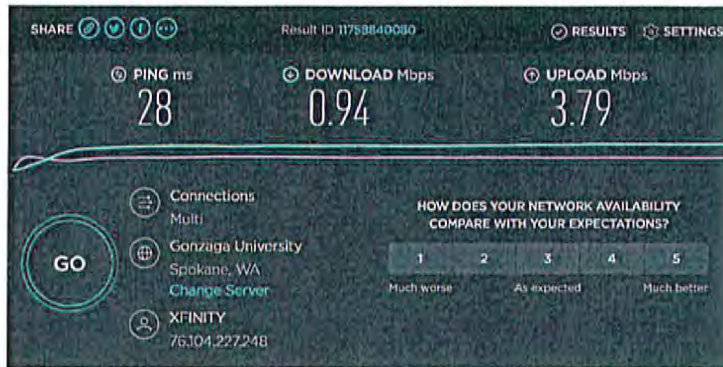
Cutting Edge





Please note: Speed tests do not always show the available speed to a location. The speed test shows the excess speed available to a location which is above what is currently being used. According to statista.com, the average home has over 10 connected devices in the US in 2020. For example, my home in Spokane, WA where I am writing this is on a Comcast 100/5 connection. I took the first speed test below when my computer was syncing with the cloud. The speed test was severely impacted and only shows 0.94 Mbps down. I took the second speed test below a little later, once my computer was done syncing. Though I am on a 100/5 connection, my computer is using my 2.4 GHz Wi-Fi connection that is a 20 MHz channel and therefore only cable of 27/4 where my computer is in my house. This test is much better at nearly 27/4.

Speed tests often do not reflect the true speed of a broadband connection because so many other variables may affect the indicated speed.



In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already sufficiently served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. The free market is working in Priest River. Private investment brought Broadband service to Priest River and continues to expand it. Providing a grant to an incumbent provider who has been unable to compete in the market without government assistance is NOT the best way to help the community of Priest River or any other similar community.

Respectfully,

William B. Geibel, Jr.
BSEE/RCDD/NTS
President
Wired or Wireless, Inc.

From: bret@yourt1wifi.com
To: APP-004824
Subject: APP-004824
Date: Friday, July 23, 2021 5:06:27 PM
Attachments: [image001.png](#)

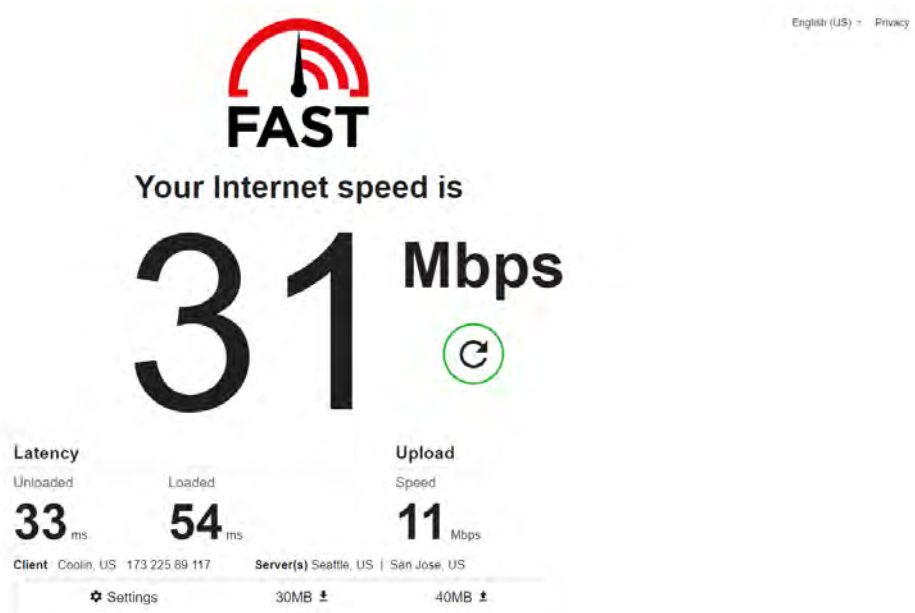
To whom it may concern,

We and several other Providers are in this area providing more than sufficient internet for the customers they have a wide variety of speeds they can connect to by choice. From 1mbps service all the way up to 150Mbps service.

My company provides residential packages from 1mbps to 50 Mbps and Business packages up to 100 Mbps in the city of Priest River, Laclede, Priest Lake, Blanchard area you can view our service area maps we have over 17 towers and repeaters that we are on that send our signal to our customers. We provide circuits for Inland Cellular and Concept Concept cable.

Concept is the local cable company which does fiber and copper lines they have really fast internet speeds up to gig plus depending on if you are business or residential.

I feel that any company that is as big as Ziply fiber that can afford to spend Billions on buying a network from another company should not have to ask for a Government Grant to do any work to their network and use tax payer dollars. Especially since that Company they bought (Frontier) already received grants to build its infrastructure and didn't Honor those agreements.



Picture above is speed test in Coolin Idaho at Huckleberry Bay Residential customer

Speed is not the issue everyone network can handle getting them the speeds its companies like the PUD in Newport Washington that got a 24 million or so grant to do fiber that charges too much for transport, if you fix the pricing our customers would get the faster speeds they want.

So to summarize no I don't feel Ziply should receive a grant of taxpayer money to fix their network to the APP-004824 or any other app they have applied for as the company they bought had already received grants and any grant this company receives will be a dis-service to the tax payers in wasting more money that may never get completed like frontier did to the taxpayers

Bret A Fink
YourT1WiFi
208-641-9255

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23 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004829
Company Name: Smelterville
Application Title: McCloud

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge. We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a “necessary expenditure” incurred “due to the public health emergency” as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for “Necessary Expenditures Incurred Due to the Public Health Emergency” (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID–19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID–19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

Second, the proposed expenditures are clearly not "necessary" under the grant's guidelines in that the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Additionally, the proposed expenditures will not be incurred "due to" the public health emergency as defined by the Act. CARES Act expenditures are "due to" the public health emergency if they are used to "respond to the public health emergency". The area targeted by the application is currently served by multiple broadband companies offering internet

coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to "respond to the public health emergency." Thus, instead of addressing the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

Finally, FAQ 28 on page 4189, Volume 86 No, 10 of the Federal Register states that capital improvement projects that broadly provide potential economic development in a community are not eligible for Fund payments unless they are necessary expenditures incurred due to the COVID-19 public health emergency. This further highlights that not all capital improvements that generally promote economic development or benefit the community qualify for CARES Act grants---only those that are "necessary" and incurred "due to" the public health emergency. And the fund payments must only be used for expenditures necessary to address the current COVID-19 public health emergency, not in anticipation of future emergencies. (See FAQ 41, page 4191).

Application Section: Scored Criteria

Question: Provide an overview of the project, including why the project is important and how it will address the broadband needs of the community. Include a scope of work description, along with a list of ISPs that can provide the proposed service.

Answer. Communities in this project area: Smelterville, Page, Pinehurst, Bear Creek. J&R Electronics will utilize a radio site on McLeod Hill, which is located on the north side of I-90 and has a view of virtually 100% of Smelterville 80%+ of Pinehurst and Page...

Challenge: Wired or Wireless Inc already has a network similar to that which J&R electronics proposes to build. We have tower sites on four sides of the proposed area. Wired or Wireless has tower sites on Wardner Peak, C&E Tree Farm, The Atlas Cell phone Mono Pole on the hill between Page, Pinehurst and Smelterville, and a relay on private property on the west side of Pinehurst too. Our network is new or recently upgraded. We use equipment similar to that proposed by Cambium Networks. We completely cover the proposed area. Wired or Wireless also has a dual redundant microwave backbone from Wardner Peak to Post Falls and to Mt Spokane. We do not depend on Ziply (formerly Frontier) for bandwidth to the Silver Valley.

We object to public funds being provided to a competitor to overbuild our existing network and provide an unfair advantage to a competitor. We can provide 30M/10M service today. This meets or exceeds the FCC Broadband standard. Adding an additional provider therefore is not "necessary", as existing tower sites with Cambium Wireless technology already cover the project area; Haughn, Pinehurst, C&E, Wardner, and Kellogg NOC.

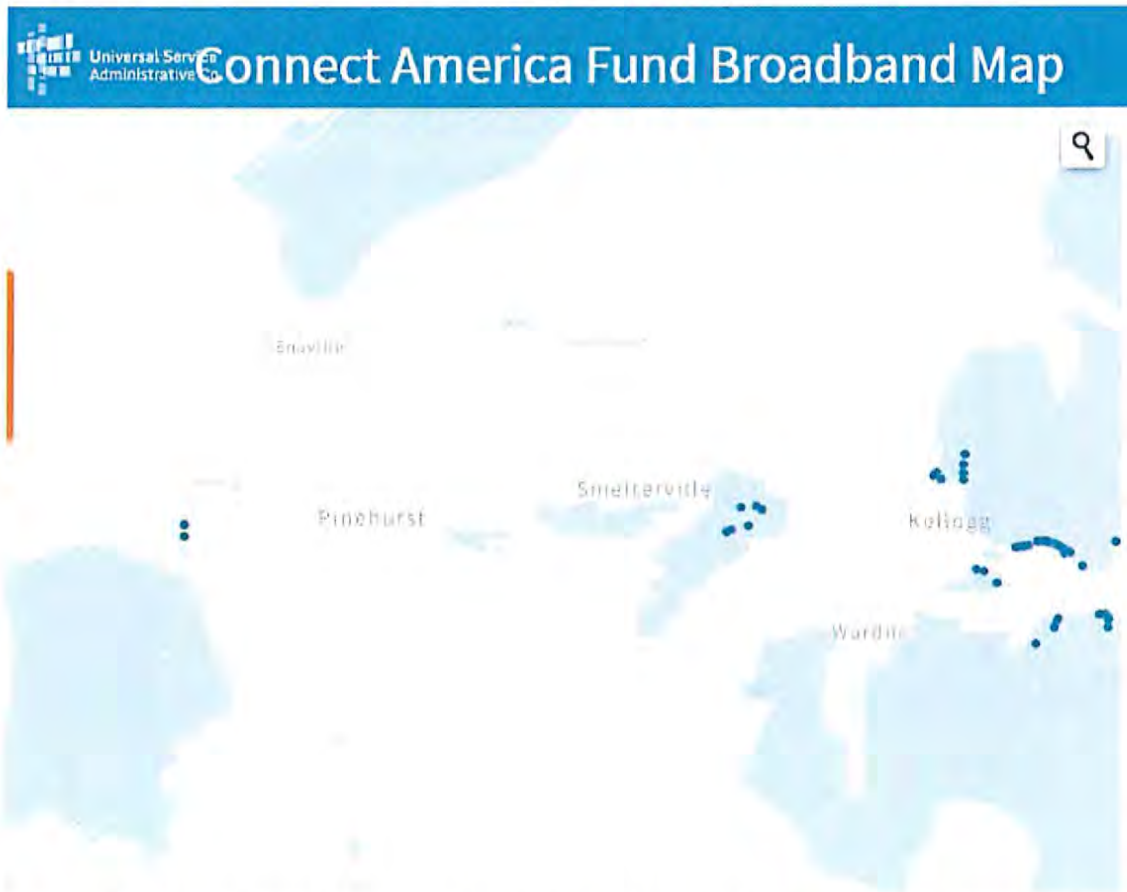
(Please see APP-004829_WoW_Attachment.pdf provided in email submission)

Application Section: Additional Requested Information

Question: Has your project area received or been awarded any federal funds (CAFII/RDOF/USDA Reconnect) in the past two years, or will it receive federal funding over the next two years? If so, explain why additional funding was/is necessary in the project area?

Answer: No

Challenge: The proposed area is a recipient of CAF II funds.



Question: Question: Has your project area received state funds (Cares Act Broadband Grants, E-Rate, etc.) in the past two years? If so, please explain what state funds were received and why the additional state funding was necessary in the project area.

Answer: No

Challenge: The schools and libraries in the project area all receive E-Rate funds.


Question: Submit 10 or more, recent, fixed location Speed Tests.

Challenge: Speed test results submitted do not accurately reflect the existing availability of broadband service, specifically via Wired or Wireless product offerings. Attached are speed test results from the Proposed Service Area.


Speed Test to Rick Fuller at the Mouse Pad in Pinehurst

AP MAC Address	00:04:56:21:E9:0C
Packet Size	<input type="radio"/> Small (128 bytes) <input type="radio"/> Medium (800 bytes) <input checked="" type="radio"/> Large (1500 bytes)
Duration	<input checked="" type="radio"/> 4 seconds <input type="radio"/> 10 seconds <input type="radio"/> 20 seconds
<div>Start Test</div>	
Downlink	84.444 Mbps
Uplink	24.324 Mbps

Speed Test to Swan residence in Pinehurst

Mode	<input checked="" type="radio"/> Single Radio <input type="radio"/> Dual SM
 SM MAC Address	00:04:56:21:79:F5
Packet Size	<input type="radio"/> Small (128 bytes) <input type="radio"/> Medium (800 bytes) <input checked="" type="radio"/> Large (1500 bytes)
Duration	<input checked="" type="radio"/> 4 seconds <input type="radio"/> 10 seconds <input type="radio"/> 20 seconds
<div>Start Test</div>	
Downlink	82.938 Mbps
Uplink	21.786 Mbps
Aggregate	104.724 Mbps

Speed Test to the Galena Golf course

 SM MAC Address

00:04:56:C1:7C:5D

Packet Size

☐ Small (128 bytes)
☐ Medium (800 bytes)
☒ Large (1500 bytes)

Duration

☒ 4 seconds ☐ 10 seconds ☐ 20 seconds

Start Test

Downlink

90.282 Mbps

Uplink


25.464 Mbps

Aggregate

115.746 Mbps

In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already sufficiently served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market.

Respectfully,



William B. Geibel, Jr.
BSEE/RCDD/NTS
President
Wired or Wireless, Inc.



1. APP-004829 Attachment



July 22, 2021

Idaho Department of Commerce Broadband Office
700 W State Street
Boise, ID 83702
VIA email: broadband@commerce.idaho.gov

To Whom It May Concern:

Columbine Telephone Company, Inc. dba Silver Star Communications hereby submits its challenge to the application of Teton County for an award under the Idaho Broadband Grant Program. The reason behind Silver Star's challenge is simply that the area in which the proposed project is located currently receives federal funding for broadband expansion, under the Alternative Connect America Model II funding mechanism. While the County's application is a worthwhile cause, the underlying grant program guidelines appear to render the project ineligible for grant program funding because federal funding for expenses "have been or will be reimbursed." Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments; Coronavirus Relief Fund program guidance, 86 Fed. Reg. 4182 (January 15, 2021).

Silver Star stands ready to assist the County with its connectivity needs and upon its request for service will accommodate to the greatest extent possible.

Questions concerning this letter may be directed to me or to Barbara Sessions, Chief Operating Officer, 307-883-6042.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle Motzkus", written over a faint, larger signature.

Michelle Motzkus
Legal & Regulatory Administrator



22 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004836

Company Name: Kootenai County

Application Title: Twin Lakes Village

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge: We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a "necessary expenditure" incurred "due to the public health emergency" as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for "Necessary Expenditures Incurred Due to the Public Health Emergency" (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

To the extent the proposed project claims to enable telework and distance learning for those students and workers required to telecommute upon a Covid-19 positive diagnosis, we still submit that the project is still not "necessary" to respond to the public health emergency, because the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Second, the proposed expenditures will not be incurred "due to" the public health emergency as defined by the Act. CARES Act expenditures are "due to" the public health

emergency if they are used to “respond to the public health emergency”. The area targeted by the application is currently served by multiple broadband companies offering internet coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to “respond to the public health emergency.” Thus, instead of addressing the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

Question: Provide an overview of the project, including why the project is important and how it will address the broadband needs of the community. Include a scope of work description, along with a list of ISPs that can provide the proposed service.

Answer: The project will provide last mile fiber facilities to provide broadband to 375 household units in unincorporated Twin Lakes Village, Kootenai County, Idaho. Twin Lakes Village is a mix of single-family homes and multi-family. Based on speed tests that we have gathered, residents rarely report speeds over 5 Mbps download. Speed tests showing more than that are rare and only in times when usage is at its lowest. Intermax will provide fiber service to residents and businesses....

Challenge: The Twin Lakes Village is a high-end residential community surrounding a private golf club, and adjacent to highly desired lake front. Multiple providers serve this area. Providers such as Wired or Wireless, Ziply, Ptera and Suddenlink continue to use their private funds to upgrade their networks and provide better and better service to the home. Fatbeam has fiber service available in the highway that passes the development. Suddenlink has both fiber and coax distribution. The FCC Broadband map shows the available services. This area is well served by multiple providers.



Federal
Communications
Commission

Fixed Broadband Deployment

[Home](#)

[Location Summary](#)

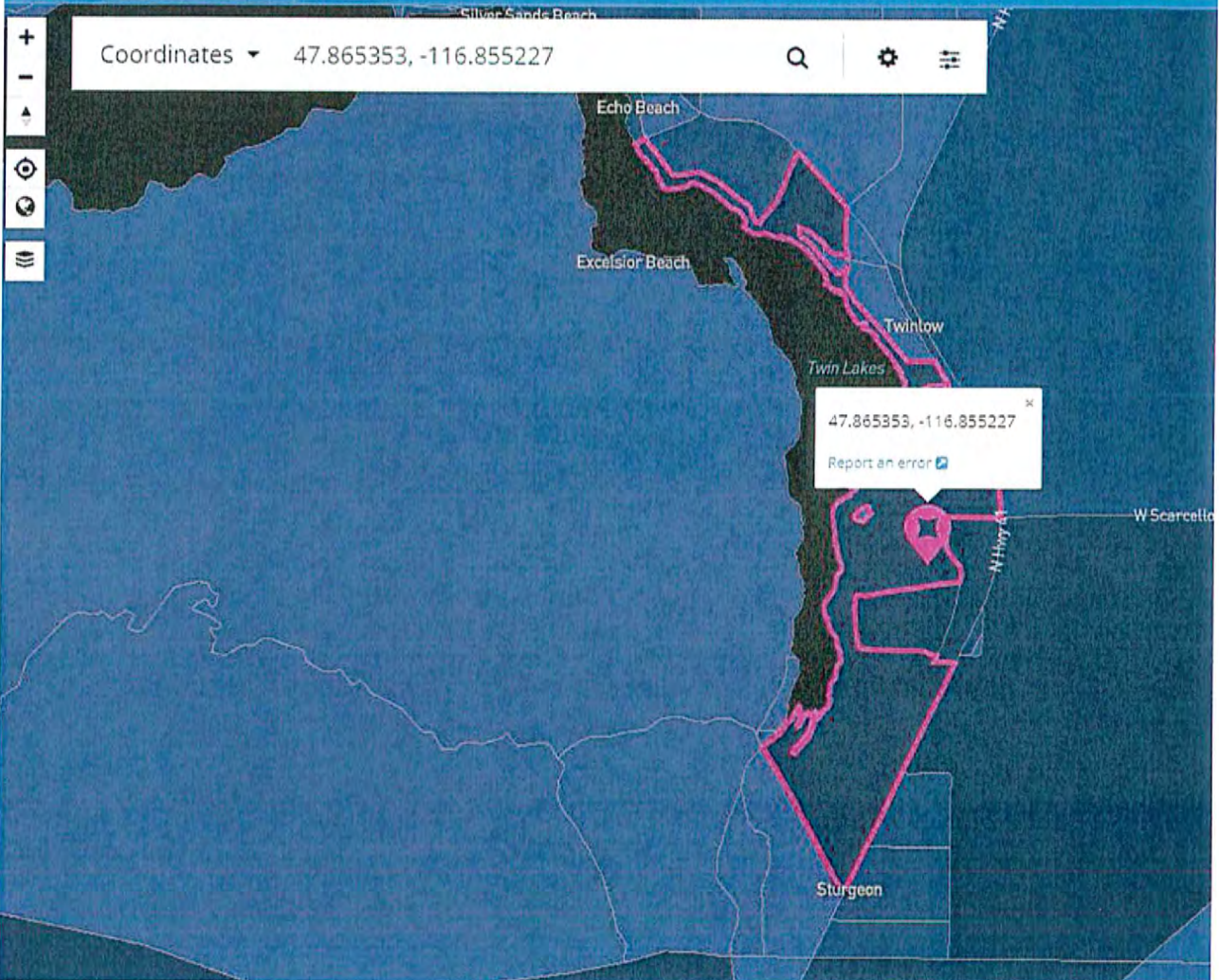
[Area Summary](#)

[Area Comparison](#)

[Provider Detail](#)

[Data Download](#)

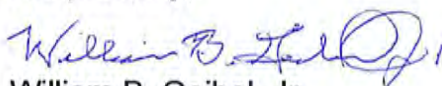
[About](#)



Provider	Tech	Down (Mbps)	Up (Mbps)
Northwest Fiber, LLC Ziplay Fiber Northwest Fiber, LLC dba Ziplay Fiber	ADSL	115	7
ViaSat, Inc.	Satellite	100	3
Wired or Wireless, Inc.	Fixed Wireless	30	10
Hughes Network Systems, LLC	Satellite	25	3
Altice Suddenlink Communications	Cable	25	5
Ptera Inc.	Fixed Wireless	25	10
Northwest Fiber, LLC Ziplay Fiber Northwest Fiber, LLC dba Ziplay Fiber	ADSL	12	1
Newmax, LLC	Fixed Wireless	10	1
Northwest Fiber, LLC	ADSL	6	1
VSAT Systems, LLC	Satellite	2	1.3

In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. Providing a grant to a single provider is NOT the best way to help the community of Twin Lakes.

Respectfully,



William B. Geibel, Jr.
BSEE/RCDD/NTS
President
Wired or Wireless, Inc.

FyberCom LLC



Broadband Grant Challenge Extension

Prepared by: George Swanson

July 21, 2021

Application Challenging: APP-004857

Speed Tests Submitted

The submitted speed tests are not valid due to grant requirements. 6 are wireless tests, 3 are on lte. Also to note some the tests posted are on FyberCom's current network and plans they are testing with is exactly what plan and rate the customer is on. Better plans are available for each customer however it is their responsibility to change their plans with us.

4862 E 671 N is on a 40 x 10Mbps plan

664 N is on a 15 x 3Mbps plan

663 N is on a 10 x 2Mbps plan (wireless speed test)

2870 E 664 N is on a 20 x 12MBPS plan (wireless speed test)

FyberCom LLC



Broadband Grant Challenge

Prepared by: George Swanson

July 21, 2021

Application Challenging: APP-004857

BASIS OF CHALLENGE

Overview

FyberCom challenges grant application APP-004857 for failure to meet the application criteria. FyberCom has a significant financial investment in building and expanding the broadband infrastructure in the Roberts area. On application APP-004857, it's also claimed that FyberCom only has one tower on the butte, please reference to pictures 4 and 5 for towers and actual tower site in Roberts city limits. Photo's 4 and 5 will also show the coverage for the 4 towers within 9 miles of the City of Roberts. All of these tower location are available with 40 x 10Mbps.

Availability of Service

FyberCom is servicing this area currently with 95% of the proposed area covered by its Fixed Wireless products and services with 100 x 10Mbps. FyberCom currently services 58% of the businesses and residences in the proposed area with its 40 x 10Mbps product. Refer to picture 2 for current data on FyberCom's availability of service. Gigabit service is available upon request. See below for current coverage map. FyberCom is also serving Roberts City Building with 100 x 100Mbps service. See below map with current served homes and business serviced by FyberCom.

Criteria of Application

According to Form 477 of the FCC's broadband map located at broadbandmap.fcc.gov FyberCom is currently servicing and exceeding all of the proposed grant area with more than the minimum speeds required. FyberCom has already built out the proposed area with its private funds. They have spent over several years building the infrastructure in the proposed area. According to the FCC data there are 4 other providers who also cover this area. This proposed grant is an overbuild of the Roberts area. See Form 477 data below that covers each census block in the proposed grant area.

Cost-effectiveness of the ISP is not transparent. Using state funds to provide for the greater good of our citizens is the goal. However after analyzing www.directcom.com there is no posted pricing, fees, data caps, activations, and installation fees.

The local Roberts Emergency Care has the option for broadband access through FyberCom. The same system that FyberCom provides for the City of Roberts at 100 x 100Mbps is also available to the Emergency Care.

When further researching the claim of '20-30 miles to attend classes' the current school at this actual distance is West Jefferson High School at 21.3 miles. All other schools and urgent centers with the miles from the center of Roberts will be listed below. Each of these locations are well inside of the distances provided.

- Roberts Elementary, 682 N 2858 E Roberts, 0.6 miles
- Rigby High School, 3850 E 300 N Rigby, 13 miles

- Farnsworth Elementary, 305 N 3700 E Rigby, 11.8 miles
- Midway Elementary, 623 N 3500 E Menan, 6.4 miles
- Roberts Fire District, 635 N 2880 E Roberts, 0.1 miles
- Community Family Clinic, 651 N 2858 E Roberts, 0.1 miles
- Urgent Care 24 hour, 711 Rigby Lake Rigby, 13 miles

477 Form Data

FRN: 0023650807 FyberCom LLC

Proposed Census Blocks : 160519601001172, 160519601001171, 160519601001171, 160519601001186, 160519601001189, 160519601001199, 160519601001203, 160519601001211, 160519601001210, 160519601001216, 160519601001212, 160519601001247, 160519601001246, 160519601001251, 160519601001260

Here is FyberCom's 477 Form data providing proof of the serviced area:

Picture Data

Roberts FBD Data

160519601001172	FyberCom LLC	70	1	40	10	1
160519601001210	FyberCom LLC	70	1	40	10	1
160519601001189	FyberCom LLC	70	1	40	10	1
160519601001216	FyberCom LLC	70	1	40	10	1
160519601001251	FyberCom LLC	70	1	40	10	1
160519601001199	FyberCom LLC	70	1	40	10	1
160519601001247	FyberCom LLC	70	1	40	10	1
160519601001260	FyberCom LLC	70	1	40	10	1
160519601001211	FyberCom LLC	70	1	40	10	1
160519601001203	FyberCom LLC	70	1	40	10	1
160519601001171	FyberCom LLC	70	1	40	10	1
160519601001246	FyberCom LLC	70	1	40	10	1
160519601001212	FyberCom LLC	70	1	40	10	1
160519601001186	FyberCom LLC	70	1	40	10	1
160519601001186	FyberCom LLC	50	1	1000	1000	1

Picture 1: Roberts City Office Speed Test, Address: 647 2872 E



Picture 2: FyberCom's FCC Broadband Map Data

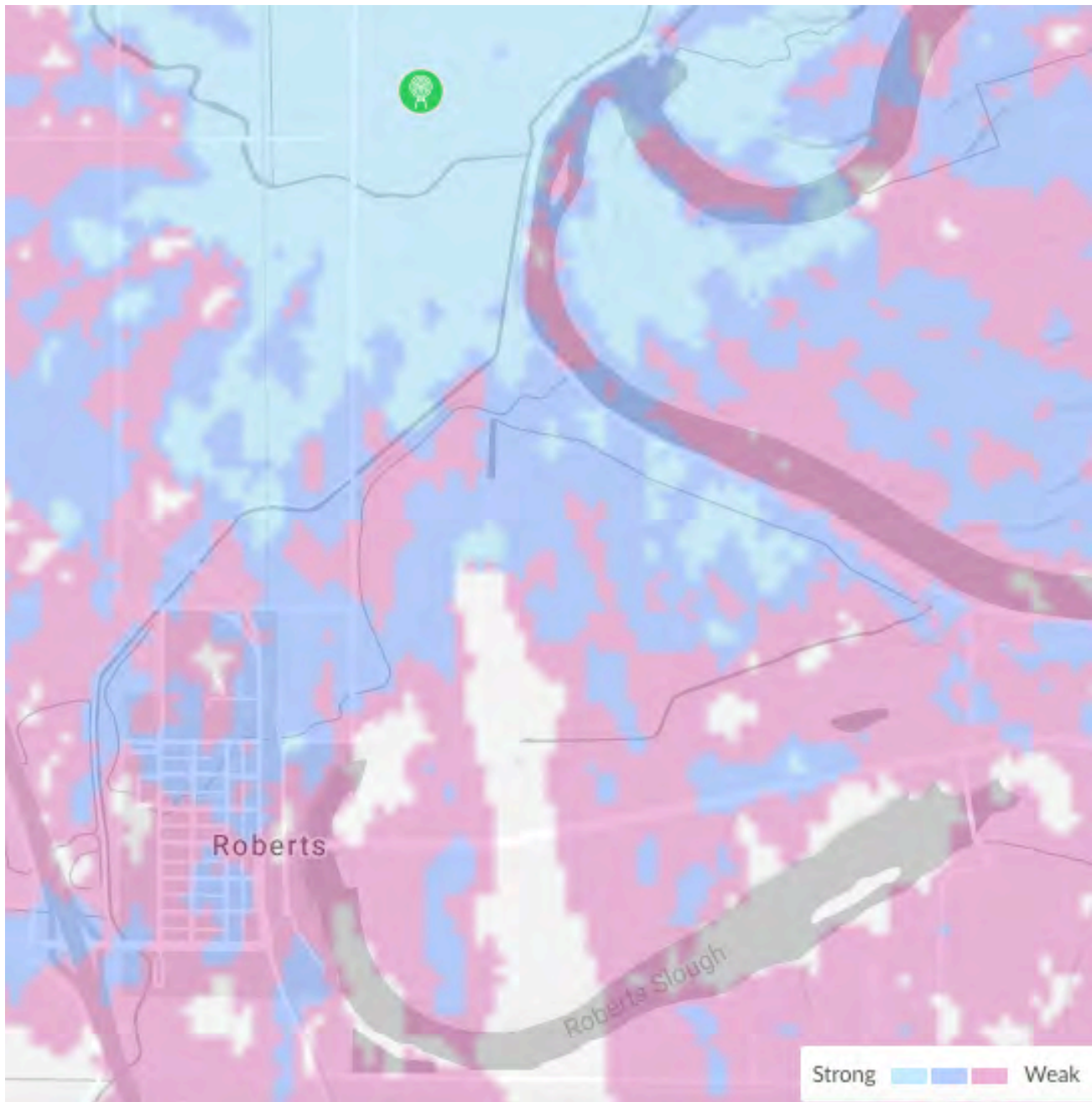


Picture 3: FyberCom current customer base with capabilities of 40 x 10Mbps.

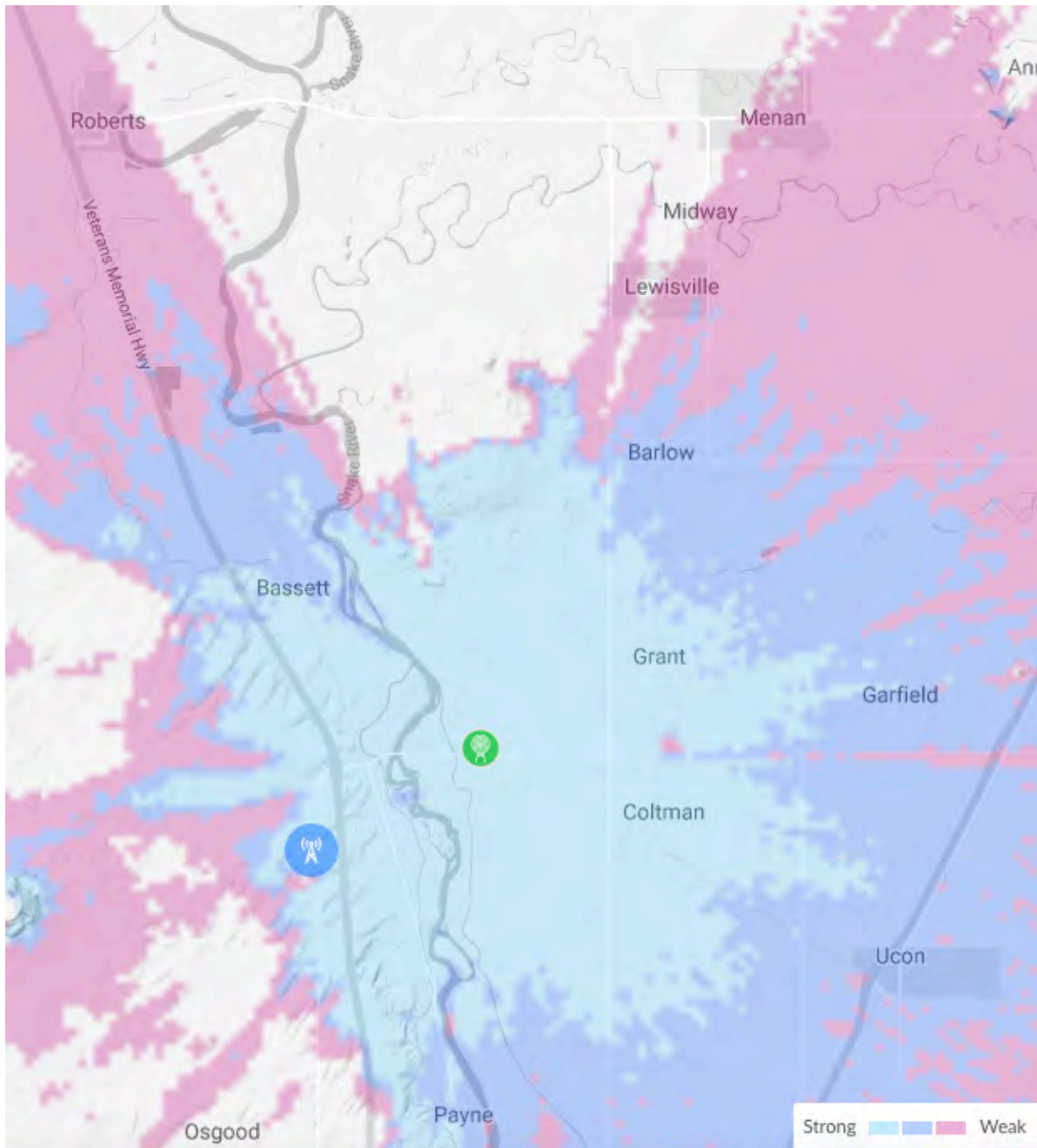


Picture 4: FyberCom network coverage, with its 4 towers surrounding the City of Roberts.

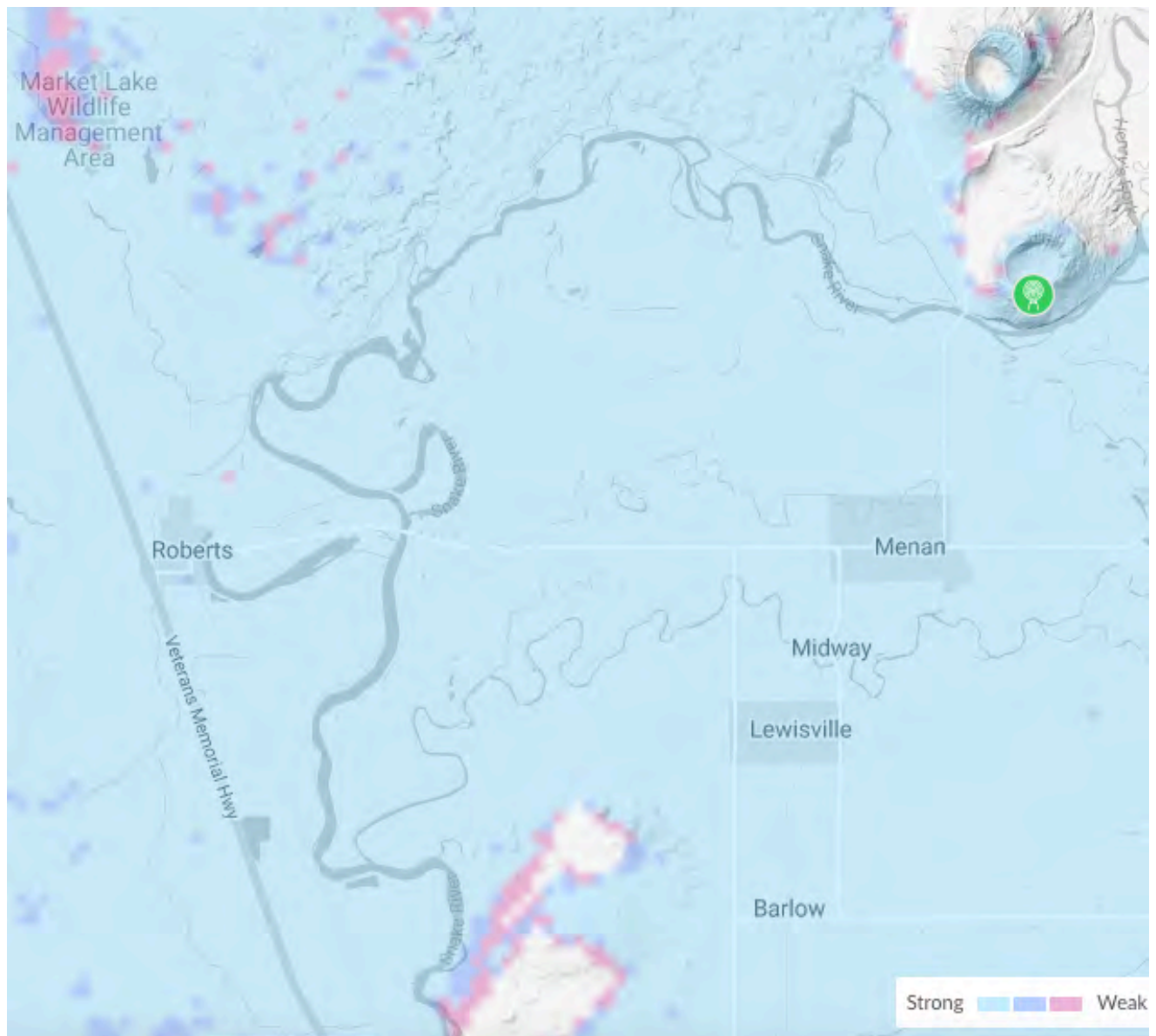
Tower 1-



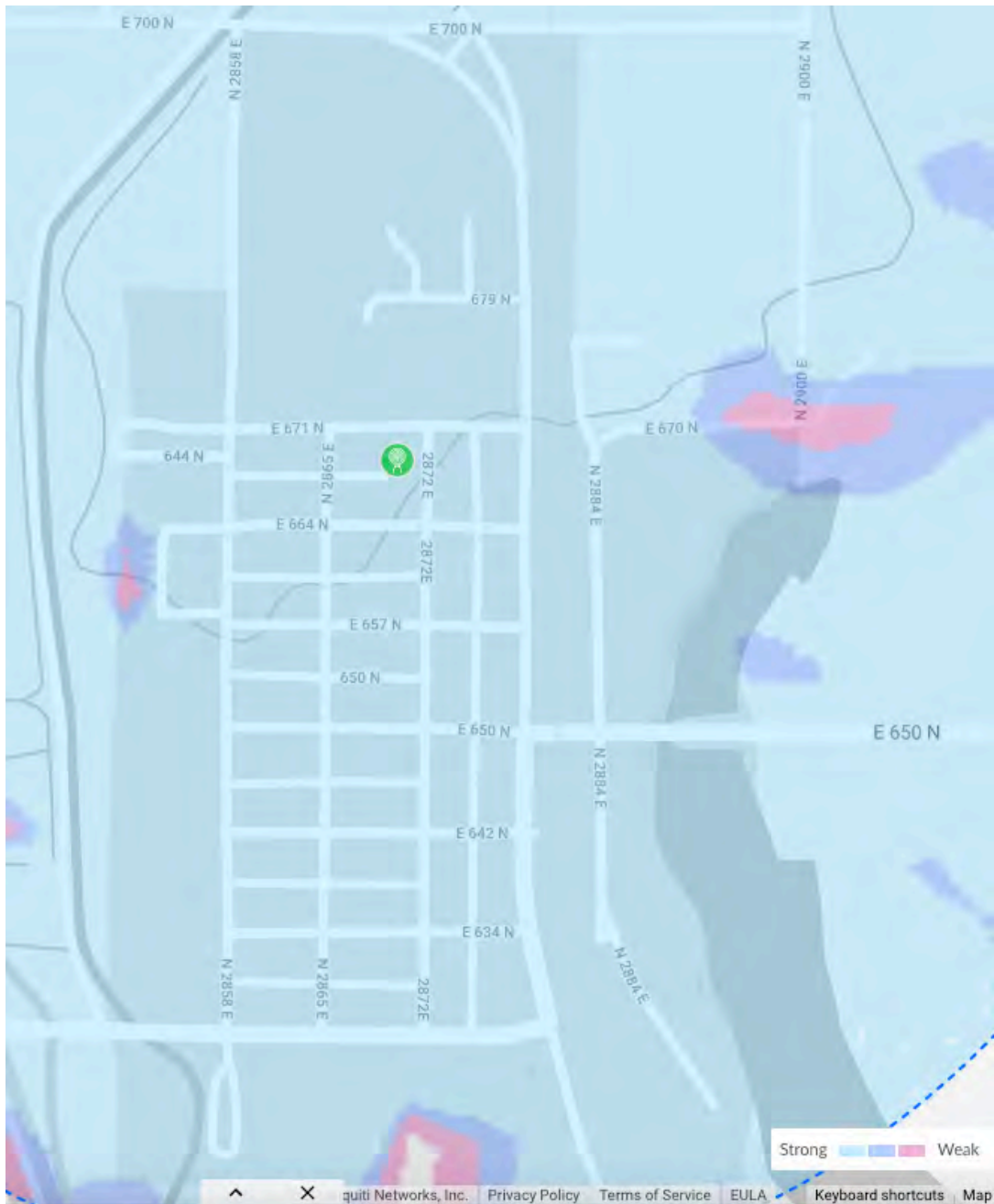
Tower 2-



Tower 3-



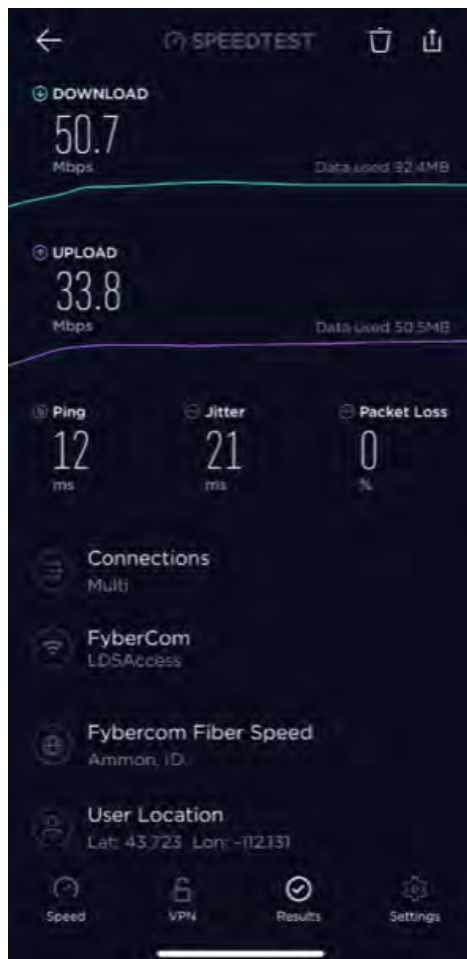
Tower 4-



Picture 5: FyberCom's Roberts Tower, in city limits. (Tower 4 coverage map above)



Picture 6: Roberts LDS Church Speed Test, Address: 663 N 2858 E



Final Remarks

FyberCom has been providing broadband to Roberts ID since 2014. FyberCom is continuing to invest private funds to build out the proposed grant area. This area is NOT underserved and does NOT meet the grant criteria.



23 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004858
Company Name: Wallace
Application Title: Zipline

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge: We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a “necessary expenditure” incurred “due to the public health emergency” as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for “Necessary Expenditures Incurred Due to the Public Health Emergency” (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID–19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID–19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

Second, the proposed expenditures are clearly not "necessary" under the grant's guidelines in that the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Additionally, the proposed expenditures will not be incurred "due to" the public health emergency as defined by the Act. CARES Act expenditures are "due to" the public health emergency if they are used to "respond to the public health emergency". The area targeted by the application is currently served by multiple broadband companies offering internet

coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to "respond to the public health emergency." Thus, instead of addressing the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

Finally, FAQ 28 on page 4189, Volume 86 No, 10 of the Federal Register states that capital improvement projects that broadly provide potential economic development in a community are not eligible for Fund payments unless they are necessary expenditures incurred due to the COVID-19 public health emergency. This further highlights that not all capital improvements that generally promote economic development or benefit the community qualify for CARES Act grants—only those that are "necessary" and incurred "due to" the public health emergency. And the fund payments must only be used for expenditures necessary to address the current COVID-19 public health emergency, not in anticipation of future emergencies. (See FAQ 41, page 4191).

Application Section: Additional Requested Information

Question: Has your project area received or been awarded any federal funds (CAFII/RDOF/USDA Reconnect) in the past two years, or will it receive federal funding over the next two years? If so, explain why additional funding was/is necessary in the project area?

Answer: No

Challenge: The proposed area is a recipient of CAF II funds. See the Connect America Fund Broadband Map.

Universal Service Administrative Company Connect America Fund Broadband Map



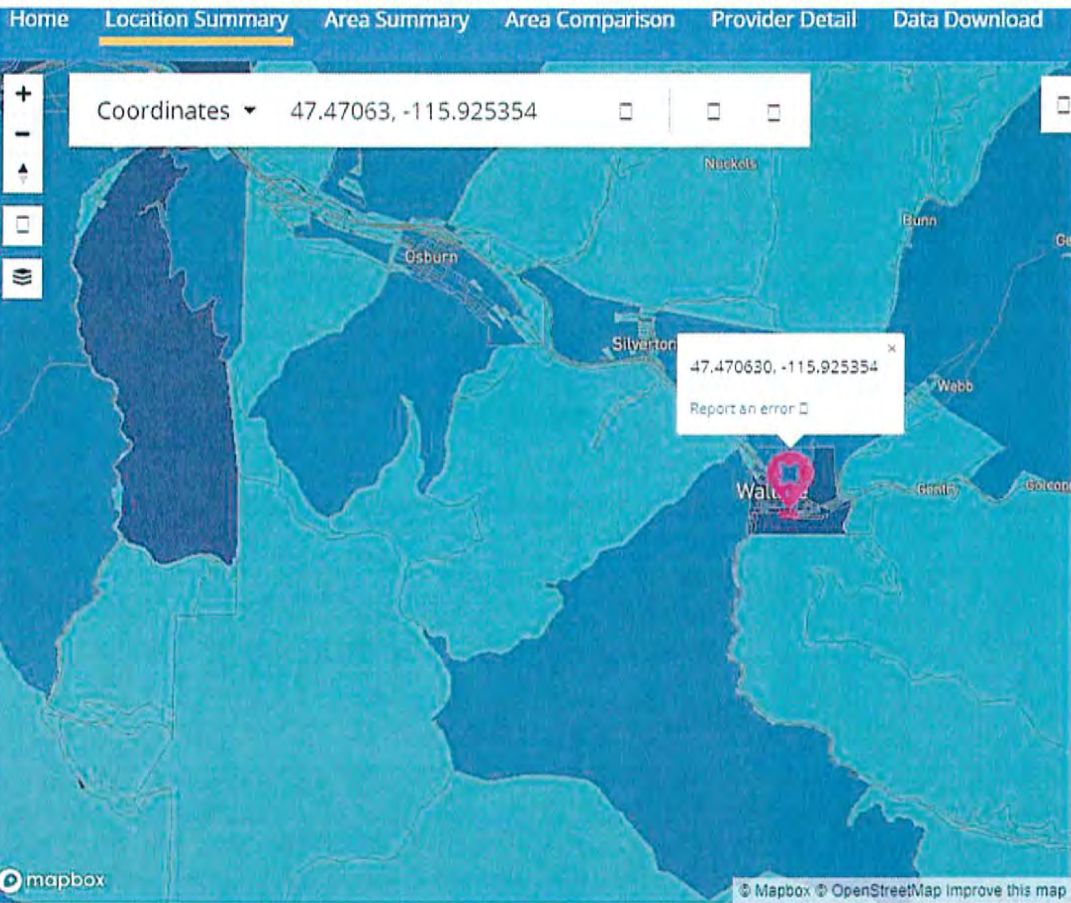
Question: Question: Has your project area received state funds (Cares Act Broadband Grants, E-Rate, etc.) in the past two years? If so, please explain what state funds were received and why the additional state funding was necessary in the project area.

Answer: Proposed service area did not receive state funding. Due to time constraints, and equipment shortages, this project area could not be included. This project will improve the existing service area to include an additional 225-250 households in the western and southern edges of town as well as county residents and businesses along the I-90 corridor not previously served.

Challenge: The applicant failed to properly answer the question. The Schools and Libraries in the proposed area all receive E-Rate funds.

Question: Submit 10 or more, recent, fixed location Speed Tests.

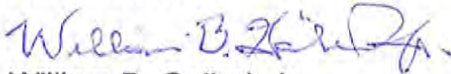
Challenge: Speed test results submitted do not accurately reflect the existing availability of broadband service, specifically via Ziply. See screen shots below.



Provider	Tech	Down ▾ (Mbps)	Up (Mbps)
<input type="checkbox"/> Northwest Fiber, LLC Ziply Fiber Northwest Fiber, LLC dba Ziply	ADSL	115	7
<input type="checkbox"/> ViaSat, Inc.	Satellite	100	3
<input type="checkbox"/> Hughes Network Systems, LLC	Satellite	25	3
<input type="checkbox"/> Northwest Fiber, LLC	ADSL	12	1
<input type="checkbox"/> Northwest Fiber, LLC	ADSL	6	1
VSAT Systems, LLC	Satellite	2	1.3

In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already sufficiently served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. This grant should not be funded to help keep the playing field equal.

Respectfully,

A handwritten signature in blue ink, appearing to read "William B. Geibel, Jr.", with a stylized flourish at the end.

William B. Geibel, Jr.
BSEE/RCDD/NTS
President
Wired or Wireless, Inc.

July 23, 2021

Erika E. Malmen
EMalmen@perkinscoie.com
D. +1.208.343.3434
F. +1.208.343.3232

Via E-Mail: broadband@commerce.idaho.com

Mr. Eric Forsch
Broadband Development Manager
Idaho Department of Commerce Broadband Office

Re: Challenge of CARES Act Broadband Grant (APP-004860)

Dear Mr. Forsch:

Consistent with the schedule set in your July 19, 2021 email providing notice of CARES Act Broadband Grant Applications, Spectrum Pacific West (“Spectrum”) hereby submits its challenge to **APP-0044860** submitted by Kootenai County (the “Applicant”) requesting \$1,113,560.00 in CARES Act Funding to construct fiber connections to two microwave towers in Kootenai County that were recently constructed using 2020 CARES Act funding (the “Application”). In this situation, the Applicant is seeking funds for a project that would be constructed and owned by a private company, Intermax Networks.

For the reasons detailed in this challenge letter, the Application should be denied.

A. The Application Should Be Denied

The CARES Act provides economic assistance to address the coronavirus pandemic in the United States. Idaho’s implementation of the CARES Act is subject to guidance provided by the U.S. Treasury. With regard to funding infrastructure projects, such as here, the Federal government makes clear that use of CARES Act Fund (the “Fund”) to expand rural broadband capacity to assist with distance learning and telework “would only be permissible if [the fund payments] are necessary for the public health emergency.”¹ Further, reimbursement of the “cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed...would not be eligible uses of Fund payments.”²

In response to the CARES Act, in 2020, the Idaho Department of Commerce (“IDOC”) originally solicited applications from interested parties to the State of Idaho Broadband Grant Program. Consistent with the CARES Act, the original Program Guidelines for Household

¹ See <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>.

² *Id.* at FAQ 36.

Grants contained the principal of prohibiting overbuilding as a fundamental funding criterion. Specifically, Section 2(A)(ii) and (iii) stated as follows:

ii. Meet the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, facilitate distance learning, and improve public safety...

iii. **Be a project that serves underbuilt areas and does not overbuild existing broadband service**.... (emphasis added)

The same concepts were included in the Guidelines for Public Safety and Local Government programs in Sections 2.A.iii and iv. Section 2(A)(iv) stated that in order to be eligible a project must:

iv. Be a project that **does not overbuild existing broadband infrastructure at the required speeds** to a local government facility for public safety and local governance. (emphasis added)

In 2021, the IDOC solicited grant applications to allocate remaining CARES Act funds and issued slightly modified grant guidelines. The new guidelines continue to require the project to satisfy the CARES Act guideline “to address key areas of public health and safety by improving opportunities to telework, facilitate distance learning, and improve public safety...”³ and “must be necessary due to the COVID-19 public health emergency.”⁴

The 2021 Guidelines further required that:

iii. Projects must expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety. Projects that would not be expected to increase capacity to a significant extent until the need for telework, telehealth, distance learning, and public safety have passed due to this public health emergency would not be necessary due to the public health emergency and therefore would not be eligible uses of Broadband Grant funds. Projects must provide broadband service within the proposed project areas.

Finally, the 2021 Broadband Guidelines specifically require that:

³ 2021 Guidelines, § 2.A.i.

⁴ Id., §2.A.ii.

iv. **Projects must be completed and operable and verified no later than December 31, 2021.** (original emphasis)

The original language specifically prohibiting overbuilding found in the 2020 Guidelines appears to have been omitted in the 2021 version. Nevertheless, it would be impossible to meet the remaining 2021 guidelines for an area that already has high speed broadband service given that the 2021 guidelines require *expansion* of capacity in the project area to improve telework, telehealth, distance learning, and public safety, particularly for a project sought to be expanded that was built with CARES Act funds in the first place.

As detailed here, the Project will not be completed and operable by December 31, 2021, otherwise fails to meet the CARES Act criteria, and will overbuild both the existing network already constructed by Intermax using 2020 CARES Act funding and Spectrum's existing service in the region.

1. The Proposed Project Will Not be Completed and Operable Prior to the December 31, 2021 Deadline

A critical element of any CARES Act funding, under the specific rules set forth in the IDOC guidelines, is that the project must be completed *and operable* by December 31, 2021 such that benefits can be obtained from the project during the COVID-19 related pandemic. In this situation, Applicant acknowledges that the project will not be completed and operable by December 31, 2021. This alone merits denial of the project.

Specifically, the Application states under "Scope of Work":

The project will build about 11.35 miles of last mile fiber to two existing last mile fixed wireless towers. The route of the new fiber will entail 4 railroad crossings. The short time frame for the CARES act grant does not allow for the railroad crossings permit process. This proposal will cover the cost of the fiber in the road up to the RR crossings on both sides. The complete project under this grant will be fiber on poles or in the ground *ready to be completed* by adding the RR r/w crossings of about 100' each....Once the necessary railroad permits are received, Intermax will provide private capital *to complete the project*. (emphasis added).

A similar statement is made by Applicant made in the response to the question of all applicants: "Are permits, permission, and zoning requirements all obtainable in order for the project to be completed and paid for by December 31, 2021 if it is a CARES funded project? Instead of the

Applicant's carefully worded response attempting to separate one project into two parts, a more accurate response to the inquiry is actually a simple "NO."

The Guidelines do not provide an opportunity to break an application into multiple parts and only seek funding for the parts that can be completed by December 31, 2021. And for good reason -- the CARES Act is intended to address an emergency and its objectives are only met if the funded projects are completed *and* operable by December 31, 2021. On its face, this Application cannot meet this standard as it will be neither fully completed or operable by December 31, 2021 and, as such should be denied.

2. The Proposed Project also Fails to Satisfy the CARES Act Criteria and the Program Guidelines

The CARES Act Criteria are very clear that funding should only be provided to projects that will provide emergency relief closely related to the COVID-19 pandemic and in response to the public health emergency. Equally clear is the requirement that an appropriate use of CARES Act Funds requires a nexus to projects that can be implemented in an emergency manner to address pandemic-related needs for telework, telehealth or distance learning. Moreover, the project must expand capacity, rather than overbuild existing service.

Spectrum submits that the proposed project fails to meet several of these criteria. First, the funding is proposed to supplement projects already constructed and in place that were funded by 2020 CARES Act fund. To do so, the Applicant is asking to "double-dip" into the CARES Act Fund after receiving funding in the last cycle to provide service. Having done so, it is now seeking substantial funding to add related facilities which will not be operable until well after the December 31, 2021 deadline. Because the Intermix system itself already exists to provide service to residents in this area, this area cannot properly be viewed as an unserved or underserved area, and residents will not experience expansion of services that could be used for pandemic-related telehealth, distance learning, remote work. Although the Applicant acknowledges in the Application (at page 4 of 8) that the area is in fact served by fixed wireless providers using the towers built last year and by Spectrum, the Applicant then asserts that this is an area that is somehow unserved or underserved. This position, however, would mean that the CARES Act funds used to construct the towers in 2020 did not actually provide sufficient capacity in the first place. This certainly cannot be the case, or funding would not have been properly provided in 2020.

Second, this project appears to fall squarely into the category of "projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed," thus making it ineligible for funding. In the Application, as discussed above, the Applicant acknowledges that it will not be able to fully complete the project due to its inability to complete the railroad crossings. Instead, the Applicant plans to partially build a

project and then finish it later. As a result, the Applicant will be unable to provide any service using the funded facilities until well into 2022 or longer and outside of the current health emergency, which is a clear violation of the specific guidelines. Thus, while the proposed project may one day add redundancies to the current system, such additions will not be operational before December 31, 2021, and not be of any use to residents in the project area during the COVID-19 state of emergency. The Application, in fact, concedes that the facilities that will be completed sometime after the deadline are actually being built in order to “future-proof” the existing towers for growth and increased speeds and being made “[c]onsistent with our Intermax long-term planning.”⁵

Third, in addition to overbuilding the Intermax facilities, already funded by 2020 CARES Act funds, Applicants concede that they are overbuilding in areas already served by Spectrum. Specifically, at page 4, the Application states that both Intermax and Spectrum provide service in the project area at speeds above 25/3. The scarce funds available would be much better used to construct facilities in truly unserved areas.

Overall, the proposed project falls outside of the range of projects eligible for funding under the CARES Act and the IDOC guidelines, and the Application should be rejected.

3. The Proposed Project Would Overbuild Spectrum’s Existing Service Area

As described above, the 2021 Guidelines appear to downplay the restriction that funding should not be awarded to build out service to an already served area. Even without this explicit guideline, however, such restriction is implicit. If another provider is already meeting the needs of the residents for telework, distance learning, telehealth, etc., it is impossible that any project will expand broadband capacity for this health emergency situation in the project development.

The proposed project proposes service in areas already served by Spectrum.⁶ As acknowledged by Applicant, Spectrum serves in this area as does the Applicant itself and other fixed wireless providers. Such use of scarce public funds is inconsistent with the CARES Act program and reflects bad policy.

B. Conclusion

The Application seeks public funding for a project that will clearly not be operable by December 31, 2021. On that ground alone, the application should be denied. In addition, the proposed funding will not expand service needed for emergency needs related to the COVID-19 pandemic and would use scarce public funds both to overbuild areas already served by the Applicant using 2020 Cares Act funds and by Spectrum and fixed wireless. To do so would allow the Applicant

⁵ Application at page 7.

⁶ A declaration is attached from Danielle Wade providing additional information on Spectrum’s service in the area.

Mr. Eric Forsch
July 23, 2021
Page 6

to double-dip into the CARES fund for a non-pandemic, future-oriented project. Accordingly, Spectrum respectfully requests that funding be denied for APP-004860.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Erika E. Malmen", with a long horizontal flourish extending to the right.

Erika E. Malmen

Attachments



AFFIDAVIT
IDOC APP-004860

STATE OF WASHINGTON
COUNTY OF CLARK, to wit.

I, Danielle Wade, being duly sworn, deposes and says as follows:

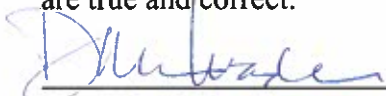
1. I am an Area Vice President, Field Operations for Charter Communications, Inc., a publicly-held Delaware corporation with a principal place of business in Stamford, CT ("Charter"). I have personal knowledge of the facts set forth in this affidavit.
2. Charter is a provider of broadband internet services, among other products, and owns the cable system that provides broadband/high speed internet access (the "System") operated by its affiliate Spectrum Pacific West, LLC in Idaho, including in Coeur d'Alene and Rathdrum, both areas where APP-004680 seeks CARES Act Funding to overbuild. Spectrum Pacific West, LLC is a Delaware limited liability company with a principal place of business in Missouri.
3. I am familiar with the System and hereby declare and confirm that, based on information and belief, the System is deployed in and architected, designed and constructed to deliver residential and business internet with a connection of up to 940 Mbps download/35 Mbps upload throughout its service territory in Idaho, including areas that are the subject of Charter's Challenge to APP-004860 for funding to build facilities that would potentially overbuild in the Coeur d'Alene and Rathdrum areas where Charter provides broadband services. Charter's baseline speed in Idaho is 200 Mbps download/10 Mbps upload.
4. Attached hereto are representative bills, with customer information redacted, of customers taking service from Charter/Spectrum in the identified areas. These bills show that Charter/Spectrum broadband services to residents in this area at speeds well above 25 Mbps download and 3 Mbps upload.
5. The different internet tiers reflected on the billsequate to the following speeds:

○ Spectrum Internet	=	200 Mbps/10 Mbps
○ Spectrum Ultra	=	400 Mbps /20 Mbps
○ Spectrum Internet Assist	=	30 Mbps/4 Mbps
○ Spectrum Internet Gig	=	Up to 940Mbps/35 Mbps

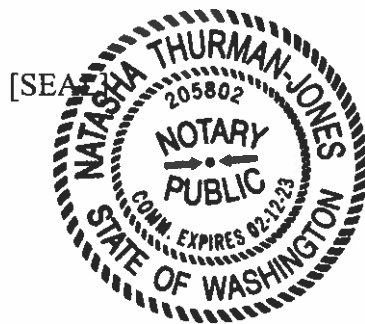
Further this affiant sayeth not.

[SIGNATURE PAGE FOLLOWS]

Subscribed and sworn before me, a notary public of and for the jurisdiction aforesaid, this 23rd day of July 2021, by Danielle Wade, as AVP, Field Operations for Charter Communications, Inc., who affirmed that all of his declarations contained in the above affidavit are true and correct.



Danielle Wade,
AVP, Field Operations for Charter Communications, Inc.





Notary Public

My commission expires: 2-12-23

153207094.2



July 17, 2021

Account Number: [REDACTED]
Security Code: [REDACTED]
Service At: [REDACTED] W JUDY K DR
RATHDRUM ID 83858-8238

Have questions about your bill?

Visit us at [Spectrum.net/billing](https://spectrum.net/billing)

Or, call us at 1-855-70-SPECTRUM (1-855-707-7328)

Summary

Service from 07/17/21 through 08/16/21
details on following pages

Previous Balance	[REDACTED]
Payments Received	[REDACTED]
Remaining Balance	[REDACTED]
Bundled Services	[REDACTED]
[REDACTED]	[REDACTED]
Internet Services	[REDACTED]
Other Charges	[REDACTED]
Taxes, Fees and Charges	[REDACTED]
Current Charges	[REDACTED]
Credit Balance - Do Not Pay	[REDACTED]

SPECTRUM NEWS AND INFORMATION

Billing Statements. Braille or large print billing statements are available by request and can be provided within 30 days of Spectrum's receipt of the request. To request these statement options, contact Spectrum's Customer Care Billing Department at 1-855-707-7328.

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Thank you for choosing Spectrum.

We appreciate your prompt payment and value you as a customer.



4145 S. FALKENBURG RD RIVERVIEW FL 33578-8652
8448 6100 NO RP 17 07182021 YNNNNNNN 01 001426 0009

[REDACTED]
[REDACTED] JUDY KAY DR
RATHDRUM ID 83858



July 17, 2021

Account Number: [REDACTED]
Service At: [REDACTED] W JUDY K DR
RATHDRUM ID 83858-8238

CITY OF INDUSTRY CA 91716-0074





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bill?

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8448 6100 NO RP 17 07182021 YNNNNNNN 01 001426 0009

Credit Balance - Do Not Pay

SPECTRUM
PO BOX 60074



Account Number:

Security Code:

Bundled Services

Tax and Fees - This statement reflects the current taxes and fees for your area (including sales, excise, user taxes, etc.). These taxes and fees may change without notice.

**Charge Details**

Previous Balance

Remaining Balance

Taxes, Fees and Charges Continued

Current Charges

Credit Balance - Do Not Pay

Payments received after 07/17/21 will appear on your next bill.

Service from 07/17/21 through 08/16/21

Billing Information

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Spectrum Terms and Conditions of Service - In accordance with the Spectrum Terms and Conditions of Service, Spectrum services are billed on a monthly basis. Spectrum does not provide credits for monthly subscription services that are cancelled prior to the end of the current billing month.

Authorization to Convert your Check to an Electronic Funds Transfer Debit - If your check is returned, you expressly authorize your bank account to be electronically debited for the amount of the check plus any applicable fees. The use of a check for payment is your acknowledgment and acceptance of this policy and its terms and conditions.

Complaint Procedures - You have 60 days from the billing date to register a complaint if you disagree with your charges.

Internet Services

Turbo Upgrade

Internet Services Total

Other Charges

Sports Programming Fee

Other Charges Total

Taxes, Fees and Charges

FCC Admin Fee

State and Local Sales Tax

Taxes, Fees and Charges Total

Standard Internet

Bundled Services Total



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bill?
Visit us at [Spectrum.net/billing](https://spectrum.net/billing)

Or, call us at 1-855-70-SPECTRUM (1-855-707-7328)
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It's Easy - No more checks, stamps or trips to the post office
It's Secure - Powerful technology keeps your information safe
It's Flexible - Use your checking, savings, debit or credit card
It's **FREE** - And helps save time, postage and the environment

Set up easy, automatic bill payments with **Auto Pay!**
Visit: spectrum.net/account (My
Account login required)
Payment Options

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Sign in to [Spectrum.net](https://spectrum.net) to pay or view your bill.

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Detach payment coupon and enclose with your check made payable to
Spectrum.

For questions or concerns, please call **1-855-707-7328**.
Page 3 of 10 July 17, 2021

Account Number: [REDACTED]
Security Code: [REDACTED]

Video Closed Captioning Inquiries - Spectrum provided set-top boxes for
video consumption support the ability for the user to enable or disable Closed
Captions for customers with hearing impairment.



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closedcaptioningsupport@charter.com.

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70-SPECTRUM (1-855-707-7328)

8448 6100 NO RP 17 07182021 YNNNNNNN 01 001426 0009

your concerns via US Mail to W. Wesselman, Sr. Director, 2 Digital Place, Simpsonville, SC 29681, send a fax to 1-704-697-4935, call 1-877-276-7432 or
email closedcaptioningissues@charter.com.

8448 6100 NO RP 17 07182021 YNNNNNNN 01 001426 0009





July 1, 2021

Account Number: [REDACTED]
Security Code: [REDACTED]
Service At: [REDACTED] N DART ST
POST FALLS ID 83854

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Or, call us at 1-855-70-SPECTRUM (1-855-707-7328)

Summary

Service from 07/01/21 through 07/31/21
details on following pages

Previous Balance	[REDACTED]
Payments Received -Thank You!	[REDACTED]
Remaining Balance	[REDACTED]
Internet Services	[REDACTED]

Current Charges [REDACTED]
Total Due by 07/18/21 [REDACTED]

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Download the latest version of the My Spectrum App from your device's app store. The My Spectrum App makes it easier than ever to manage your Spectrum services. A hassle-free experience with one convenient place for handling all your account needs.

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4145 S. FALKENBURG RD RIVERVIEW FL 33578-8652
8448 6100 NO RP 01 07022021 YNNYNNYN 01 003414 0015

[REDACTED]
[REDACTED] N DART ST
POST FALLS ID 83854



July 1, 2021

Account Number: [REDACTED]
Service At: [REDACTED] N DART ST
POST FALLS ID 83854

Total Due by 07/18/21 [REDACTED]
Amount you are enclosing \$ [REDACTED]

CITY OF INDUSTRY CA 91716-0074



Please Remit Payment To:

SPECTRUM
PO BOX 60074

Get your statement as soon as it's available. Instead of receiving a paper bill through the mail, sign up for paperless billing.

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Page 2 of 2

July 1, 2021

Account Number:

Security Code:

Internet Services

8448 6100 NO RP 01 07022021 YNNYNN 01 003414 0015

Charge Details

Previous Balance

Remaining Balance

\$0.00

Payments received after 07/01/21 will appear on your next bill.
register a complaint if you disagree with your charges.

Service from 07/01/21 through 07/31/21

Spectrum Internet

Internet Services Total

Current Charges

Total Due by 07/18/21

Past Due Fee / Late Fee Reminder - A late fee will be assessed for past due charges for service.

Franchise Administrator - City of Post Falls 408 Spokane St Post Falls ID 83854 Phone: (208) 773-3511

Complaint Procedures - You have 60 days from the billing date to



Billing Information

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Authorization to Convert your Check to an Electronic Funds Transfer Debit - If your check is returned, you expressly authorize your bank account to be electronically debited for the amount of the check plus any applicable fees. The use of a check for payment is your acknowledgment and acceptance of this policy and its terms and conditions.

Local Spectrum Store: 2305 W Kathleen Ave, Coeur D'Alene ID 83815 Store Hours: Mon thru Sat - 10:00am to 8:00pm; Sun 12:00pm to 5:00pm

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It's secure – we securely deliver directly to your [Spectrum.net](https://spectrum.net) account and only you can access through a secure sign-in process.

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June 30, 2021

Account Number:

Security Code:

Service At:

N LEMONWOOD LN
POST FALLS ID 83854-7944

page. Taxes, Fees and Charges for Spectrum Voice are detailed in the Billing Information section.

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Have questions about your bill?

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Channel Lineup and Rate Card: To obtain the current channel lineup available in your area, please go to Spectrum.com/channels or contact us at **1-855-707-7328** to request a paper copy be mailed to your home. For a complete listing of services and rates visit www.Spectrum.com/ratecard.

Summary Service from 06/30/21 through 07/29/21 details on following pages

Previous Balance
Payments Received -Thank You!

Remaining Balance

Internet Services

Other Charges

Taxes, Fees and Charges

Current Charges

Total Due by 07/17/21

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Telecommunications Relay Service (TRS). The Federal Communications Commission (FCC) has adopted use of the 711 dialing code for access to Telecommunications Relay Services (TRS). TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities.

For more information about the various types of TRS, see the FCC's consumer fact sheet at <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Please dial 711 to be connected to a TRS Center.

Spectrum

a customer.

June 30, 2021

Account Number:

Service At:

N LEMONWOOD LN

POST FALLS ID 83854-7944

Spectrum

Total Due by 07/17/21

Amount you are enclosing

\$

Please Remit Payment To:

CITY OF INDUSTRY CA 91716-0074



S. FALKENBURG RD RIVERVIEW FL 33578-8652

8448 6100 NO RP 30 07022021 YNNNNYNN 01 001360 0008

SPECTRUM PO BOX 60074

Page 2 of 10

June 30, 2021

N LEMONWOOD LN POST FALLS ID 83854
Number:

Account

Previous Balance

One-time EFT Payment

06/17

One-time EFT Payment

06/17

Remaining Balance



Security Code: [redacted]
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your bill?
Spectrum.net/billing

Or, call us at 1-855-70-SPECTRUM (1-855-707-7328) 8448
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FCC Admin Fee
State and Local Sales Tax
[redacted]



Phone number (208) [redacted]
Unlimited Long Distance

Pkg Includes: Phone Line, Modem, UP to 23 Calling
Features, Calling Within U.S., Canada, Mexico, Puerto
Rico, Guam & The Virgin Islands

Payments received after 06/30/21 will appear on your next bill.
Service from 06/30/21 through 07/29/21



Promo Discount
Your promotional price will expire on 01/29/22



Taxes, Fees and Charges Total

Current Charges
Total Due by 07/17/21



Other Charges Total



Messages continued from



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Have questions about
Visit us at

your bill?
Spectrum.net/billing

Security
Code:

Or, call us at 1-855-70-SPECTRUM (1-855-707-7328) 8448

6100 NO RP 30 07022021 YNNNNYNN 01 001360 0008

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Flexible - Use your checking, savings, debit or credit card
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(My Account login required)



Spectrum Internet

WiFi Service

Spectrum Internet Ultra

Internet Services Total

For additional call details, please visit
spectrum.net/account

Payment Options

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Messages continued from page 1

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than ever to manage your Spectrum services. A hassle-free experience with one convenient place for handling all your account needs.



Billing Information

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IMPORTANT NOTICE CONCERNING PURCHASE OF GOODS AND SERVICES BY TELEPHONE

You have important rights under the Idaho Telephone Solicitation Act. Under this Act it is illegal for persons attempting to sell you goods or services by telephone (telephone solicitors):

- To intimidate or harass you in connection with the attempted sale.
- To refuse to hang up and free your telephone line immediately once you request them to do so.
- To misstate the price, quality, or availability of goods or services, or to fail to reveal all material terms relating to the sale of goods or services.
- To advertise, represent or imply that they have the endorsement of any government office or agency when they do not.
- To advertise, represent or imply that they have a valid registration number with the Attorney General when they do not.
- To use any unfair method of competition or unfair or deceptive practice.

Any person not yet eighteen (18) years old, who purchases goods or services pursuant to a telephone solicitation, may cancel the purchase within a reasonable time after the purchase is made. No parent or legal guardian having custody of a person not yet eighteen (18) years old is liable for the purchase of goods or services by a person not yet eighteen (18) years old pursuant to telephone solicitation.

When you agree to purchase goods or services over the telephone, you may have a right to reconsider and cancel your agreement for three (3) business days after receiving a written confirmation of the sale.

A person whose rights are violated by telephone solicitors may have the right to declare a contract of purchase null and void or invoke other remedies under the Idaho Consumer Protection Act.

If you believe that a telephone solicitor has done any unlawful acts, you may contact the Attorney General's Office for assistance and information at: 1 (800) 432-3545 (toll-free) or 334-2424 (Boise area).

Terms & Conditions - Spectrum's detailed standard terms and conditions for service are located at spectrum.com/policies.

Spectrum Receiver \$8.99 - Charges include \$7.99 for Receiver Rental and \$1.00 for Secure Connection.



Continued on the next page....

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services that are cancelled prior to the end of the current billing month.

Authorization to Convert your Check to an Electronic Funds Transfer

Debit - If your check is returned, you expressly authorize your bank account to be electronically debited for the amount of the check plus any applicable fees. The use of a check for payment is your acknowledgment and acceptance of this policy and its terms and conditions.

Past Due Fee / Late Fee Reminder - A late fee will be assessed for past due charges for service.

Franchise Administrator - City of Post Falls 408 Spokane St Post Falls ID 83854 Phone: (208) 773-3511

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Video Closed Captioning Inquiries - Spectrum provided set-top boxes for video consumption support the ability for the user to enable or disable Closed Captions for customers with hearing impairment.

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The following taxes, fees and surcharges are included in the price of the applicable service - . FEES AND CHARGES: E911 FEE \$1.25, FEDERAL

UNIVERSAL SERVICE FUND \$0.55, STATE AND LOCAL SALES TAX ..
\$0.06, STATE UNIVERSAL SERVICE FUND \$0.25.



Account:

Security Code:

[REDACTED]

[REDACTED]

[REDACTED]

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Or, call us at 1-855-70-SPECTRUM (1-855-707-7328)

8448 6100 NO RP 30 07022021 YNNNNYNN 01 001360 0008



July 9, 2021

Account Number: [REDACTED]
Security Code: [REDACTED]
Service At: [REDACTED] BENHAM ST APT [REDACTED]
POST FALLS ID 83854-7240

Have questions about your bill?

Visit us at [Spectrum.net/billing](https://spectrum.net/billing)

Or, call us at 1-855-70-SPECTRUM (1-855-707-7328)

Summary

Service from 07/09/21 through 08/08/21
details on following pages

Previous Balance	[REDACTED]
Payments Received -Thank You!	[REDACTED]
Remaining Balance	[REDACTED]
Spectrum Internet™	[REDACTED]

Current Charges	[REDACTED]
Total Due by 07/26/21	[REDACTED]

SPECTRUM NEWS AND INFORMATION

Enroll in Auto Pay today! Spectrum Auto Pay is a convenient way to pay your bill on time every month without the hassle of buying stamps or writing checks. Visit spectrum.net/autopay.

Billing Statements. Braille or large print billing statements are available by request and can be provided within 30 days of Spectrum's receipt of the request. To request these statement options, contact Spectrum's Customer Care Billing Department at 1-855-707-7328.

Moving? We'll transfer your services and have you connected before you're even unpacked. Manage your account with the My Spectrum App and learn about self-install options to handle your move on your terms. **Call 1-855-230-1324 or visit spectrum.net/easymove.**

Download the latest version of the My Spectrum App from your device's app store. The My Spectrum App makes it easier than ever to manage your Spectrum services. A hassle-free experience with one convenient place for handling all your account needs.



Thank you for choosing Spectrum.

We appreciate your prompt payment and value you as a customer.



4145 S. FALKENBURG RD RIVERVIEW FL 33578-8652
8448 6100 NO RP 09 07102021 YNNYNN 01 000729 0004

[REDACTED] 1335 N BENHAM ST APT [REDACTED] POST FALLS ID
83854-7240



July 9, 2021

Account Number: [REDACTED]
Service At: [REDACTED] BENHAM ST APT [REDACTED]
POST FALLS ID 83854-7240

Total Due by 07/26/21	[REDACTED]
Amount you are enclosing	\$ [REDACTED]

Please Remit Payment To:

CITY OF INDUSTRY CA 91716-0074





Account Number:

Security Code:

Have questions about your bill?

Visit us at [Spectrum.net/billing](https://spectrum.net/billing)

Or, call us at 1-855-70-SPECTRUM (1-855-707-7328)

Spectrum Internet™

8448 6100 NO RP 09 07102021 YNNYNNYN 01 000729 0004

Charge Details

Previous Balance

Payment - Thank You 06/21

Remaining Balance

Payments received after 07/09/21 will appear on your next bill.

Service from 07/09/21 through 08/08/21

Spectrum Internet

WiFi Service

Spectrum Internet™ Total

Current Charges

Total Due by 07/26/21

Past Due Fee / Late Fee Reminder - A late fee will be assessed for past due charges for service.**Complaint Procedures** - You have 60 days from the billing date to register a complaint if you disagree with your charges.

Billing Information

Tax and Fees - This statement reflects the current taxes and fees for your area (including sales, excise, user taxes, etc.). These taxes and fees may change without notice.**Terms & Conditions** - Spectrum's detailed standard terms and conditions for service are located at spectrum.com/policies.**Spectrum Terms and Conditions of Service** - In accordance with the Spectrum Terms and Conditions of Service, Spectrum services are billed on a monthly basis. Spectrum does not provide credits for monthly subscription services that are cancelled prior to the end of the current billing month.**Authorization to Convert your Check to an Electronic Funds Transfer****Debit** - If your check is returned, you expressly authorize your bank account to be electronically debited for the amount of the check plus any applicable fees. The use of a check for payment is your acknowledgment and acceptance of this policy and its terms and conditions.

Local Spectrum Store: 2305 W Kathleen Ave, Coeur D'Alene ID 83815 Store Hours: Mon thru Sat - 10:00am to 8:00pm; Sun 12:00pm to 5:00pm

Visit [Spectrum.com/stores](https://spectrum.com/stores) for store locations. For questions or concerns, visit [Spectrum.net/support](https://spectrum.net/support)**Sign up for Paperless Billing.****It's easy, convenient and secure.**

Get your statement as soon as it's available. Instead of receiving a paper bill through the mail, sign up for paperless billing.

It's easy – enroll in paperless billing through the My Spectrum App or visit [Spectrum.net/paperless](https://spectrum.net/paperless).App and at [Spectrum.net](https://spectrum.net).**It's secure** – we securely deliver directly to your [Spectrum.net](https://spectrum.net) account and only you can access through a secure sign-in process.

Each month, you'll receive a paperless e-bill that you pay online with your choice of payment options.

Payment Options

Pay Online -

Sign in to [Spectrum.net](https://www.spectrum.net) to pay or view your bill.

Pay by Mail -

Detach payment coupon and enclose with your check made payable to Spectrum.

For questions or concerns, please call [1-855-707-7328](tel:1-855-707-7328).



23 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004860

Company Name: Kootenai County

Application Title: West Kootenai Rural Fiber

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge. We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a “necessary expenditure” incurred “due to the public health emergency” as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for “Necessary Expenditures Incurred Due to the Public Health Emergency” (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID–19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID–19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

Second, the proposed expenditures are clearly not "necessary" under the grant's guidelines in that the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Additionally, the proposed expenditures will not be incurred "due to" the public health emergency as defined by the Act. CARES Act expenditures are "due to" the public health emergency if they are used to "respond to the public health emergency". The area targeted by the application is currently served by multiple broadband companies offering internet

coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to "respond to the public health emergency." Thus, instead of addressing the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

Finally, FAQ 28 on page 4189, Volume 86 No. 10 of the Federal Register states that capital improvement projects that broadly provide potential economic development in a community are not eligible for Fund payments unless they are necessary expenditures incurred due to the COVID-19 public health emergency. This further highlights that not all capital improvements that generally promote economic development or benefit the community qualify for CARES Act grants—only those that are "necessary" and incurred "due to" the public health emergency. And the fund payments must only be used for expenditures necessary to address the current COVID-19 public health emergency, not in anticipation of future emergencies. (See FAQ 41, page 4191).

Application Section: Scored Criteria

Question: Provide an overview of the project, including why the project is important and how it will address the broadband needs of the community. Include a scope of work description, along with a list of ISPs that can provide the proposed service.

Answer:

Project overview

This project will build fiber connections to two 2020 CARES act microwave towers in rural Kootenai county. This fiber will provide:

- a) Capacity to feed more homes from each tower
- b) Facilities to provide 100 x 10 speeds

Both the Payment Peak and Beck towers serve large blocks of rural areas filled with small farms and ranches. The existing access point facilities are fed by microwave backhauls that will be replaced by fiber connections. The homes served are a wide range of broadband consumers – some occupied by families with school age children so expanded service for distance learning, some middle age homes where work from home is needed and some older, retired couples where telehealth is a good fit. Many of these homes are presently served with Intermix 25x3 fixed wireless connections but we can anticipate running out of connection capacity, so we need fiber to the towers to serve even more residences. These towers serve about 3,760 customer locations.

Challenge: By Intermix's own admission "Many of these homes are presently served with Intermix 25x3 fixed wireless connections but we can anticipate running out of connection

capacity, so we need fiber to the towers to serve even more residences.” This is not necessary expenditures incurred due to the COVID-19 public health emergency. Rather Intermax is looking to expand their network capacity to gain an unfair competitive advantage at the taxpayer expense.

Furthermore, Wired or Wireless Inc d.b.a. AIR-PIPE does provide up to 30M/10M service and Ptera does provide 25M/10M service. Charter Communications provides 940M/35M service. This is a well serviced area with multiple providers competing for customers. This is not an immediate need to expand during COVID-19.

The Chart below is from the broadbandmap.fcc.gov for applicants proposed area.

Provider	Tech	Down ▼ (Mbps)	Up (Mbps)
Charter Communications	Cable	940	35
ViaSat, Inc.	Satellite	100	3
Wired or Wireless, Inc.	Fixed Wireless	30	10
Ptera Inc.	Fixed Wireless	25	10
Hughes Network Systems, LLC	Satellite	25	3
Northwest Fiber, LLC	ADSL	12	1
Newmax, LLC	Fixed Wireless	10	1
Northwest Fiber, LLC	ADSL	6	1
VSAT Systems, LLC	Satellite	2	1.3

Question: Will this project deliver broadband infrastructure to a rural Idaho population (less than 25,000)?

Answer: Yes

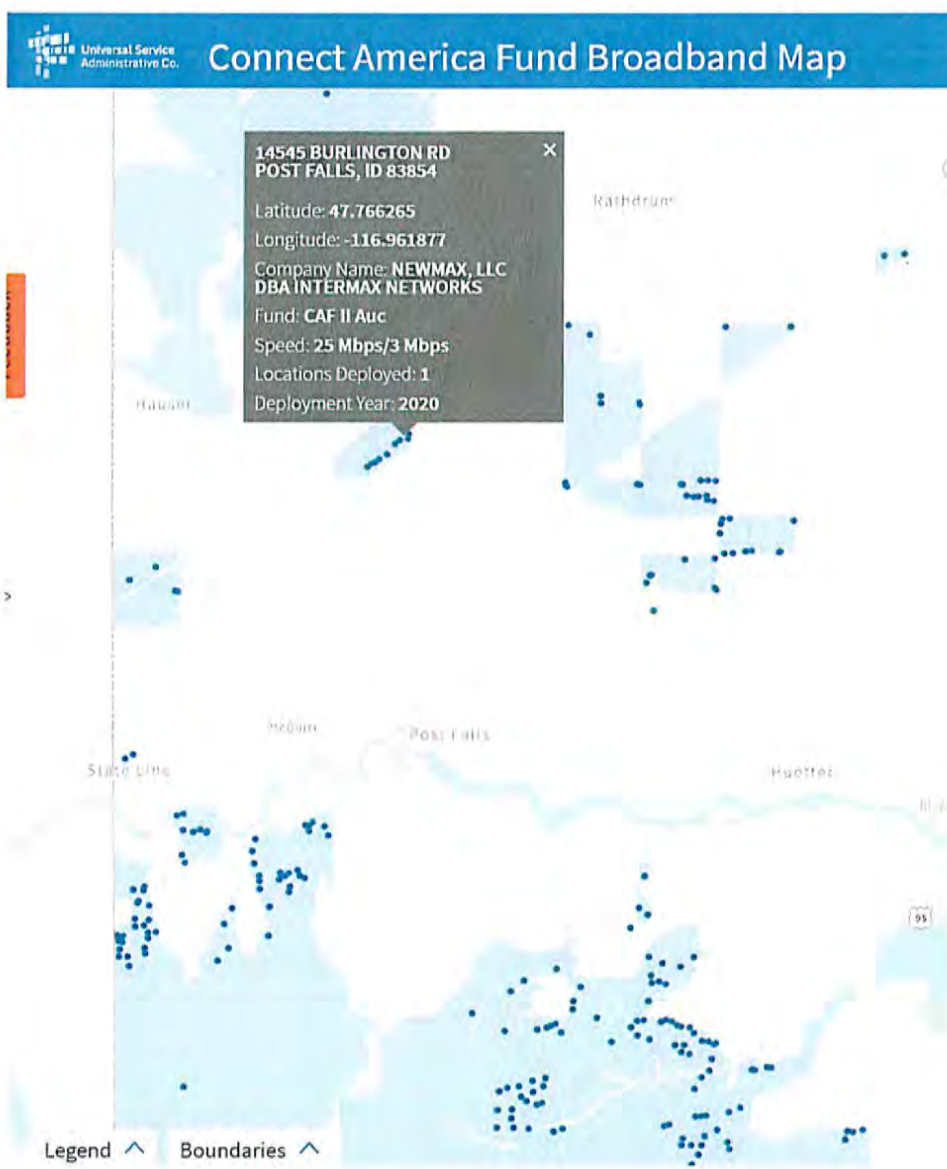
Challenge: The population of Post Falls is 33,225 (2019). In the last two years, Post Falls has continued to grow rapidly. The service area from the tower sites in this application extend into Eastern Washington and well into Post Falls, ID. The Metro population for this area is over 100,000 people. This does not meet the intent of the rural areas for these grants.

Application Section: Additional Requested Information

Question: Has your project area received or been awarded any federal funds (CAFII/RDOF/USDA Reconnect) in the past two years, or will it receive federal funding over the next two years? If so, explain why additional funding was/is necessary in the project area?

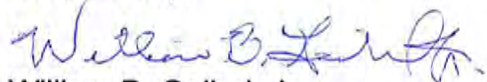
Answer: No federal funds have been received for this project and none are anticipated in the next two years.

Challenge. This appears to be mistaken. Intermax Networks is a recipient of CAF funds. A quick search shows customers that Intermax has connected using CAF funds. The Towers proposed to be connected with fiber are surely being used to provide some of the connections shown on the screen snip below.



In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already sufficiently served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. The free market is working in Kootenai County, Post Falls, ID. This grant should not be funded to help keep the playing field equal.

Respectfully,

A handwritten signature in blue ink, appearing to read "William B. Geibel, Jr.", is written over the typed name.

William B. Geibel, Jr.

BSEE/RCDD/NTS

President

Wired or Wireless, Inc.



23 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004863

Company Name: Kootenai County

Application Title: The Landings in Post Falls

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge. We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a "necessary expenditure" incurred "due to the public health emergency" as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for "Necessary Expenditures Incurred Due to the Public Health Emergency" (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID–19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID–19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

Second, the proposed expenditures are clearly not "necessary" under the grant's guidelines in that the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Additionally, the proposed expenditures will not be incurred "due to" the public health emergency as defined by the Act. CARES Act expenditures are "due to" the public health emergency if they are used to "respond to the public health emergency". The area targeted by the application is currently served by multiple broadband companies offering internet

coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to “respond to the public health emergency.” Thus, instead of addressing the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

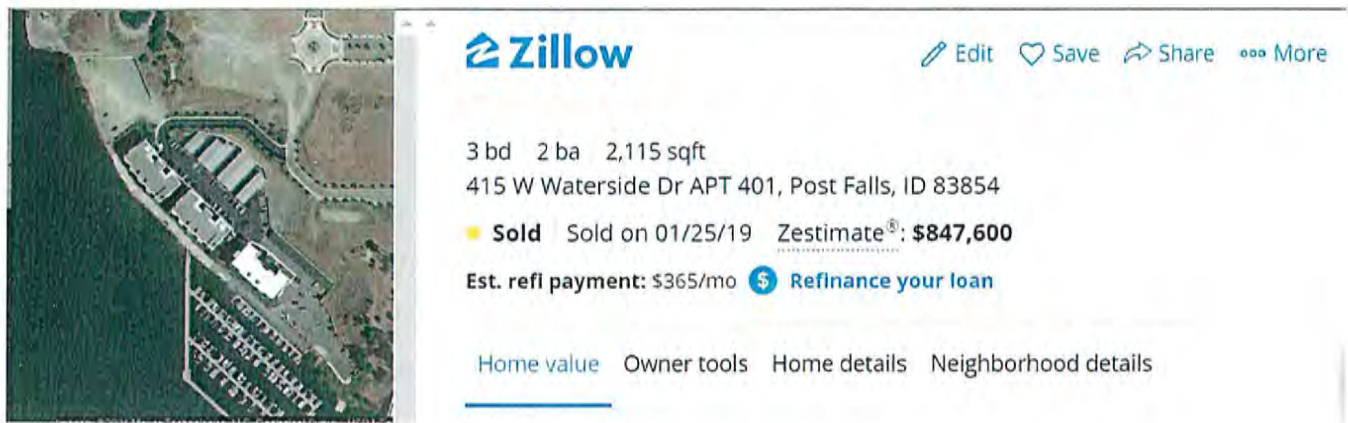
Finally, FAQ 28 on page 4189, Volume 86 No, 10 of the Federal Register states that capital improvement projects that broadly provide potential economic development in a community are not eligible for Fund payments unless they are necessary expenditures incurred due to the COVID-19 public health emergency. This further highlights that not all capital improvements that generally promote economic development or benefit the community qualify for CARES Act grants—only those that are “necessary” and incurred “due to” the public health emergency. And the fund payments must only be used for expenditures necessary to address the current COVID-19 public health emergency, not in anticipation of future emergencies. (See FAQ 41, page 4191).

Application Section: Scored Criteria

Question: Provide an overview of the project, including why the project is important and how it will address the broadband needs of the community. Include a scope of work description, along with a list of ISPs that can provide the proposed service.

Answer: The project will provide last mile fiber facilities to provide broadband to 62 household units in the Landings in Post Falls, Kootenai County, Idaho. The Landings is a multi-family development of condos and rental units in an older part of the city. Based on speed tests and surveys completed, residents report they are struggling with consistent bandwidth and don’t have sufficient speeds.

Challenge: This is not an “older part of the city”. Unless you consider the old wood products mill that used to occupy the site before it was leveled for high end waterfront residential development. The Condos referenced in this project are a relatively new development started in 2017. One of the condos sold in January of 2019 for \$847,600. It would likely sell for over \$1M in today’s market. The owners/developers should be responsible for bringing in the broadband services they desire. There is fiber on the east edge of the development from multiple providers including TDS, Fatbeam, Spectrum and others. Taxpayers should not be supplementing the cost to provide service to those in the upper income levels.



Zillow Edit Save Share More

3 bd 2 ba 2,115 sqft
415 W Waterside Dr APT 401, Post Falls, ID 83854

Sold Sold on 01/25/19 Zestimate®: **\$847,600**

Est. refi payment: \$365/mo [Refinance your loan](#)

[Home value](#) [Owner tools](#) [Home details](#) [Neighborhood details](#)

Question: Will this project deliver broadband infrastructure to a rural Idaho population (less than 25,000)?

Answer: Yes

Challenge: The answer appears to be mistaken. According to the US Census Bureau, the population of Post Falls was estimated to be 36,250 (July 1, 2019 census.gov/quickfacts/postfallscityidaho). In the last two years, Post Falls has continued to grow rapidly.

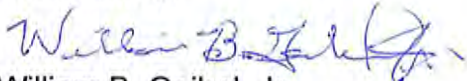
Additional Information:

The location of this project is broadly served by multiple Internet service providers including Wired or Wireless Inc d.b.a. AIR-PIPE, Ptera, Cox (Spectrum), TDS Fiber and others. All the forementioned provides offer services meeting or exceeding the FCC standard for Broadband at 25/3.

Provider	Tech	Down (Mbps)	Up (Mbps)
Charter Communications	Cable	940	35
ViaSat, Inc.	Satellite	100	3
Wired or Wireless, Inc.	Fixed Wireless	30	10
Ptera Inc.	Fixed Wireless	25	10
Hughes Network Systems, LLC	Satellite	25	3
Northwest Fiber, LLC	ADSL	12	1
Newmax, LLC	Fixed Wireless	10	1
Northwest Fiber, LLC	ADSL	6	1
VSAT Systems, LLC	Satellite	2	1.3

In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already sufficiently served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. The free market is working in Kootenai County, Post Falls, ID. This grant should not be funded to help keep the playing field equal.

Respectfully,

A handwritten signature in blue ink, appearing to read "William B. Geibel, Jr.", with a stylized flourish at the end.

William B. Geibel, Jr.

BSEE/RCDD/NTS

President

Wired or Wireless, Inc.



23 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004864
Company Name: Osburn
Application Title: Two Mile

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge: We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a “necessary expenditure” incurred “due to the public health emergency” as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for “Necessary Expenditures Incurred Due to the Public Health Emergency” (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID–19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID–19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

Second, the proposed expenditures are clearly not "necessary" under the grant's guidelines in that the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Additionally, the proposed expenditures will not be incurred "due to" the public health emergency as defined by the Act. CARES Act expenditures are "due to" the public health emergency if they are used to "respond to the public health emergency". The area targeted by the application is currently served by multiple broadband companies offering internet

coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to "respond to the public health emergency." Thus, instead of addressing the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

Finally, FAQ 28 on page 4189, Volume 86 No, 10 of the Federal Register states that capital improvement projects that broadly provide potential economic development in a community are not eligible for Fund payments unless they are necessary expenditures incurred due to the COVID-19 public health emergency. This further highlights that not all capital improvements that generally promote economic development or benefit the community qualify for CARES Act grants---only those that are "necessary" and incurred "due to" the public health emergency. And the fund payments must only be used for expenditures necessary to address the current COVID-19 public health emergency, not in anticipation of future emergencies. (See FAQ 41, page 4191).

Application Section: Additional Requested Information

Question: Has your project area received or been awarded any federal funds (CAFII/RDOF/USDA Reconnect) in the past two years, or will it receive federal funding over the next two years? If so, explain why additional funding was/is necessary in the project area?

Answer: No

Challenge: The proposed area is a recipient of CAF II funds. See the Connect America Fund Broadband Map.



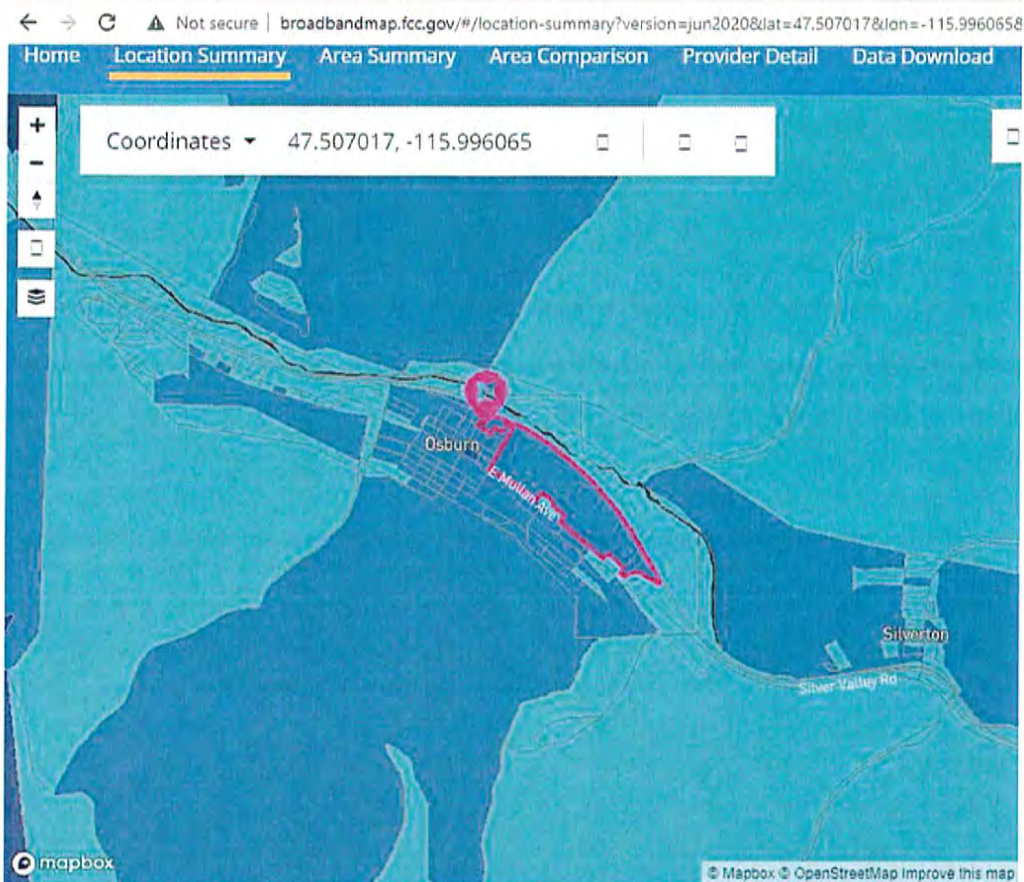
Question: Question: Has your project area received state funds (Cares Act Broadband Grants, E-Rate, etc.) in the past two years? If so, please explain what state funds were received and why the additional state funding was necessary in the project area.

Answer: Proposed service area did not receive state funding. Due to time constraints, and equipment shortages, this project area could not be included. This project will improve the existing service area to include an additional XXXXX households in the western and central sections of town, the South Fork CDA Seer District, and county residents and businesses along the I-90 corridor not previously served.

Challenge: The applicant failed to properly answer the question. The Schools and Libraries in the proposed area all receive E-Rate funds.

Question: Submit 10 or more, recent, fixed location Speed Tests.

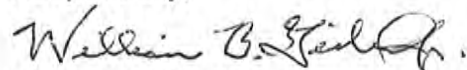
Challenge: Speed test results submitted do not accurately reflect the existing availability of broadband service, specifically via Ziplly. See screen shots below.



Provider	Tech	Down ▾ (Mbps)	Up (Mbps)
<input type="checkbox"/> Northwest Fiber, LLC Ziplly Fiber Northwest Fiber, LLC dba Ziplly Fiber	ADSL	115	7
<input type="checkbox"/> ViaSat, Inc.	Satellite	100	3
<input type="checkbox"/> Hughes Network Systems, LLC	Satellite	25	3
<input type="checkbox"/> Northwest Fiber, LLC	ADSL	12	1
<input type="checkbox"/> Northwest Fiber, LLC	ADSL	6	1
VSAT Systems, LLC	Satellite	2	1.3

In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already sufficiently served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. This grant should not be funded to help keep the playing field equal.

Respectfully,



William B. Geibel, Jr.
BSEE/RCDD/NTS
President
Wired or Wireless, Inc.



22 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004866
Company Name: Bonner County
Application Title: Spring Creek

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge. We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a "necessary expenditure" incurred "due to the public health emergency" as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for "Necessary Expenditures Incurred Due to the Public Health Emergency" (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

Second, the proposed expenditures are clearly not "necessary" under the grant's guidelines in that the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Additionally, the proposed expenditures will not be incurred "due to" the public health emergency as defined by the Act. CARES Act expenditures are "due to" the public health emergency if they are used to "respond to the public health emergency". The area targeted by the application is currently served by multiple broadband companies offering internet coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to "respond to the public health emergency." Thus, instead of addressing the legitimate pandemic-related broadband

accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

Finally, FAQ 28 on page 4189, Volume 86 No. 10 of the Federal Register states that capital improvement projects that broadly provide potential economic development in a community are not eligible for Fund payments unless they are necessary expenditures incurred due to the COVID-19 public health emergency. This further highlights that not all capital improvements that generally promote economic development or benefit the community qualify for CARES Act grants—only those that are "necessary" and incurred "due to" the public health emergency. And the fund payments must only be used for expenditures necessary to address the current COVID-19 public health emergency, not in anticipation of future emergencies. (See FAQ 41, page 4191).

Application Section: Scored Criteria

Question: Provide an overview of the project, including why the project is important and how it will address the broadband needs of the community. Include a scope of work description, along with a list of ISPs that can provide the proposed service.

Answer: Spring Creek and the non-lake front areas of the Hope Peninsula are rural areas that have a very high density of trees in a rugged mountain terrain. Because of the lack of homes and businesses in this area, providers have been unable or unwilling to provide adequate speeds via the existing copper (DSL) infrastructure. Additionally, due to the density of trees in the area, it has been nearly impossible to provide fixed wireless service to these areas (except for one area). As a result, most rely on costly satellite service or mobile hotspots for their internet service. Some have no service, and instead travel when internet access is necessary. The Spring Creek project will bring much needed fiber and wireless internet access to those who live in rural Bonner County's Spring Creek area between the cities of East Hope and Clark Fork and to portions of the Hope Peninsula. The fiber and wireless infrastructure will bring economic opportunities for the increasing number of individuals with home-based businesses, or tele-work jobs, being forced to work from places other than their homes. It will create equality with education among children and adults alike. It will also allow access to telehealth services. It will allow for better communication, safety, and overall response times to first responders in both Clark Fork and Sam Owen Fire Departments, by allowing an additional repeater to cover areas that are currently difficult for responders to communicate in. The lack of ability to communicate slows down communication and the ability to respond safely quickly to emergency calls. It will additionally connect Bonner County's solid waste facility in Clark Fork, and their road and bridge facility nearby. Finally, it will enable the option for several local and state organizations to connect to high speed, fiber internet. These include Idaho Transportation Department, Ellisport Bay Sewer District, and the USFS Sam Owen campground. This project will provide up to 1Gbps fiber to 327 households in the project area. Kaniksu will partner with Bonner County to install and maintain over 8 miles of fiber, that will consist of both underground and aerial construction. This project will also consist of 100 Mbps wireless coverage for up to 107 homes on the eastern end of the project area.

Bonner County will partner with Kaniksu, LLC (DBA Kaniksu Internet) to operate the fiber and wireless equipment. Kaniksu has been operating wireless internet equipment since 2018, and fiber since 2020. Kaniksu has a strong reputation for reliability and customer service. Where it is possible to provide wireless service, the equipment cost makes it cost prohibitive for the ISP to install and maintain such equipment, without passing on the high install cost to residents. This grant will enable more affordable rates for both installation and monthly service fees. As it stands today, those living in this underserved area are victims of the digital divide that is plaguing those in rural areas. This digital divide impacts all aspects of their lives, work, play, education, health care, and limits their ability to provide for their families. The proposed project is important to help rectify the inequality that lack of internet access brings to this area.

Challenge: Wired or Wireless has extensive coverage in the planned area. We have a large monopole tower in the city core of Clark Fork, an extensive cable distribution system in Clark Fork and in Hope, East Hope and on the Hope Peninsula. We have a pole above the Clark Fork water tower that provides coverage to the Spring Creek area. We also have a tower on the top of Gold Mountain that supplies coverage over the entire area. We purchased the towers in Clark Fork and on Gold Mt which were originally built with Broadband Connect Grant money provided to POVN and Clark Fork previously. We have been and continue to make improvements to these tower sites by upgrading and replacing equipment and expanding bandwidth capacity. WOW has tower sites on the top of Schweitzer and Sandpoint Baldy mountains that also provide coverage to some of the proposed area. WOW has extensive Fiber infrastructure providing 10 Gbps currently to our Headend in Hope and to our Monopole in Clark Fork. We lease dark fiber from Fatbeam between Ponderay, Hope, and Clark Fork. We are in the process of overbuilding our extensive cable facilities with GPON fiber to the home in Clark Fork, Hope, East Hope, all the way to Trestle Creek, and the Hope Peninsula. Wired or Wireless was the first to bring Broadband to Bonner and Boundary counties independently of the incumbent telco companies in 2005. For 16 years we have been improving the access to broadband services for the greater Bonner County community.

Question: Explain how your project meets Cares Act Criteria, is necessary for the public health emergency, and mitigates similar disruptions in the future?

Answer: The community struggles to receive reliable, affordable internet. Due to the lack of infrastructure, residents pay for expensive service using satellite or cellular, which includes data limits and intermittency during high usage. These restrictive periods are often when people are trying to work or learn. These limitations make it impossible for residents to receive equal access to healthcare and education. With the lack of emergency communication available to some parts of the community, access to emergency care is limited or delayed. The project will provide the community with reliable high-speed internet with speeds up to 1 Gbps, which will provide opportunities to telework, facilitate distance learning, and improving public safety. The infrastructure proposed in the project is necessary for public health emergencies as it allows for better communication and allow residents to work and receive health care at home, should there ever be a need to shelter in place in the future.

Challenge: We submit that the application's proposed project is not necessary to respond to the public health emergency, nor is it needed to mitigate future disruptions and, thus, does not meet the CARES Act criteria. The application's target area is already sufficiently served by other broadband providers. The information provided in response to this section of the application is misleading and downplays the available broadband coverage currently available

in the area. Wired or Wireless currently provides speeds up to 30Mbps DL by 10 Mbps UL via a fixed wireless network from multiple tower sites in the area. Intermax Networks and Ziply also provide service in the proposed area. Furthermore, Intermax and Ziply received CAF II dollars to support much of the proposed area at rates of 25/3 or better. The Clark Fork and Hope and Spring Creek area is served well by multiple providers who continue to compete, increase investment, expand and improve Broadband and related services in the area. Additional infrastructure in this area is simply not necessary to “respond to the public health emergency” as is required by the Act.

Question: Explain how your project delivers a cost-effective broadband infrastructure solution to the community?

Answer: This project area lacks the density to make running fiber to the community cost effective to ISPs who serve other parts of the community. This project would mean that the “trunk” line for the community would be installed by the grant, enabling an ISP to absorb the remaining construction costs. Bonner County is partnering with Kaniksu has committed to providing fiber connectivity to most of the remaining addresses not served by the scope of this project. With the completion of this grant, addresses in the grant area will be able to receive monthly service rates starting at \$29.99 up to \$99.99, and no contracts for speeds up to 1Gbps/1Gbps. The installation costs will also be substantially less, starting at \$100 per address for installation. Without this grant, installation fees would be in the thousands of dollars per address, to cover the ISP costs of installing infrastructure.

Challenge: Wired or Wireless already has backbone fiber in place. Our fiber distribution system will over lash our existing coax-based cable infrastructure. Because we are an existing provider, our build costs are much less than trying to overbuild. We already have the strand and conduit infrastructure in place. We contend that the proposed project is not the most cost-effective broadband infrastructure solution to the community. Furthermore, Grant money should not be provided to overbuild an existing service provider without the opportunity for competitive bidding. WOW will install drops to existing cable customers on their fiber infrastructure at no cost to the customer. New customers will be installed at a rate similar to the typical urban environment, not the “thousands of dollars per address” insinuated by the applicant.

Application Section: Additional Requested Information

Question: Has your project area received or been awarded any federal funds (CAFII/RDOF/USDA Reconnect) in the past two years, or will it receive federal funding over the next two years? If so, explain why additional funding was/is necessary in the project area?

Answer: To the best of our knowledge, no existing federal funding has been awarded specific to this project area.

Challenge: A quick search of the Connect America Fund Broadband Map shows most of the proposed project area is covered with CAF II funding. Intermax Networks has begun installing 25/3 in the area and Ziply has begun installing 10/1 or better in the area. This project would be overbuilding a previously funded area and should be deemed ineligible. See a snip of the map below. The dark blue dots are recently installed customers. The medium blue color is the

CAF II areas. This covers all the Spring Creek area and most of the area northeast of the peninsula.

Connect America Fund Broadband Map



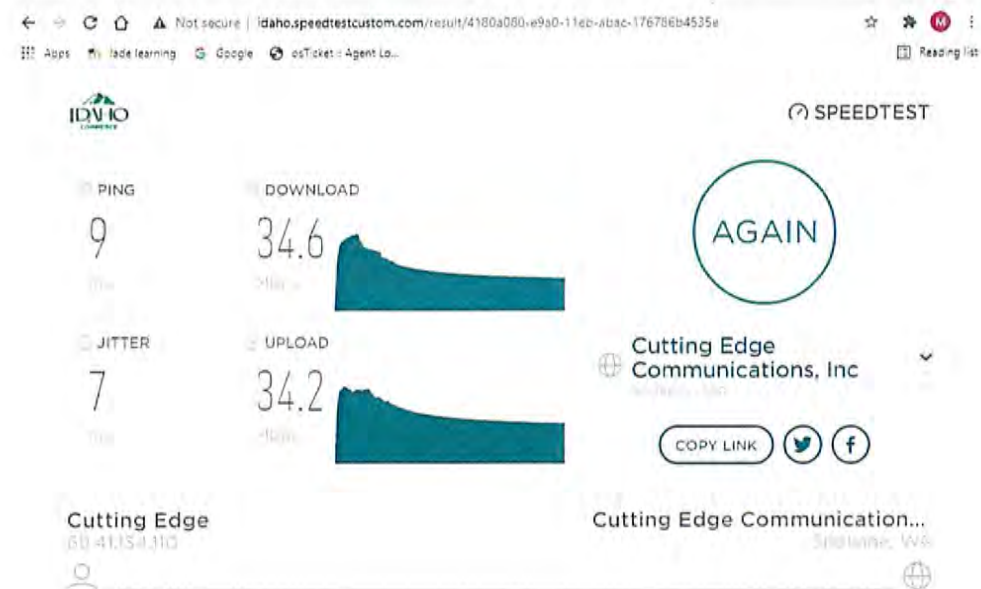
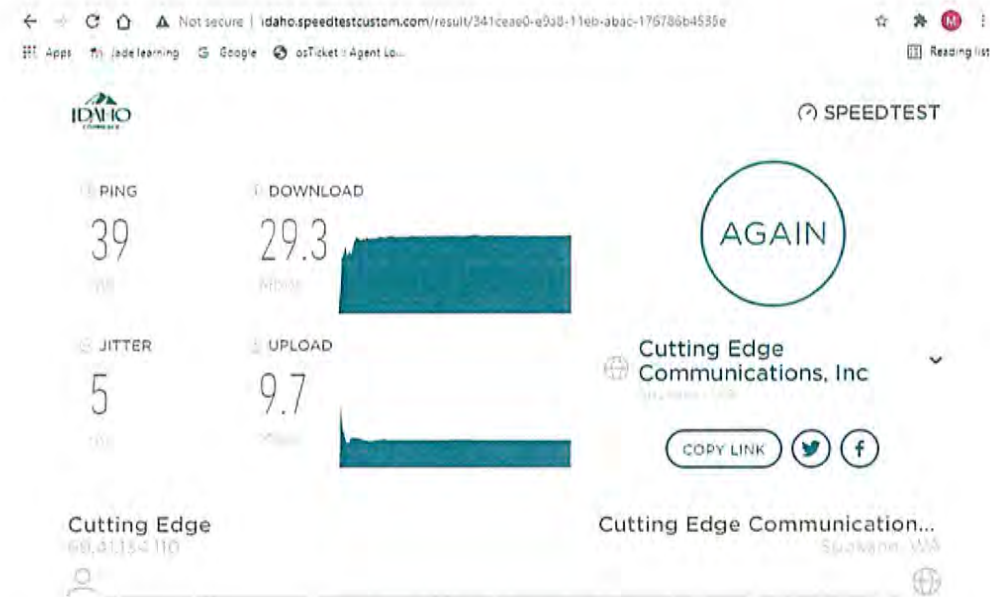
Question: Has your project area received state funds (Cares Act Broadband Grants, E-Rate, etc.) in the past two years? If so, please explain what state funds were received and why the additional state funding was necessary in the project area.

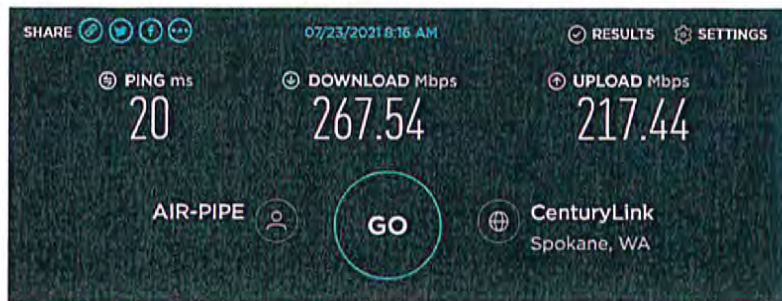
Answer: To the best of our knowledge, no existing state funding has been awarded specific to this project area.

Challenge: The Fatbeam Fiber project in the area was funded by E-Rate. The Clark Fork HS and the Hope Elementary School continue to be provided service through E-Rate. The competitive rates that Wired or Wireless and other providers in the area enjoy today are enabled by the E-Rate funding.

Question: Submit 10 or more, recent, fixed location Speed Tests.

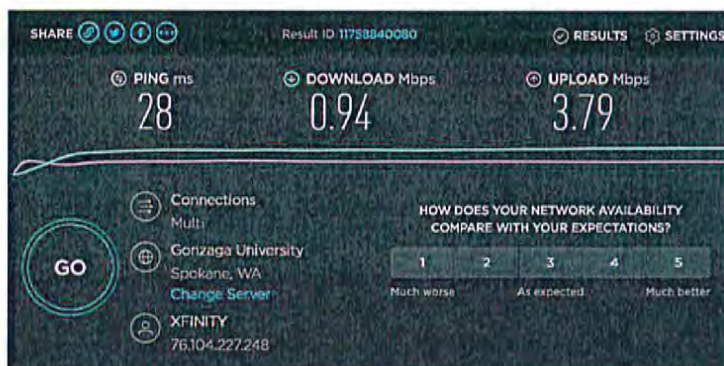
Challenge. Speed test results submitted do not accurately reflect the existing availability of broadband service, specifically via Wired or Wireless product offerings. Below are capacity tests from the Wired or Wireless network in Hope and Clark Fork. We believe these demonstrate the capability of service already offered in the Proposed Service Area. WOW uses Cutting Edge Communications as an upstream provider for some of Hope and Clark Fork.

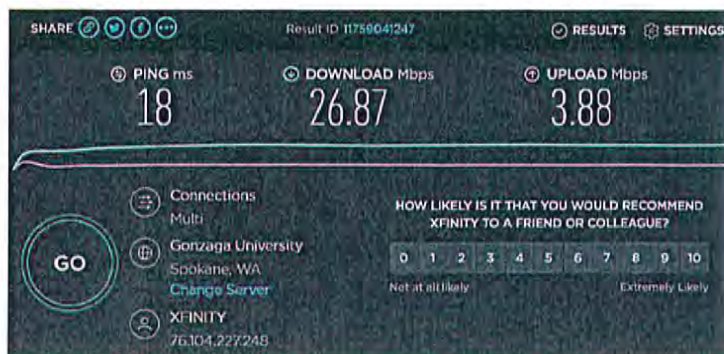




Please note: Speed tests do not always show the available speed to a location. The speed test shows the excess speed available to a location which is above what is currently being used. According to statista.com, the average home has over 10 connected devices in the US in 2020. For example, my home in Spokane, WA where I am writing this is on a Comcast 100/5 connection. I took the first speed test below when my computer was syncing with the cloud. The speed test was severely impacted and only shows 0.94 Mbps down. I took the second speed test below a little later once my computer was done syncing. Though I am on a 100/5 connection, my computer is using my 2.4 GHz Wi-Fi connection that is a 20 MHz channel and therefore only cable of 27/4 where my computer is in my house. This test is much better at nearly 27/4.

Speed tests often do not reflect the true speed of a broadband connection because so many other variables may affect the indicated speed.





In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already sufficiently served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. The free market is working in Hope and Clark Fork. Private investment brought Broadband service to Hope and Clark Fork and continues to expand it. Providing a grant to a for profit provider without a fair bidding process, to overbuild existing federal and state funded infrastructure, is NOT the best way to help the communities of Hope and Clark Fork or any other similar community.

Respectfully,

A handwritten signature in blue ink, appearing to read 'William B. Geibel, Jr.'.

William B. Geibel, Jr.
BSEE/RCDD/NTS
President
Wired or Wireless, Inc.



22 July, 2021

Idaho Department of Commerce Broadband Office

Subj: Challenge to Idaho Broadband Fund: CARES Act Broadband Grant Application

Applicant ID: APP-004867

Company Name: Bonner County

Application Title: Blachard Fiber to the Home

Wired or Wireless Inc. wishes to challenge this application for funding pursuant to the Idaho Broadband Fund: CARES Act Broadband Grant guidelines. The following detail identifies the criteria we feel the application does not meet and provides our basis for the challenge.

Application Section 2. Eligible Projects

- i. Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

Challenge: We submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a “necessary expenditure” incurred “due to the public health emergency” as defined by the Act and, thus, are ineligible for grant funding under the Act.

Federal Register / Vol. 86, No. 10 / Friday, January 15, 2021 / Notices, mandates that funding under the CARES Act be utilized only for “Necessary Expenditures Incurred Due to the Public Health Emergency” (pg 4183, col 1). It lists the following as examples of eligible expenses:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID–19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID–19 public health precautions.

The permissible uses of the Fund for this purpose were further explained in the accompanying FAQs. "FAQ A.36 May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?"

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payment."

As stated above, we submit that the proposed project outlined in this application does not legally fall within the CARES Act parameters as set forth above. In order to be eligible for these funds, the expenditure must be both "necessary" and incurred "due to" the public health emergency. This proposed project fails both requirements.

First, by the terms of the CARES Act, the cost of a proposed broadband project is only considered "necessary due to the public health emergency" if it serves to increase capacity to a significant extent "until the need for distance learning and telework have passed." Otherwise, by its terms, such costs are not considered an eligible use of Fund payment. The State of Idaho is now operating under Stage 4 Covid Guidelines:

- Schools have returned to in-person learning
- Mask requirements have been lifted
- Medical offices, businesses, and libraries are open
- Vaccination programs are being implemented

Thus, the scope of the "public health emergency" has changed significantly since the beginning of the pandemic, and, under the Covid guidelines now in effect in the State of Idaho, the need for distance learning and telework as a result of the pandemic has passed. Accordingly, under the plain language of the CARES Act funding guidelines, the proposed expenditures outlined in this application are simply not "necessary" to respond to the current public health situation, nor will they be incurred "due to" the public health situation as it currently exists.

To the extent the proposed project claims to enable telework and distance learning for those students and workers required to telecommute upon a Covid-19 positive diagnosis, we still submit that the project is still not "necessary" to respond to the public health emergency, because the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and bandwidth sufficient to serve the existing distance-learning and telework needs of the community. (A more detailed description of the available services in the area are provided below.) Because sufficient broadband coverage is currently available in the targeted area, the expenditures are not "necessary" expenditures eligible for funding under the plain language of the CARES Act.

Second, the proposed expenditures will not be incurred “due to” the public health emergency as defined by the Act. CARES Act expenditures are “due to” the public health emergency if they are used to “respond to the public health emergency”. The area targeted by the application is currently served by multiple broadband companies offering internet coverage at sufficient speeds and bandwidth to respond to the public health emergency. The application indicates that the funds will be used to improve the existing infrastructure of one of several broadband providers currently serving the target area, and not to expand services into underserved communities in an effort to “respond to the public health emergency.” Thus, instead of addressing the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act, the funding of this project will, in effect, result in an award of taxpayer funds which will allow a private, for-profit company to strengthen its infrastructure and ultimately gain an unfair competitive advantage over its existing competitors—companies with existing non-taxpayer funded infrastructure capable of providing the necessary broadband services—nor will it allow for a fair and competitive bidding process to incumbent providers.

Finally, as noted by the Chairman of the Bonner County Board of Commissioners in his CARES Act Certification in support of this application, “the useful life of the funded infrastructure almost completely applies to periods post-dating the covered period.” Given the fact that the applicant has admitted that the alleged benefits of the proposed project during the covered period ending 12/31/2021 are extremely limited, the project poses a significant audit risk and a subsequent finding by the Treasury Department that the grant expenditure was unreasonable. Before any grant funds are allocated to this project, the Broadband Advisory Board should carefully consider the cost principles set forth in 2 C.F.R. 200.402.11 and the audit requirements located in 2 C.F.R 200.500 et seq. as the FAQs clearly state that the Treasury Department would seek to recoup funds not used in a manner consistent with the CARES Act from the government that received the payment directly from the Treasury Department. See Vol. 86 No. 10 of the Federal Register, page 4194 paragraph 12.

Application Section: Scored Criteria

Question: Explain how your project meets Cares Act Criteria, is necessary for the public health emergency, and mitigates similar disruptions in the future?

Answer: According to Broadband Now, the FCC Broadband map Ziplify Fiber is the prominent wireline provider; there are small fixed wireless providers and satellite options. Wireline networks offer the most future proof and resilient connectivity solution to meet CARES Act criteria. The proposed project to deploy a fiber to the premise capable network meets the CARES Act criteria by: Being a broadband infrastructure (wireline) investment; Through enabling connectivity at speeds up to 1/1Gbps; Facilitating greatly enhanced access to telework, telemedicine, distance learning and public safety; and, providing service in a currently unserved area.

Challenge: We submit that the application’s proposed project is not necessary to respond to the public health emergency, nor is it needed to mitigate future disruptions and, thus, does not meet the CARES Act criteria. The application’s target area is already sufficiently served by

other broadband providers. The information provided in response to this section of the application is misleading and downplays the available broadband coverage currently available in the area. Wired or Wireless currently provides speeds up to 30Mbps DL by 10 Mbps UL via a fixed wireless network from multiple tower sites in the area. Wireless service can be as good if not better than wireline service. All data communication systems are radio. The difference is the media that the radio signal rides on. For wireline, the radio signal rides on twisted pair, coax, or fiber. For wireless, the signal rides on or through the air. The wireless service provided by WOW exceeds the FCC definition of Broadband at 25/3. The Blanchard area is well served by providers who continue to compete, increase investment, expand and improve Broadband and related services in the area.

Application Section: Additional Requested Information

Question: Has your project area received state funds (Cares Act Broadband Grants, E-Rate, etc.) in the past two years? If so, please explain what state funds were received and why the additional state funding was necessary in the project area.

Answer. No

Challenge: The project area has received and is scheduled to receive state funds in the future for the provision of broadband services. Wired or Wireless provides service to the area library under E-Rate. The services are delivered using Fixed Wireless service. The infrastructure is currently in place to provide additional services if so desired, thereby negating the need for new or additional infrastructure.

Question: Please detail any project match included to complete this project.

Answer: Ziplly Fiber will provide 27.7% of the project costs in match. Ziplly Fiber's contribution will be the costs associated with fiber drop connections.

Challenge: Since the entire distribution infrastructure will be built with public funds, will the infrastructure be available to other service providers to use to provide service if they provide their own fiber drop connections?

Question: Please describe who will be providing the broadband service and ownership of the broadband infrastructure.

Answer: Bonner County anticipates entering into a mutually agreeable service commitment MOU with the provider.

Challenge: We submit that the applicant's answer to this question fails to adequately address the information requested. This question specifically requests the applicant to identify who will be providing the broadband services and to delineate the ownership interests in the broadband infrastructure for which the funding is provided. The applicant did neither---the parties have not been clearly identified nor have the ownership interests in the infrastructure been sufficiently described. Additionally, the applicant has failed to inform the Idaho Broadband Advisory Board of the specific content of the proposed memorandum of understanding between it and its provider leaving significant questions unanswered.

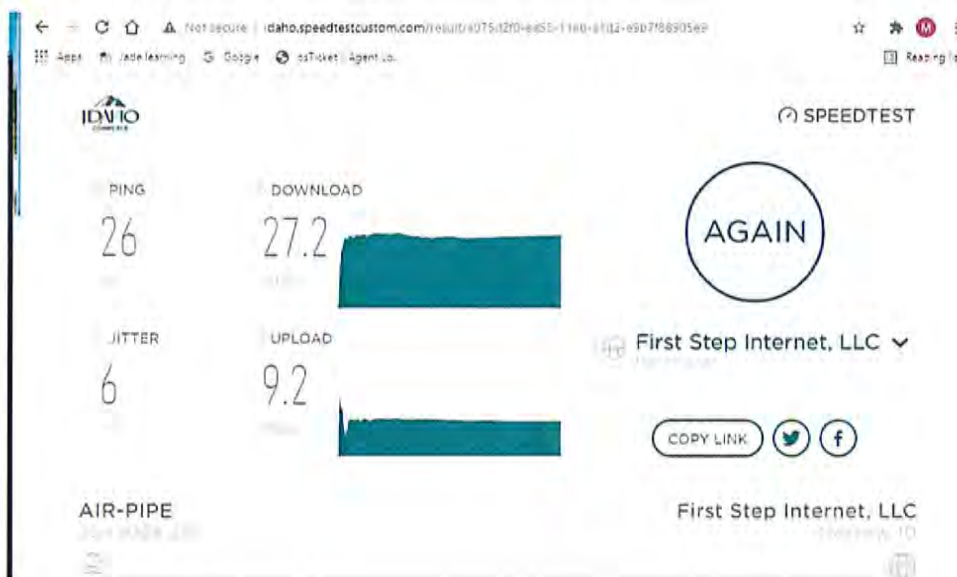
For example, will the pricing model established under this undefined MOU be competitive with services provided by other broadband providers in the area? Will the MOU adequately define the ownership interests of the infrastructure constructed with public funds? If the provider owns the infrastructure, what happens if the provider fails to fulfill its service agreement with the County after the infrastructure has been constructed? Given that the infrastructure will be built with public funds pursuant to this government grant, will other broadband service providers be granted access to this infrastructure in order to provide broadband services to the county and its subdivisions at a competitive rate, or will the selected provider be granted a monopoly over such services? If the latter, what safeguards will be instituted to ensure that only fair and competitive rates will be charged by the provider?

Because this type of information is completely missing from the application, neither the undersigned nor the general public has the ability to fully and properly review and/or challenge the application as presented. Given the procedural timeline of the grant application process, this deficiency should be deemed fatal to the application at issue as the undersigned will be unable to further contest any supplemental information provided by the applicant in response to this challenge. More importantly, however, is the fact that the applicant has simply failed to provide the Broadband Advisory Board with any material information from which it will be able to make a full and informed decision on whether the application should be approved.

Question: Submit 10 or more, recent, fixed location Speed Tests.

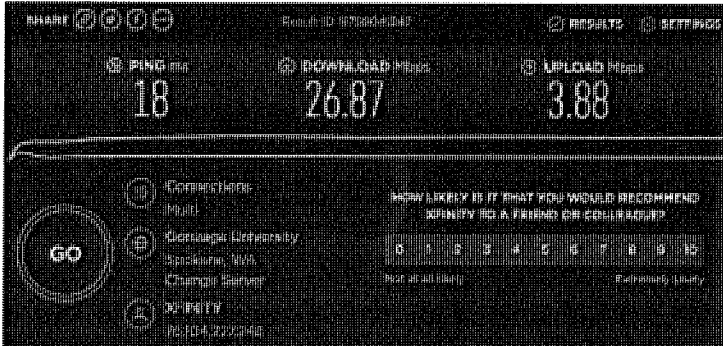
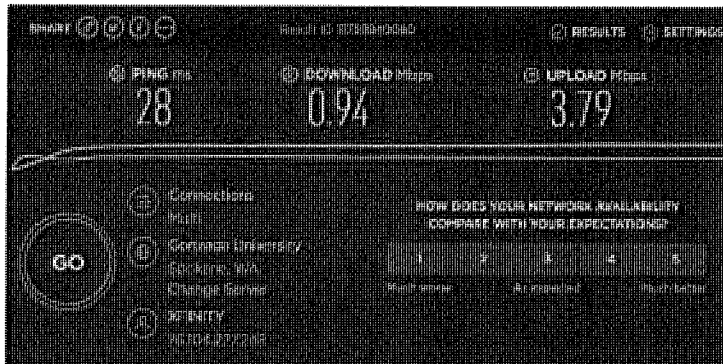
Challenge: Speed test results submitted do not accurately reflect the existing availability of broadband service, specifically via Wired or Wireless product offerings. Attached is a speed test result from the Proposed Service Area using the Wired or Wireless (dba AIR-PIPE) network.

This speed test was taken July 21, 2021 from Blanchard Elk Rd in Blanchard, ID by connecting to our Hoodoo mountain tower. Towers on Mt Spokane and Cooks Mt also provide service to and around Blanchard.



Please note: Speed tests do not always show the available speed to a location. The speed test shows the excess speed available to a location which is above what is currently being used. According to statista.com, the average home has over 10 connected devices in the US in 2020. For example, my home in Spokane, WA where I am writing this is on a Comcast 100/5 connection. I took the first speed test below when my computer was syncing with the cloud. The speed test was severely impacted and only shows 0.94 Mbps down. I took the second speed test below a little later, once my computer was done syncing. Though I am on a 100/5 connection, my computer is using my 2.4 GHz Wi-Fi connection that is a 20 MHz channel and therefore only capable of 27/4 where my computer is in my house. This test is much better at nearly 27/4.

Speed tests often do not reflect the true speed of a broadband connection because so many other variables may affect the indicated speed.

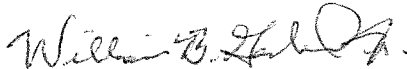


One final note: History can tell us a lot about the future. Wired or Wireless Inc dba AIR-PIPE was the first company to bring quality Broadband service to Blanchard. Zply, formerly Frontier, formerly Verizon, eventually brought DSL to Blanchard, only when funded by CAF phase 1. This is the current 10/1 service shown in their own speed tests supplied with their application. Zply did not bring broadband to Blanchard until provided additional financial incentive from the government. WOW brought quality broadband to Blanchard using its own investment capital and resources. We continued to upgrade that service as the FCC moved the goal posts on the broadband definition from 56 Kbps, to 10 Mbps and now 25/3 Mbps. 30/10 Mbps is now provided to most of our customers in the Blanchard and greater Blanchard area. WOW continues to upgrade and improve the service to meet both customer demand and the specifications of the FCC. Even now, Zply proposes to provide service to only the primary core residential and business area of Blanchard. Essentially Zply proposed to connect only the higher density, low hanging fruit, and then only if the government provides

them with enough money to make a handsome profit for Ziply. If Ziply is awarded this grant through Bonner County, this will disincentivize other providers from expanding or entering the market around Blanchard. The financial cost of entry would be too great. No provider should be provided with a grant to provide service only to the centralized population in an area, the low hanging fruit. Those outside the urban area will be made then to wait, possibly forever to get service.

In conclusion, the project outlined in this application does not satisfy the criteria set forth under the plain language of the CARES Act and, therefore is ineligible for this pandemic-related funding. The granting of this application simply will not serve to address the legitimate pandemic-related broadband accessibility issues sought to be resolved by the Act. The project outlined in the application describes infrastructure improvement by a for-profit company in an area already sufficiently served by its competitors. Taxpayer funds should not be utilized to provide a private, for-profit corporation an unfair competitive advantage. Our goal at Wired or Wireless Inc is to encourage a level playing field for businesses that are competing in the market. The free market is working in Blanchard. Private investment brought Broadband service to Blanchard and continues to expand it. Providing a grant to an incumbent provider who has been unable to compete in the market without government assistance is NOT the best way to help the community of Blanchard or any other similar community.

Respectfully,



William B. Geibel, Jr.
BSEE/RCDD/NTS
President
Wired or Wireless, Inc.

July 21, 2021

Idaho Broadband Committee

Eric Forsch

Idaho Department of Commerce

To Whom it May Concern:

PMT is submitting an official challenge to the Cares Act Applications for both the City of Heyburn and the City of Burley. PMT currently has a robust fiber infrastructure within the Cities of Heyburn and Burley offering up to speeds of 10-gigabits.

PMT offers redundant broadband pathways to both Boise and Salt Lake City where customers would not have affected service if the long-distance fibers were cut. PMT offers diversification through Syringa Networks and other Providers.

PMT currently has fiber connections into every school in Minidoka County and Cassia County within our serving area. Additionally, PMT provides fiber connections to Minidoka County and Rupert City offices as well as Cassia County and the Burley Library.

PMT currently does not have active services to the Cities of Heyburn and Burley so PMT cannot verify the speeds shown in their respective applications citing PMT speeds.

PMT currently has fiber across the street from the Burley City offices and within five city blocks of the Heyburn City offices. Both of these locations can offer up to 10-gig services. PMT has previously quoted the City of Burley a complete fiber network connecting each of their offices as well as wastewater and lift station locations, however our bid was rejected by the City. The City stated our quote which was at \$1 million was too much. The city of Burley is now requesting \$1 million plus to construct the same network using various technologies including wireless which is not considered stable in comparison to fiber.

PMT is a community based non-profit cooperative serving the Mini-cassia area for over 100-years. PMT offered free internet services to over 200-families during the COVID School closures during the Spring of

2020. PMT was the only company offering these free services to families with no charges for installation or equipment. No other provider or City offered free services during this time. For the City of Burley and the City of Heyburn to officially state that PMT has let down our communities is completely uncalled for.

PMT believes both of these applications for the City of Burley and the City of Heyburn, do not comply with the guidelines stated within the Cares Act applications for funding. PMT is officially challenging both of these applications.

Thank You



Dan Hoover

President & CEO

507 "G" St.

Rupert, ID 83350

Direct 208-434-7138 | Cell 208-430-1357 | Fax 208-434-7218

pmt.org | dhooover@pmt.coop



2101 E. KARCHER RD.
NAMPA, ID 83687
PH: 208-455-5575
CHERYL.GOETTSCH@SPARKLIGHT.BIZ

CHERYL GOETTSCH
SENIOR GENERAL MANAGER
WESTERN IDAHO, EASTERN OREGON

Delivery via email only: broadband@commerce.idaho.gov

July 23, 2021

Tom Kealey, Director
Idaho Dept of Commerce
Broadband Office
700 W State Street
Boise, ID 83702

Re: Sparklight Challenges to Idaho Broadband Grant Program Applications

Dear Director Kealey:

The State of Idaho Broadband Grants Program Guidelines for 2021 invite "any eligible applicant, or any internet service provider qualified and able to provide the broadband service proposed" to enter a written challenge "identifying the criteria the application does not meet and providing a basis for the challenge." Cable One Inc., d.b.a Sparklight ("Sparklight"), an eligible internet service provider in this grant program, submits the following challenges to the application(s) of certain Idaho municipalities identifying criteria why the applications fail to meet the stated guidelines, and providing further information to illustrate Sparklight's challenges.

Sparklight remains available to provide the Department additional information as necessary.

Sincerely,

Cheryl Goettsche
Sr. General Manager
Sparklight (Western Idaho, Eastern Oregon)

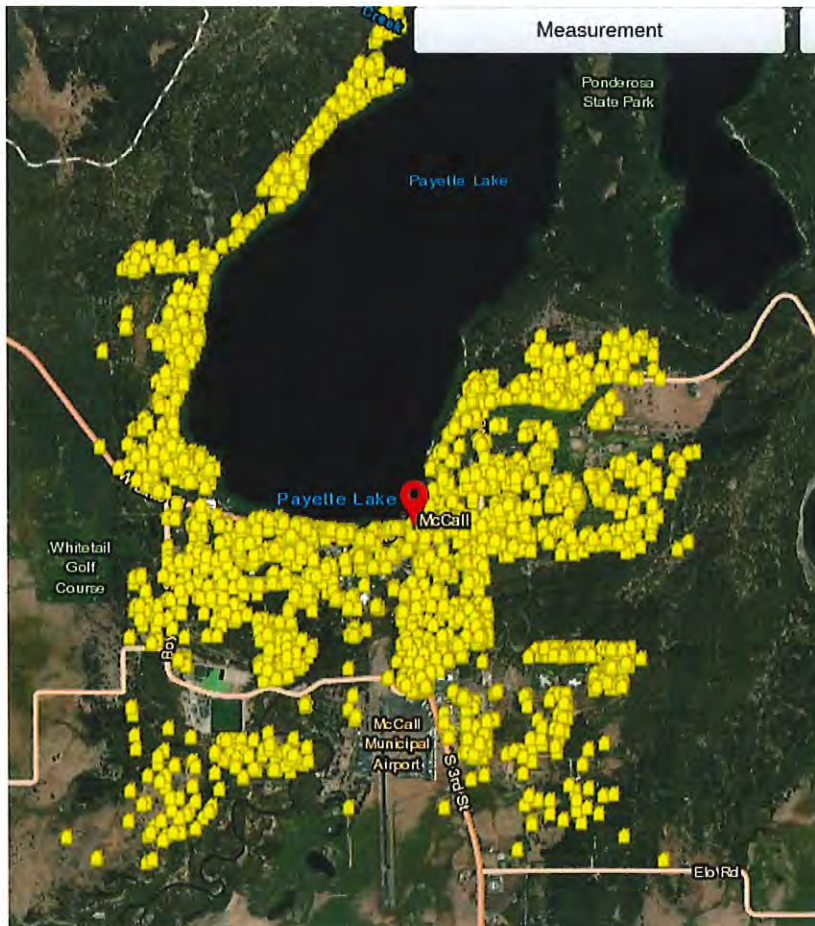
cc: Peter N. Witty, General Counsel
Juli Blanda, West Division VP
Eric Forsch, Broadband Development Manager

- I.
 1. **Application Title – RAPID McCall Broadband – Opportunity Zone Loop**
 2. Application ID – APP-004819
 3. Region 3
 4. Reason(s) Applicant is ineligible for funding: This project violates the following criteria of the 2021 Grant Program:

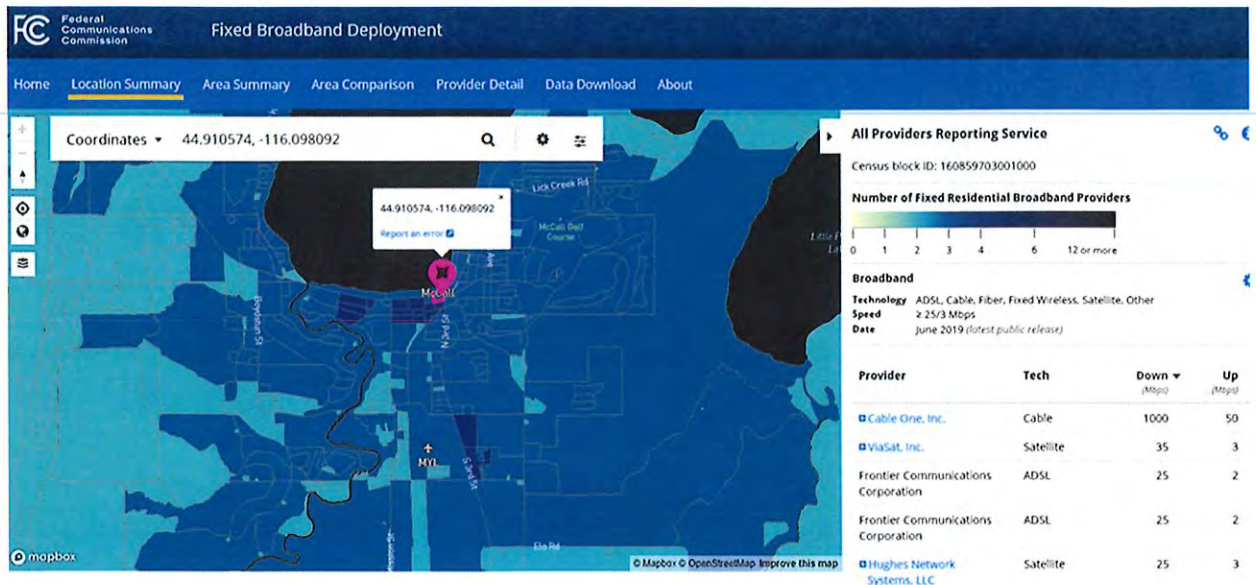
Per the Program Guidelines, the project “Projects must expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety. Projects that would not be expected to increase capacity to a significant extent until the need for telework, telehealth, distance learning, and public safety have passed due to this public health emergency would not be necessary due to the public health emergency and therefore would not be eligible uses of Broadband Grant funds. Projects must provide broadband service within the proposed project areas. This area is well served by Sparklight, who currently has over 50 miles of active fiber backbone throughout the City of McCall. Sparklight’s fiber rich network provides up to 1 gig to it’s entire footprint. This project would be a direct example of a municipality overbuilding in an area that currently offers fiber solutions with significant broadband speeds. By providing funding for a municipality to install fiber into an area that is already built with the intent to ultimately sell internet services in direct competition, does not follow the spirit or intent of this funding – which is to truly reach the underserved in our communities.

5. Maps showing Sparklight’s Coverage:

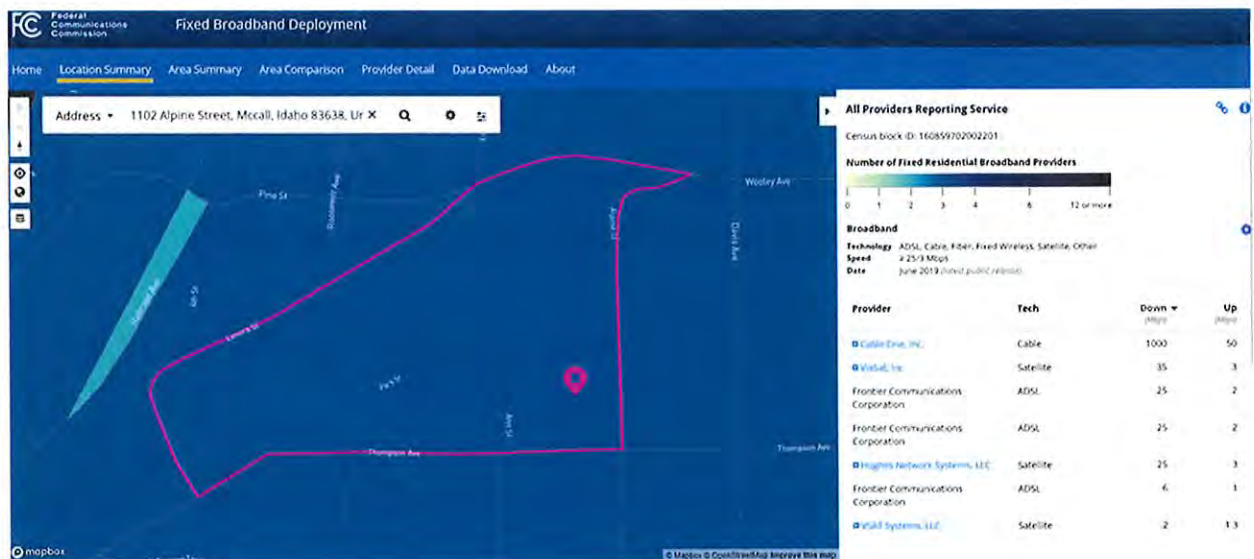
- A. Sparklight Serviceability Map, McCall ID:

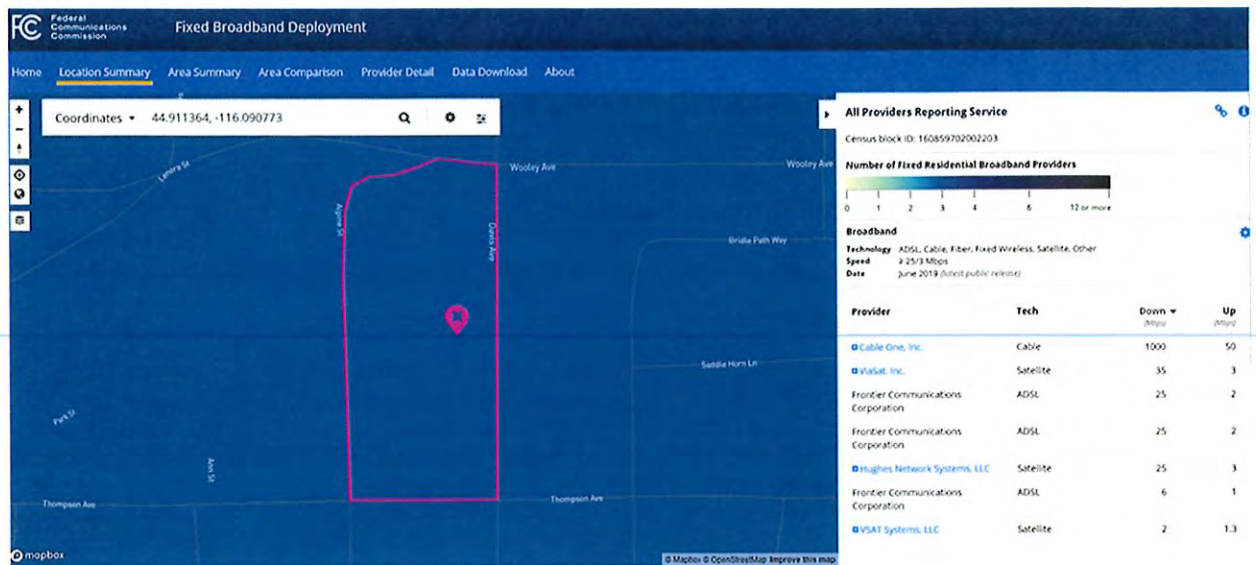


B. FCC Broadband Deployments Map, McCall, ID:

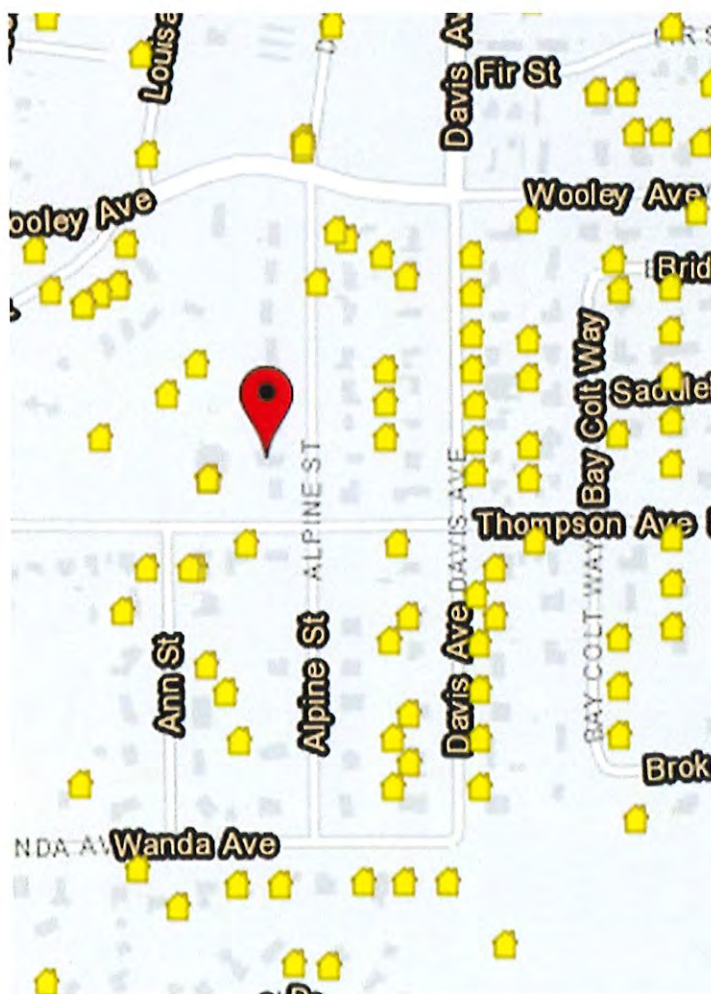


- II.
 1. **Application Title – RAPID McCall – Pilot Neighborhood: Fiber for Local Housing**
 2. Application ID – APP-004821
 3. Region 3
 4. Reason(s) Applicant is ineligible for funding: This project violates two criteria of the Grant Program:
 - a. Per the Program Guidelines, “Projects must expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety. Projects that would not be expected to increase capacity to a significant extent until the need for telework, telehealth, distance learning, and public safety have passed due to this public health emergency would not be necessary due to the public health emergency and therefore would not be eligible uses of Broadband Grant funds. This area is well served by Sparklight, serving 100% of the homes in this test area with broadband service of 1 gig speed. Sparklight currently has over 50 miles of active fiber backbone throughout the City of McCall. Sparklight’s fiber rich network provides up to 1 gig to it’s entire footprint covering the City of McCall. This project would be a direct example of a municipality overbuilding in an area that currently offers fiber solutions with significant broadband speeds. By providing funding for a municipality to install fiber into an area that is already built with the intent to sell internet services in direct competition, does not follow the spirit or intent of this funding – which is to truly to reach the underserved in our communities.
 - b. Sparklight’s homes passed map and the FCC Broadband Deployment Map for McCall are included below. Also included is a screen shot of Sparklight’s billing system showing that all products—including 1 gig broadband service—are available at 1102 Alpine St. McCall (Example of one address in this test area).
 5. Maps and information indicating Sparklight coverage:
 - A. FCC Broadband Deployment Map, Alpine St. and Davis Ave, McCall, ID:





B. Sparklight Serviceability Map, Alpine St and Davis Ave, McCall, ID:



C. Sparklight Billing system screen shot – 1102 Alpine St. McCall, ID:



Home > Search for Homes Passed >

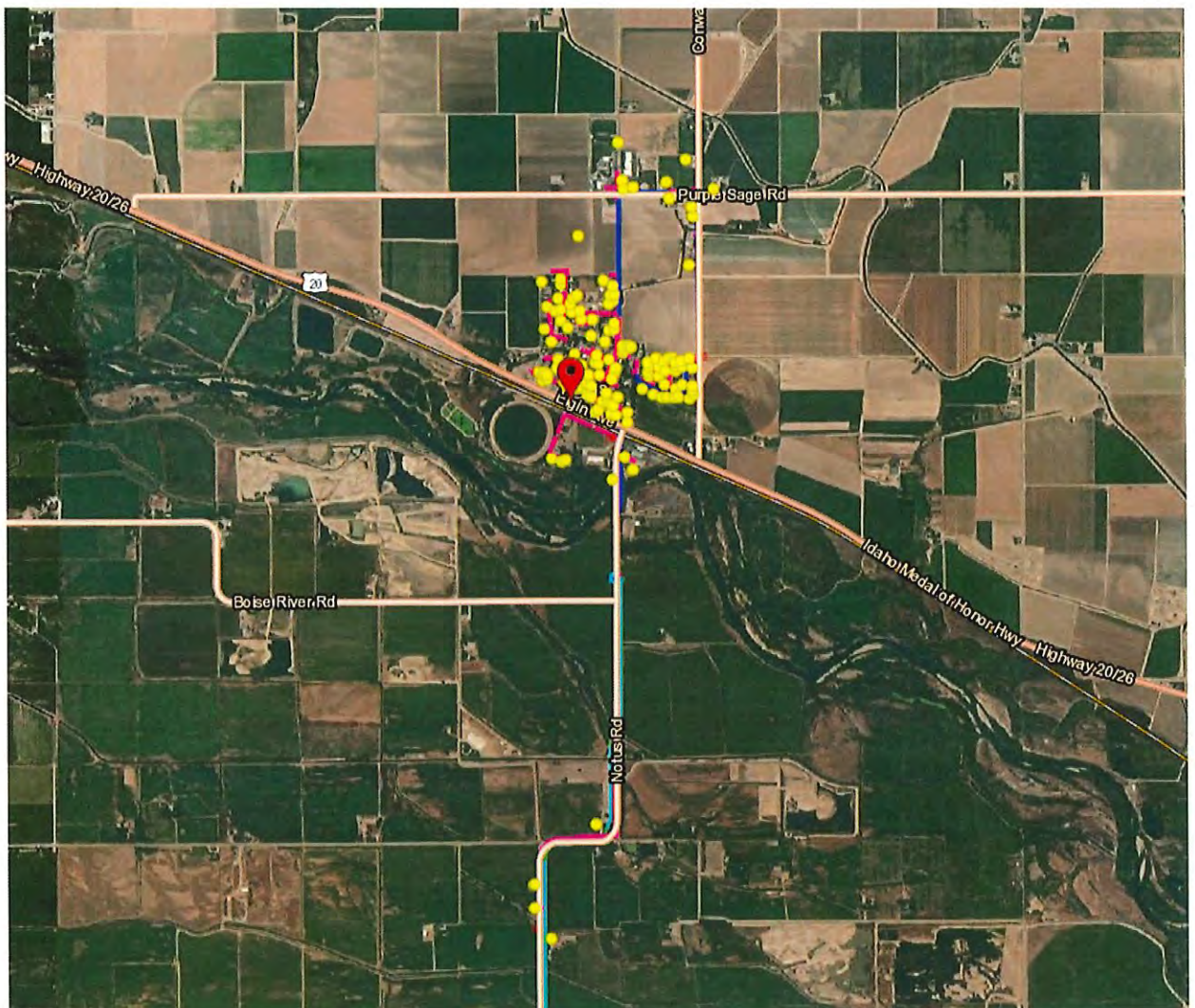
Homes Passed 1561521 [Main Menu](#)

Homes Passed Overview

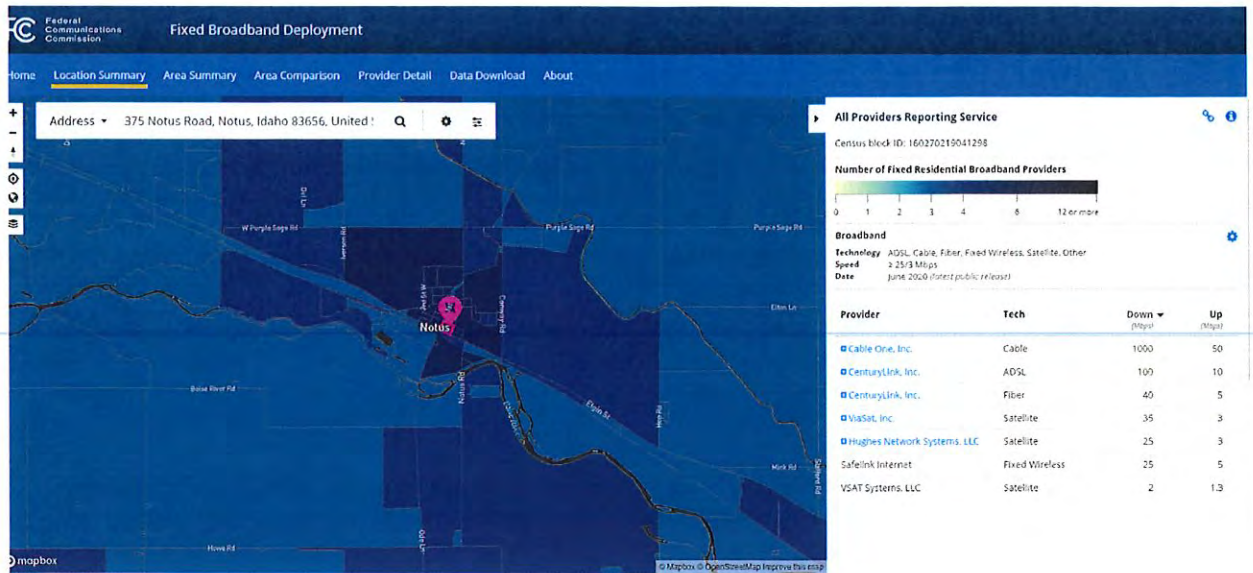
Homes Passed Details

Street Number	1102	FTA	0126
Prefix Direction		OC (dynamic)	West Valley
Street Name	ALPINE ST	Node ID	23460MC8M
Suffix Direction		Schedule Area	23460N
Apt Description		CIR#	
Apt#/Unit#		Complex Number	
City	MCCALL	Complex Mgt Name	
State	ID - Idaho	Serviceable Product	HSD & Phone & Video
State Abbreviation	ID	Serviceability Date	
County	VALLEY	Last Serviceability Check	
Zip + 4	83638-0000	Tag#	1056927
GeoCode	130850783	Network Type	Cable
FIPS	160059702002201	Aerial/Underground	OH
Latitude	44.9109459	Tap Location	

- III.
1. **Application Title – Connecting Notus to the rest of the Treasure Valley and beyond.**
 2. Application ID: App-004828
 3. Region 3
 4. Reason(s) Applicant is ineligible for funding:
 - a. Sparklight has 1 gig service in Notus, ID – covering over 50% of the households, yet was not mentioned as a current service provider in the application.
 - b. We have fiber to the town and could build to City Hall and Library at a much lower cost than bringing in another company that is not already located within the City Limits. We view this as a poor use of public funds.
 5. Maps identifying Sparklight Coverage:
 - A. Sparklight, Notus Idaho homes passed:



- B. FCC Broadband Deployment Map, Notus, Idaho:



RE: Idaho CARES Act Broadband 2021

Ziply Fiber has reviewed the applications proposed for broadband deployment across the state of Idaho. Ziply Fiber is a provider of telecommunications (phone/internet) in several regions in Idaho. We have been aggressively pursuing resources (federal, state and private) to deploy Gigabit connectivity across existing networks and building new fiber projects to provide future proof capacity in Idaho's communities.

Ziply Fiber operates in Idaho as an incumbent local exchange carrier and is regulated by the Idaho Public Utilities Commission. As a local exchange carrier, or telephone company as they are more commonly known, Ziply Fiber's network interconnects with more than 100 other local and regional communications companies. Examples of these companies include Verizon, AT&T, T-Mobile, Intermax, Fatbeam, First Step, and many others. In addition to wholesaling access to our network, Ziply Fiber also allows other providers to resell services from our network. The nature of our business enables competition to the benefit of the communities we serve.

We are presenting challenges to projects proposed in the Silver Valley, Sandpoint, Clearwater County McCall and New Meadows.

Silver Valley

The proposals within the Silver Valley are particularly perplexing to us as we proactively reached out to develop fiber to the premise projects. Leveraging the Idaho CARES Act funds will directly complement the Ziply Fiber RDOF awards in the region. The premise of our challenge to the Silver Valley projects is based firmly in fact that for long term resilient connectivity, a fiber to the premise network will serve the residents, businesses and community institutions far above the capacity offered by fixed wireless solutions.

Ziply Fiber is challenging the applications in the Silver Valley and proposing an alternative approach (an Opportunity).

Application	Location	Proposed Service	Challenge
APP-004803	Silverton	Fixed Wireless	To our knowledge, Shoshone County did not adhere to the Idaho procurement process (Idaho Code Title 67, Chapter 92). <ul style="list-style-type: none">Ziply Fiber is ready and willing to provide a fiber to the premise solution in Silverton. Ziply Fiber has been awarded RDOF funds to deploy Gigabit connectivity to serve 234 premises immediately adjacent to Silverton.
APP-004829	Smelterville, Page, Pinehurst	Fixed Wireless	To our knowledge, Shoshone County did not adhere to the Idaho procurement process (Idaho Code Title 67, Chapter 92). <ul style="list-style-type: none">Ziply Fiber has been awarded RDOF funds to deploy Gigabit connectivity in three census blocks, serving 273 premises in the proposed location. Ziply Fiber is

			positioned to provide a fiber to the premise solution throughout the Silver Valley
APP-004858	Placer Crk Gulch, South Hill	Fixed Wireless	<p>Ziply Fiber has been awarded RDOF funds to deploy Gigabit connectivity in the census block group 160799604003, which includes the proposed location.</p> <ul style="list-style-type: none"> Funding this project with CARES Act funds is a overbuild of awarded federal broadband funds
APP-004864	Osburn	Fixed Wireless	<p>To our knowledge, Shoshone County did not adhere to the Idaho procurement process (Idaho Code Title 67, Chapter 92).</p> <ul style="list-style-type: none"> Ziply Fiber is poised to provide a fiber to the premise solution throughout the Silver Valley. Ziply Fiber has been awarded RDOF funds to deploy Gigabit connectivity in census block groups adjacent to the proposed location.

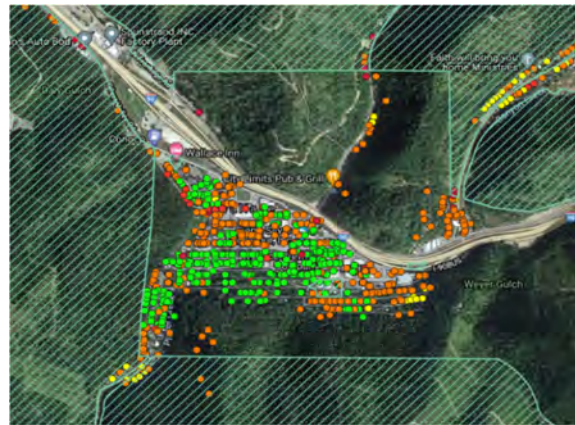
The alternative approach, Opportunity, is rooted in leveraging the Silver Valley area RDOF awards.

A complementary investment of Idaho Broadband funds will facilitate an expedited deployment of a fiber to the premise network across the Silver Valley. The maps presented provide an overview of the RDOF award areas and those areas in communities adjacent, where Gigabit connectivity will be enabled. Investing in these communities; with a 75% Idaho Broadband fund infusion, Ziply Fiber will build out a fiber to the premise network. This opportunity would effectively close the digital divide in the Silver Valley.

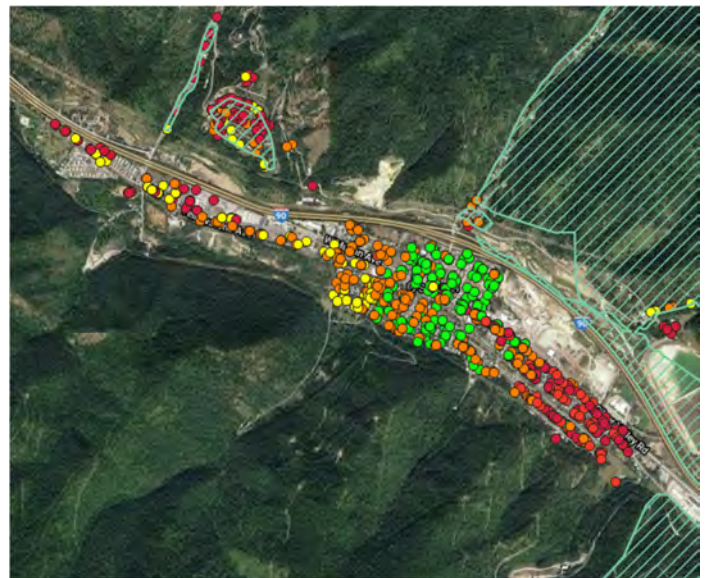
Silverton – the hashed area represents the Ziply Fiber RDOF award. Each dot represents customers served by the Ziply Fiber network today. The investment to deploy fiber to the premise in Silverton \$587,511.



Wallace Area – Placer Creek is within the Ziplly Fiber RDOF award areas, shown in lower left quadrant. Each dot represents customers served by the Ziplly Fiber network today. The investment to deploy fiber to the premise in Wallace \$394,980.



Osburn – The hashed area represents the Ziplly Fiber RDOF award area. Each dot represents customers served by the Ziplly Fiber network today. An investment of \$1.1M will complete fiber deployment enabling every premise gigabit service.



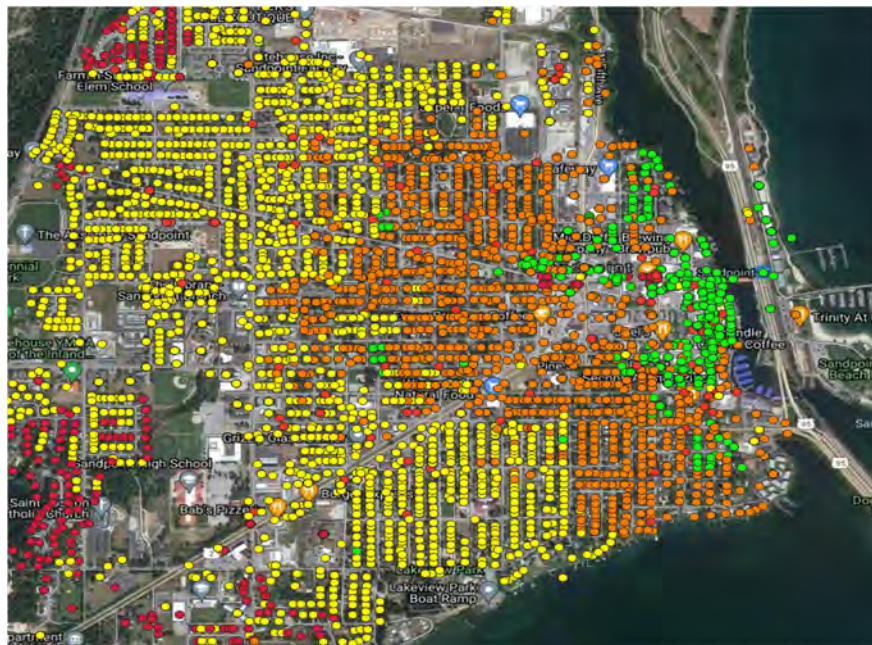
Smelterville – the hashed RDOF award area encompasses approximately half of Smelterville. Each dot represents customers served by the Ziplly Fiber network today. An investment of \$1,039,786 will provide complete fiber coverage enabling gigabit connectivity to residents, businesses and the airport.



Sandpoint

In Sandpoint, Ziplly Fiber has been and continues to upgrade its capacity to deliver gigabit connectivity. We are an eager partner in facilitating and utilizing open access in communities we serve. Each dot represents customers served by the Ziplly Fiber network today in the area proposed by the City of Sandpoint. Overbuilding is not necessary. At present, Ziplly Fiber is in process of enabling approximately 6,000 locations within the City of Sandpoint over the next twelve months.

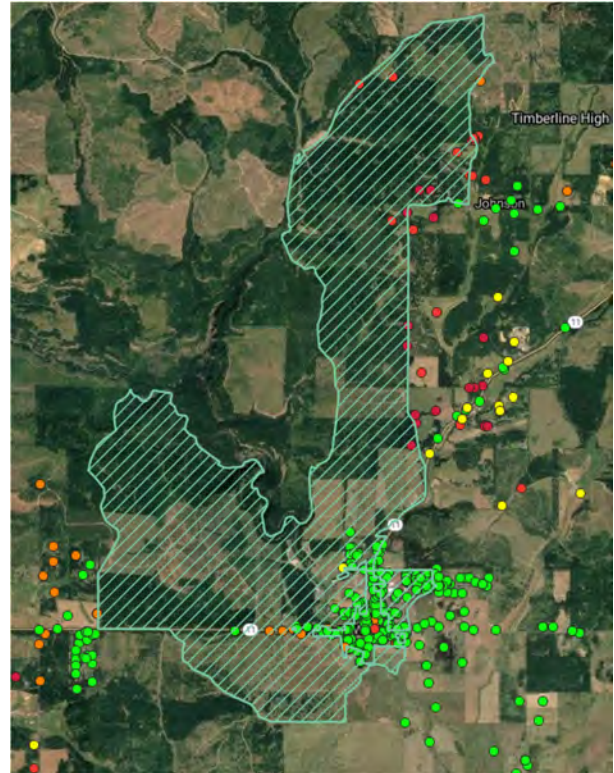
Application	Location	Proposed Service	Challenge
APP-004772	Sandpoint	City conduit	The area proposed overbuilds existing Ziplly Fiber infrastructure



Clearwater County

Application	Location	Proposed Service	Challenge
APP-004816	Clearwater County-North Weippe	Fixed Wireless	The area proposed coverage overlaps Zipty Fiber RDOF award area
APP – 004817	Clearwater County – Fraser	Fixed Wireless	Portions of the area proposed overlap Zipty fiber RDOF award area

The hashed areas here represent the Zipty Fiber RDOF award block groups. The deployment of the ID CARES Round 1 funding provided fiber to the premise in the City and east of Weippe. Each dot represents customers served by the Zipty Fiber network today. This build and RDOF award will facilitate enhanced connectivity and gigabit capacity for the premises identified in the near future.

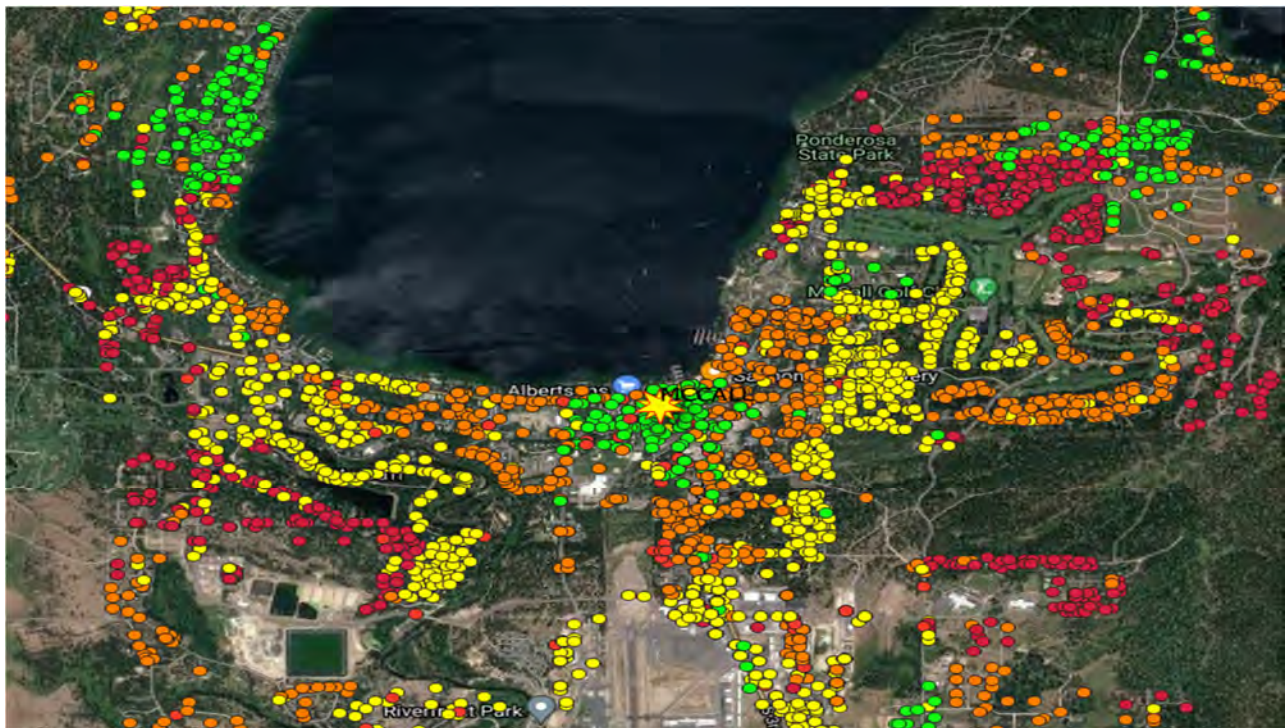


The eastern side of the proposed service area in the Fraser prairie overlaps the Zipty Fiber RDOF award area. The deployment of the ID CARES round 1 funding facilitated gigabit connectivity to the outer eastern edge of the proposed service area.

McCall

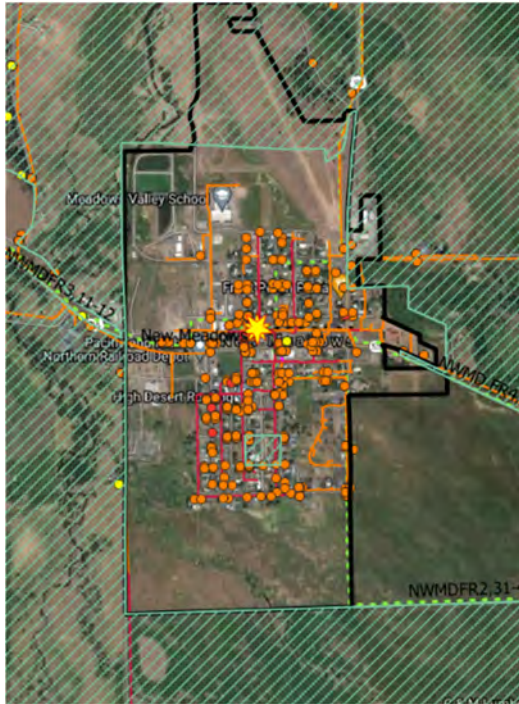
Application	Location	Proposed Service	Challenge
APP - 004819	McCall	Fiber Middle mile	Ziply Fiber is currently constructing a fiber network in the proposed area.
APP – 004821	McCall	Fiber – 55 locations	Ziply Fiber is currently constructing a fiber network in the proposed area.

The proposed middle mile and 55 location last mile builds overlap areas currently in construction by Ziply Fiber. Each dot represents customers served by the Ziply Fiber network today. At present, Ziply Fiber is in process of enabling more than 3,800 locations within the City of McCall over the next twelve months.



New Meadows

Application	Location	Proposed Service	Challenge
APP-004799	New Meadows	Fixed Wireless	The area proposed coverage overlaps. Ziply Fiber RDOF award area



The hashed areas here represent the Ziply Fiber RDOF award block groups. Each dot represents customers served by the Ziply Fiber network today. An investment of \$580,000 combined with a Ziply Fiber match of more than \$600,000 will provide complete fiber coverage enabling gigabit connectivity to residents and businesses. This build will enable Ziply Fiber to expedite it's RDOF deployment will facilitate enhanced connectivity and gigabit capacity for the City of New Meadows and the surrounding community in the near future.



July 23, 2021

Sent Via:

Email

broadband@commerce.idaho.gov

Idaho Department of Commerce
Broadband Office
700 W State St.
Boise, ID 83702

RE: Grant Application Challenges July 2021

Per review of the July 2021 Broadband Grant Applications, it appears the locations of much of the data included in the Region 1 application file overlap areas either currently served, or soon will be served with fiber to the premise capable of 1Gbps by TDS Metrocom (TDS).

The exact addresses of anchor institutions, parks, campgrounds, and other service locations have not been included in the applications making it difficult to truly understand where the grant dollars would be spent. Clearly some of the locations are within the boundaries that TDS either serves or has plans to serve soon.

In order to assist the Broadband Office in its review of the applications, TDS has attached maps to this notice that depict the fiber to the premise system currently (and planned) in and around Coeur D'Alene, Rathdrum, Post Falls and Hayden Lake that overlaps applications in Region 1.

In addition, some announcements regarding this build can be found at the following links:

[News | TDS growing teams in Central Wis & Coeur d'Alene, Idaho | TDS \(tdstelecom.com\)](#)

[News | TDS bringing 1Gig broadband to Idaho | TDS \(tdstelecom.com\)](#)

[fiberconstructiongetsunderwayinnorthernidaho \(tdstelecom.com\)](#)

[News | TDS open for business in Idaho! | TDS \(tdstelecom.com\)](#)

[News | TDS hits 10,000 total registrations | TDS \(tdstelecom.com\)](#)

[News | TDS selected as 2020 business of the year | TDS \(tdstelecom.com\)](#)

TDS has invested heavily in the area and has plans to continue to so. If some of the communities are interested in having fiber to the premise built in their area, we would encourage them to reach out to Josh Worrell at Josh.Worrell@tdstelecom.com or 608-664-9530 to initiate discussions.



Thank you in advance for considering this information in your decision making process. If you have questions regarding this information, please contact Gail Long at either gail.long@tdstelecom.com or 608-664-2923.

Sincerely,
DocuSigned by:

Andrew Petersen

B93BE162F55542A...

Andrew S. Petersen
Senior VP – Corporate Affairs

CC: Gail Long – TDS
Josh Worrell - TDS

Idaho Broadband Fund: CARES Act Broadband Grant Challenge Responses

Challenge Response Period:

5:00pm MDT 7/23/2021 through 5:00pm MDT 7/28/2021



7/28/2021

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Rena Scott

Joe McWilliams

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Charter Associates

Boise State University

BYU-Idaho

Idaho Hospital Association

Idaho National Laboratory

Idaho State University

State of Idaho

University of Idaho

Washington State University

Via Email

Idaho Broadband Advisory Board
700 W. State Street
Boise, Idaho 83702

Idaho Department of Commerce
700 W. State Street
Boise, Idaho 83702

Re: J&E Electronics Challenge to Grant Application of Idaho Regional Optical Network Inc.

Dear Ladies and Gentlemen,

We appreciate the opportunity to participate in the grant selection process and to offer this response to the challenge to our application.

We respectfully disagree with the objection to our eligibility raised in the challenge by J&R Electronics. IRON's application was submitted with the understanding that it is, indeed, eligible under the Department of Treasury guidance for use of the CARES Act funds.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael Guryan", is written over a light blue horizontal line.

Michael Guryan
General Manager
Idaho Regional Optical Network, Inc.

Idaho Regional Optical Network, Inc.

950 W. Bannock St., Suite 1100 • PMB#110060 • Boise, ID 83702
1-888-611-4766 • info@ironforidaho.net • www.ironforidaho.net



7/27/2021

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Idaho State University
State of Idaho
University of Idaho
Washington State University

Via Email

Idaho Broadband Advisory Board
700 W. State Street
Boise, Idaho 83702

Idaho Department of Commerce
700 W. State Street
Boise, Idaho 83702

Re: Spectrum Challenge to Grant Application of Idaho Regional Optical Network Inc.

Dear Ladies and Gentlemen,

We appreciate the opportunity to participate in the grant selection process and to offer this response to the challenge to our application.

We respectfully disagree with the objections raised in the challenge. IRON is not overbuilding an existing fiber route. IRON is securing an IRU on existing fiber. There is minimal construction for each local Point of Presence (POP).

The grant will serve local government entities, which in turn serve all of the households in the region. No last mile connections are required under the grant guidelines.

Although the challenger alleges the "Applicant is positioned to profit from selling access to its POPs in these communities to retail providers", IRON is restricted by its charter and does not provide services to retail providers.

IRON, first and foremost, exists to meet the needs of Idaho's public institutions and its citizens. IRON believes that its application as submitted meets the requirements set out in the grant guidelines and we affirm our commitment to implementing the proposed project within the timeline required by the grant.

Respectfully submitted,

Michael Guryan
General Manager
Idaho Regional Optical Network, Inc.



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Jeff Weak

Charter Associates

Boise State University
BYU-Idaho
Idaho Hospital Association
Idaho National Laboratory
Idaho State University
State of Idaho
University of Idaho
Washington State University

7/27/2021

Via Email

Idaho Broadband Advisory Board
700 W. State Street
Boise, Idaho 83702

Idaho Department of Commerce
700 W. State Street
Boise, Idaho 83702

Re: Syringa Challenge to Grant Application of Idaho Regional Optical Network Inc.

Dear Ladies and Gentlemen,

We appreciate the opportunity to participate in the grant selection process and to offer this response to the challenge to our application.

We respectfully disagree with the sentiments expressed in the challenge. We believe that project proposed in the application is exactly how these funds were meant to be used, for the public good and to create public infrastructure.

The purpose of the grant is to provide sufficient bandwidth to address the public health emergency, in support of public safety, telework for public employees, and education. The proposed project achieves this. The Advisory Board can and should consider potential economic development benefits as they are part of the scored criteria listed in Item 2.

IRON, first and foremost, exists to meet the needs of Idaho's public institutions and its citizens. IRON believes that its application as submitted meets the requirements set out in the grant guidelines and we affirm our commitment to implementing the proposed project within the timeline required by the grant.

Respectfully submitted,

Michael Guryan
General Manager
Idaho Regional Optical Network, Inc.

Idaho Regional Optical Network, Inc.

950 W. Bannock St., Suite 1100 • PMB#110060 • Boise, ID 83702
1-888-611-4766 • info@ironforidaho.net • www.ironforidaho.net



July 26, 2021

Applicant ID: APP-004772

Applicant: City of Sandpoint

Subject: Response to Challenges

The following are responses to challenges pertaining to the City of Sandpoint's application for the Idaho Broadband Fund: CARES Act Broadband Grant

1. Ziply Fiber

a. Challenge: The area proposed overbuilds existing Ziply Fiber infrastructure.

- i. *Response: The proposed project is an expansion of the City of Sandpoint dark fiber and conduit broadband network. This network is operated as a municipal-owned network and is available to any and all service providers, including incumbent providers who want access at a reasonable cost. As a municipal-owned network, it is vested in the community and is operated on behalf of the community and its economic development needs.*
- ii. *Construction of this network expansion will provide underground fiber connectivity to businesses located within the Sandpoint downtown core. For the most part, incumbent services to businesses in this core are copper or coax, and many of the services are fed by overhead utilities. Businesses within the downtown core have contacted the City of Sandpoint as well as service providers for several years asking for underground high speed fiber connectivity as is provided to residences and businesses in other areas throughout Sandpoint. In addition, for the past four years, the City has been working with Avista Utilities to implement a phased underground utility effort which will require incumbent service providers to relocate. The next phase of underground utilities that is expected to be undertaken this year will extend from Bridge Street past Main Street along Sand Creek. This is one of the areas proposed for expansion of the municipal backbone and for free public wifi.*
- iii. *Due to limited space and other utility conflicts in the right-of-ways in downtown Sandpoint, the City has undertaken and proposed expansion to its municipal-owned network to ensure that both incumbent and new service providers will be able to provide competitive, affordable fiber to the premises service to the downtown core. These conflicts and limitations have resulted in the City denying service provider build-outs as the additional vaults and other right-of-way impacts cannot be*

accommodated. The proposed municipal backbone will allow multiple service providers to use a single infrastructure and own their own fiber within it. Currently, the City has three service providers using its backbone and there will soon be a fourth. These service providers have been involved in expansion discussions of the municipal backbone and associated rates.

- iv. The City's municipal network is also used by the City for its own government services and public wi-fi connectivity. In addition, it is used by Bonner County, Lake Pend Oreille School District and Idaho Transportation Department. Expansion of the network benefits future growth and connectivity needs of all of these governments and ensures compliance with Criminal Justice Information Services (CJIS) required for public safety.*

2. Northland Cable Properties, Inc.

- a. Sandpoint's application covers the construction of conduit and does not seem to describe a project that would actually deliver broadband services to existing businesses. Northland would be interested in discussing potential solutions with the City to leverage Northland's infrastructure to address the City's goals.
 - i. *Response: In addition to extending the availability of fiber conduit to the remainder of downtown Sandpoint, improving opportunities for e-commerce and shared workspaces, the project proposed by the City of Sandpoint encompasses a significant scope of work, including:*
 - 1. *Connect the existing and new conduit network to the City of Sandpoint Lake Water Treatment Plant which is an access point where middle mile fiber is available to multiple providers. This will create an alternate path to the middle mile fiber increasing redundance from the current single path for the City of Sandpoint, Bonner County, and multiple ISPs currently utilizing the City of Sandpoint fiber and conduit network.*
 - 2. *Connect the Lake Water Treatment Plant to the City of Sandpoint Water Intake via fiber optics for SCADA for water operations. As the sole water treatment facility in the area, operations at the water treatment facility are critical. Remote operations will also be realized at other City facilities located at City Beach Park.*
 - 3. *Improve public safety efforts through the installation of security cameras that can be accessed remotely. Specifically, surveillance at the public dump station located at City Beach Park has been recommended in an audit conducted by DEQ.*
 - 4. *Provide free public access to Wi-Fi at City Beach Park and Farmin's Landing. Public Wi-Fi is critical to those individuals who do not have access to or cannot afford Internet access at their homes for access to distance education and telework opportunities that may be necessary.*
 - 5. *Improve the Jeff Jones Squire maintenance closet to host a conduit and dark fiber meet point.*

6. *Move City of Sandpoint Government and Economic Development fiber meet point from City Parking to the improved Jeff Jones Square maintenance closet.*
- ii. *Further, the City's municipal fiber and conduit network and expansion there-to is available to any and all service providers. Partnering with a single service provider to use it's infrastructure does not support and contribute to a competitive service provider opportunity that ultimately provides redundant and back-up service to businesses and/or residents who require it, especially for disaster planning.*

3. WOW

- a. First, WOW submits that the proposed project outlined in this application does not legally fall within the CARES Act parameters as its costs do not constitute a "necessary expenditure" incurred "due to the public health emergency" as defined by the Act and, thus, are ineligible for grant funding under the Act.
 - i. *Response: The grant guidance provides the following eligibility criteria: "Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety." The proposed project presented by the City of Sandpoint specifically addresses public health and safety by improving opportunities to telework, facilitating distance learning, and improving public safety as described in the application itself and in the scope of work presented in the application:*
 1. *Connect the Lake Water Treatment Plant to the City of Sandpoint Water Intake via fiber optics for SCADA for water operations. As the sole water treatment facility in the area, operations at the water treatment facility are critical. Remote operations will also be realized at other City facilities located at City Beach Park.*
 2. *Improve public safety efforts through the installation of security cameras that can be accessed remotely. Specifically, surveillance at the public dump station located at City Beach Park has been recommended in an audit conducted by DEQ.*
 3. *Provide free public access to Wi-Fi at City Beach Park and Farmin's Landing. Public Wi-Fi is critical to those individuals who do not have access to or cannot afford Internet access at their homes for access to distance education and telework opportunities that may be necessary.*
- b. Second, to the extent the proposed project claims to enable telework and distance learning for those students and workers required to telecommute upon a Covid-19 positive diagnosis, we still submit that the project is still not "necessary" to respond to the public health emergency, because the application is not requesting funds needed to expand broadband access into unserved or underserved areas as is contemplated by the Act. In fact, the area targeted in this application is currently being served by multiple providers offering broadband services in a competitive market environment at speeds and

bandwidth sufficient to serve the existing distance-learning and telework needs of the community.

- i. Response: Access to high speed internet in rural areas is a significant challenge. Despite efforts to expand internet access in Bonner County, there are a number of areas that still are without affordable options. Providing access to free wi-fi at City locations enables those who do not have access to or cannot afford available internet options at their homes to access the internet for free for the purpose of distance education or telework. In addition, while the challenge references schools returning to in-person learning and other Stage 4 guidelines, the recent impact of the Delta strain has resulted in a surge in cases and hospital capacity issues which raises the question of continued Stage 4 guidelines.*
- c. We submit that the application's proposed project is not necessary to respond to the public health emergency, nor is it needed to mitigate future disruptions and, thus, does not meet the CARES Act criteria. The application's target area is already sufficiently served by other broadband providers. The city center of Sandpoint is served by no fewer than 5 providers delivering services that meet or exceed the FCC definition of Broadband at 25/3. The information provided in response to this section of the application downplays the available broadband coverage currently available in the area. Wired or Wireless currently provides speeds up to 30Mbps DL by 10 Mbps UL via a fixed wireless network from multiple tower sites in the area. The Sandpoint area is well served by providers who continue to compete, increase investment, expand, and improve Broadband and related services in the area.
 - i. The municipally owned fiber and conduit network and the proposed expansion thereto is used by multiple service providers as the connection point to the Zayo Point of Presence (POP) located on the City's water treatment plant property. It is an important connector to fiber expansion efforts beyond the City of Sandpoint into adjacent municipalities and unincorporated areas. Expansion of the network as proposed will provide the 50-year infrastructure needed as reciprocal upload/download speed demands increase and system users increase. The speeds needed by the City to provide free public wifi and security cameras as proposed greatly exceed 30 Mbps DL by 10 Mbps UL.*
- d. Speed test results submitted do not accurately reflect the existing availability of broadband service, specifically via Wired or Wireless product offerings.
 - i. The speed tests submitted were taken at multiple locations within the Sandpoint downtown core and within the project area. Several of the speed tests were specifically taken at City properties proposed for public wifi and demonstrate insufficient speeds.*
- e. Our goal at Wired or Wireless Inc. is to encourage a level playing field for businesses that are competing in the market. The free market is alive and working in Sandpoint. Private investment brought Broadband service to Sandpoint and continues to expand it. Providing a grant to a municipality that is

not required to compete in the market is NOT the best way to help the community of Sandpoint or any other similar community.

- i. *Response: The Sandpoint fiber network was not designed to compete with the private market and in fact the City is not competing with private service providers. As a City-owned infrastructure, the network is vested in the community and is operated on behalf of the community and its economic development needs. The network is operated as a dark (unlit) fiber optic and telecom conduit network available to any and all service providers who want access to the significant market opportunity represented by the residents and the businesses of the City and beyond. One of the ISP's operating in our region, Ting, who brings fiber to the home connectivity only came to Sandpoint and is operating regionally because of the City's network. In addition, Fatbeam brought e-rate funded fiber connectivity to Lake Pend Oreille School District via the City's network. In addition to using the network, both providers also lease space from the City to locate telco huts connected to the network. A third provider is planning to build out to underserved areas using the City's network and has also requested a lease for a telco hut.*

Sandpoint has historically and will be continuing to invest in passive network elements which will primarily consist of conduit, dark fiber, splice closures and handholes. Any cabinets and last mile fiber infrastructure is provided by service providers. In a letter of support provided by Ting, it has indicated its intent to use the City infrastructure proposed in our grant application to expand their service in the Sandpoint core and to achieve a redundant loop back to the Zayo POP across Bridge Street from the downtown core at the water treatment plant. Other service providers also continually look to expansion opportunities using the City's infrastructure.

Grants to a municipality to support an infrastructure open to any and all service providers keeps broadband service costs low and competitive for businesses and residents. A shared infrastructure also lessens impacts on the public right-of-way, including the proliferation of vaults, construction impacts and the likelihood of an unintended cut that impacts connectivity.

Ultimately, it is a win for our community members as over the long term, residents and businesses are provided with more choice of providers. This has been proven by more than 300 successful community-owned broadband infrastructures across the country.



Custer Telephone Broadband Services LLC

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Salmon Office

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Toll Free: 1-866-879-2281

Custer Telephone Broadband Services welcomes the opportunity to clarify some of the statements made in Fybercom's challenge of APP-004786.

- The challenge states that Fybercom has invested private funds in providing broadband in the Salmon area. CTBS has also invested a significant amount private funds in the Salmon area since 2007. Over the last 16 years CTBS has provided fiber, cable, and fixed wireless broadband, along with telephone service on all of these networks. CTBS currently serves over 20 times the number of customers Fybercom reported in their challenge.
- CTBS has been providing wireless broadband service to the South St Charles and Cemetery Lane area since 2007. The 2020 grant criteria stated that areas would be ineligible if there was existing 25x3 service in that area. Since CTBS did in fact provide broadband speeds of 25x3 to the South St Charles and Cemetery Lane area, CTBS honored that requirement and did not submit an application. The guidelines were different this year so CTBS chose to submit an application.
- CTBS is very conscientious of the use of public funds and although the 2021 grant guidelines did not prohibit the inclusion of the 2020 fiber project, CTBS chose not to request reimbursement for the cost of that project in the 2021 grant application.
- Fybercom states that 477 data indicates that they serve all of the area included in CTBS' proposed grant area. This is not correct. Included below is a screenshot of the current FCC data and also a copy of the map submitted with our application.
- Fybercom's 477 data is accurate. Investing in wireless will achieve customer speeds of 40x10. Investing in CTBS Fiber will achieve customer speeds of 1000x200.



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- A thorough review of Fybercom's application APP-004137 dated 07/15/2020 will show that there is no mention of serving customers in the South St Charles and Cemetery Lane area of Salmon. The application clearly indicates that the Grant funds will be used in the Carmen area. CTBS was an existing service provider in the Carmen area at the time their Grant was applied for and awarded. CTBS did NOT file a challenge to this grant application due to the fact that CTBS was not offering 25x3 service in that area at that time which was one of the grant requirements. Nonetheless Fybercom's logic of not allowing grant funds to overbuild existing service providers should have nullified their own application (APP-004137) in 2020.
- The most concerning statement that Fybercom makes is that Cares Act Grant Funds were used to provide service to locations on South St Charles and Cemetery Lane. This was not indicated in Fybercom's application (APP-004137). It would seem inappropriate to apply for grant funding in one area and use those funds to provide service in a different area that was ineligible for funding due to the grant criteria at the time of the application. It calls into question the appropriateness of the use of funds regarding APP-004137.



Custer Telephone Broadband Services LLC

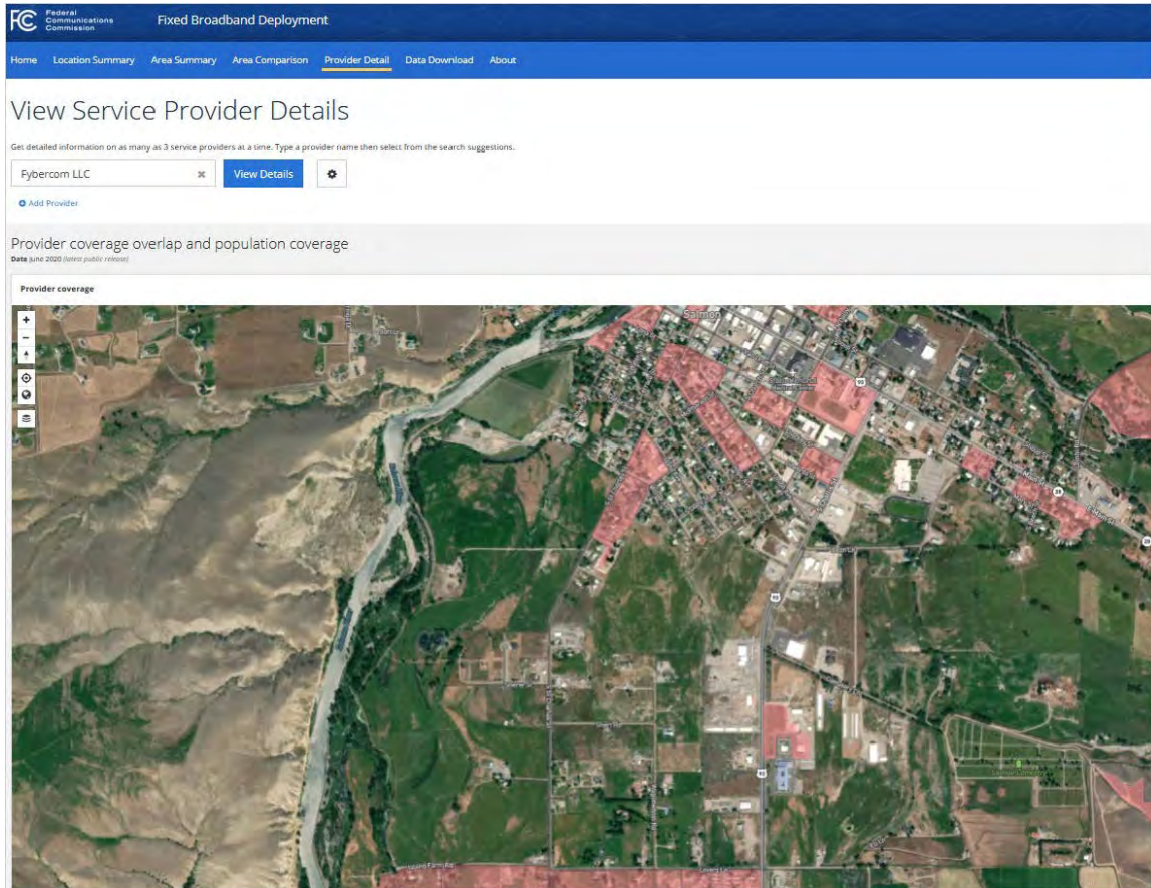
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Current 477 Map showing Fybercom in Pink





Custer Telephone Broadband Services LLC

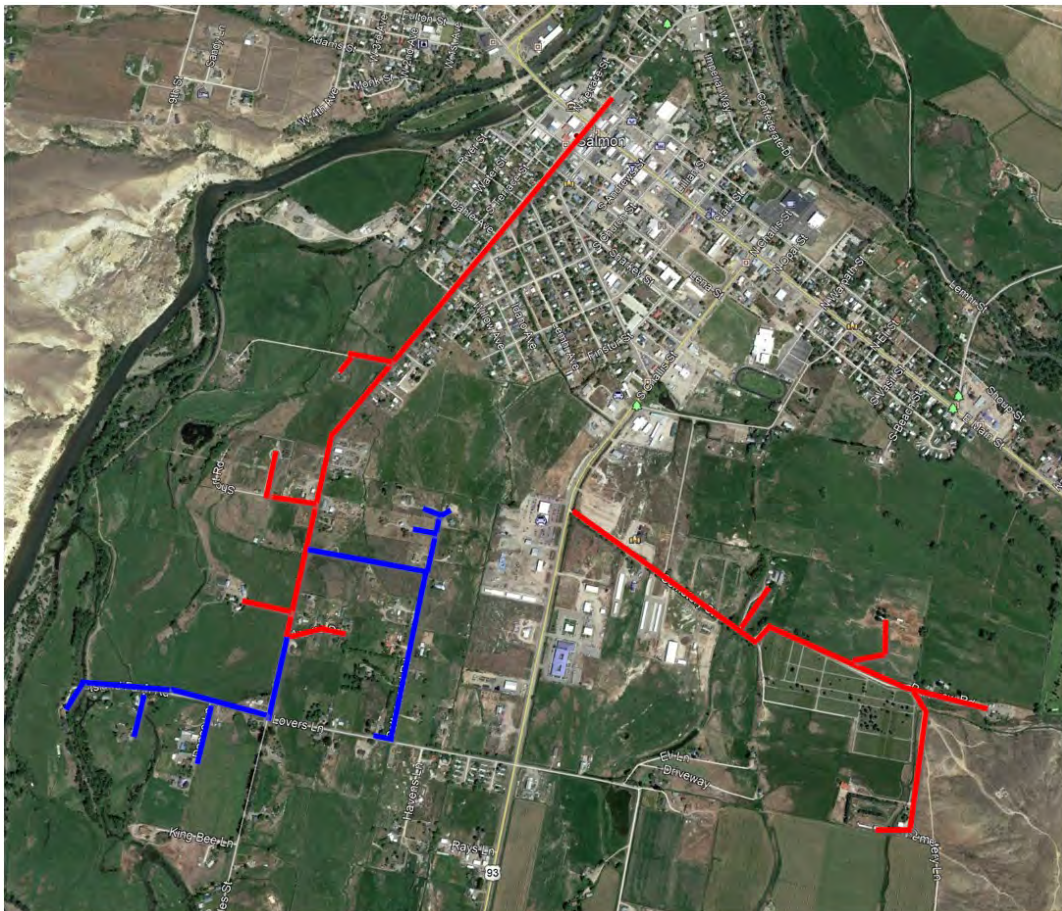
Challis Headquarters

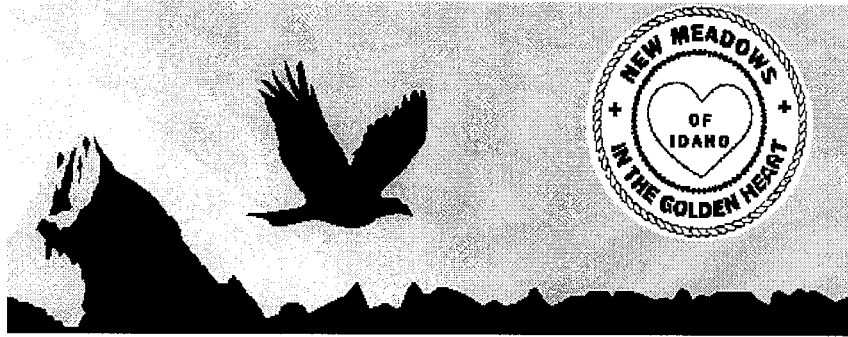
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Map from CTBS APP-004786 showing very little overlap of existing
Fybercom 477 data





This institution is an equal opportunity provider/employer
City of New Meadows * P.O. Box 324 * New Meadows, Idaho 83654
Phone (208) 347-2171 * Fax (208) 347-2384

July 27, 2021

RE: Idaho CARES Act Broadband Grant - Challenge Response to Ziplly Fiber - APP-004799 "City of New Meadows Fixed Wireless Broadband Project"

Dear Broadband Task Force

We applaud the State of Idaho Broadband Task Force for prioritizing the deployment of broadband access across rural Idaho.

As detailed in application APP-004799, we acknowledged that Frontier Communications (now Ziplly) received RDOF auction awards for the areas specified in the challenge.

In the same section of the application, we also asserted the following:

"Residents of New Meadows and the surrounding areas are currently in a state of emergency with respect to internet and phones.

It will be years if not decades before the New Meadows area will experience tangible effects on the internet and phones from these RDOF funds allocations.

New Meadows can realize tangible benefits to both the internet and phones in a matter of months with this grant."

It should be noted that the greater New Meadows / McCall area can have an influx of 50,000 people on any given weekend. When this occurs, the internet service grinds to a halt, and the phone service suffers as a direct result.

It is our belief that this reality is common knowledge within the State.

A vast number of residents cannot work remotely in our area, leaving to go back to adequate internet access during the week. This has huge economic impact on our community and region.

Not having adequate phone service constitutes a present emergency to our residents and visitors.

We acknowledge that in time - perhaps years - that resources will be deployed as a result of these RDOF funds that will help to attenuate this present emergency.

However, we do not have years to address what needs to be tackled head on today.

If this grant is funded, it will have the following benefits.

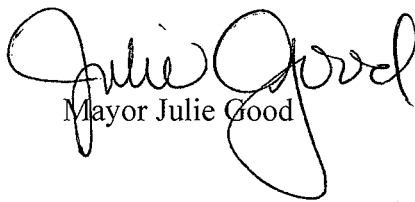
- (1) Residents will have access to broadband internet up to 100 Mbps / 20 Mbps.
- (2) Redundant bandwidth will be brought into the greater New Meadows area which will help to alleviate the effects of fiber cuts coming into the valley.
- (3) As bandwidth usage is offloaded to this new provider, all residents in the greater New Meadows / McCall area will see noticeable effects since the traffic jam of too many people trying to get on the internet at the same time from the current provider will begin to be alleviated.

In short, we believe this applications meets the CARES Act criteria. When our residents and visitors cannot access the internet, it severely impacts their ability to engage in telework, telehealth, distance learning, and public health emergencies.

By definition, this application embodies the very purposes of the CARES Act funding in a cost effect manner.

Thank you for your consideration of these additional facts that confirm that the original application follows the objectives of the CARES Act funding to support the deployment of broadband in underserved communities, especially in the greater New Meadows area.

Sincerely



Mayor Julie Good

COMMISSIONERS:

MIKE FITZGERALD, District 1
JAY HUBER, District 2
JOHN HANSEN, District 3

email: boccc@co.shoshone.id.us

Office Phone: 208-752-3331
Fax: 208-752-4304



County of Shoshone

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WALLACE, IDAHO 83873-2348

**CLERK DISTRICT COURT
AUDITOR and RECORDER**

TAMIE J. EBERHARD

email: teberhard@co.shoshone.id.us

Office Phone: 208-752-1264
Fax: 208-752-8881

Shoshone County APP004803 – Ziplly Fiber Challenge response

We wish to respond to the Ziplly Fiber Challenge.

Idaho procurement process (Idaho Code Title 67, Chapter 92) is specific to purchase of property. This project does not include purchase of any property by the Shoshone County. This statute does not apply.

We have our concerns regarding the RDOF awards as stated. These funds were awarded to Frontier Communications not Ziplly Fiber, Northwest Fiber, LLC, WaveDivision Capital or Searchlight Capital Partners.

Frontier no longer services Idaho after selling its network assets to avoid bankruptcy. Considering this asset sale, current litigation with Frontier and concerns with Frontier's history of missed CAF deadlines, the certainty of RDOF award is vague and we are concerned that Ziplly may not be entitled to these awards.

If these funds are available to Ziplly, the challenges state they have been awarded RDOF funds to deploy. This does not mean the infrastructure currently exists but that it will, at a future indeterminate date. This does not address the current low speeds or prove an overbuild as fiber service is not currently available.

According to the Ziplly Fiber construction map on their website Silverton is listed as a "future fiber" build with no completion date indicated and "service unavailable at this time" when addresses are checked. Current infrastructure, including Ziplly service, does not provide the minimum necessary speeds to the community. The attached tests are of the speeds typically experienced within the area served by Ziplly Fiber.

The disclaimer on the Ziplly Fiber website states- *"Maps depict current plans for deployment, are projections subject to change as circumstances warrant, and are not a guarantee of any future network architecture."*

Wallace School District Office

Sixth Street, Silverton



We appreciate the position Ziplly Fiber serves as a local exchange carrier, and they are investing in fiber for our future needs. Current access is limited across Shoshone County and most residents in Silverton do not have access to speed half of the federal standard. J&R Electronics uses fixed wireless access points, connected via gigabit microwaves, to leverage leased point to point fiber from Ziplly Fiber. This delivery method leaps over existing copper and cable systems to deliver a reliable broadband option to residents, efficiently and affordably.

We assert that Shoshone County communities need additional ISP providers and networks options to provide the comprehensive coverage to all the communities. This project will address the immediate need of this community by a set date of no later than December 31, 2021.

A defined service delivery date provides key information for community planning. As of July 22, 2021, Shoshone County was moved back to Level 4 or "Substantial" risk. We know Silverton will have speeds needed as we again see the social distancing, health protocols, online learning and telework implemented because of COVID-19. As school starts again districts will implement digital learning. This project will assist our emergency personnel, residents, businesses, and school district efficiently navigate the return to Level 4 health protocols. We can avoid the homework gap, loss of revenue in small businesses online sales and allow for telework, e-health and an improvement in the digital divide.

We respectfully submit these responses the Ziplly Fiber challenge to demonstrated sufficient eligibility and community need for the Idaho CARES Act Broadband Grant.

Thank you for the opportunity to be considered for this grant funding. Please contact us with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to be 'J. Huber', written in a cursive style.

Jay Huber
Shoshone County Commissioner



July 23, 2021

Idaho Broadband Advisory Committee

Mr. Eric Forsch

Idaho Department of Commerce

Dear Mr. Forsch,

In response to the letter from PMT CEO, Dan Hoover, dated July 21, 2021, challenging the application to the Broadband Grant from the City of Heyburn, Idaho, please consider the following.

First, it appears the challenge focuses much of its attention on the application submitted by the City of Burley. Nevertheless, we will attempt to respond appropriately.

The challenge states “the applications for the City of Burley and the City of Heyburn do not comply with the guidelines stated within the CARES Act applications for funding.” No specifics are offered identifying which guidelines within the CARES Act the application does not comply with. We know our application is in compliance with all requirements. Additionally, their challenge is very vague and tends to focus on broad areas of territory as the basis of their protest, were as our application is focused and specific. No facts are offered detailing their concerns relative to our grant vs their service area, current speeds available by address as of today, and detailed current or future plans to service the underserved areas we have identified in our grant application.

Official language from CARES Act guidelines stipulates, “Any state’s efforts to expand connectivity using these federal resources must focus on four specific needs: increasing access to online learning for K-12 and postsecondary students, supporting telehealth services, deploying more public Wi-Fi access points, and investing in residential broadband infrastructure, especially in rural and underserved areas.”

We respectfully submit our application responds directly to those requirements. We also submit this is a plan which has been carefully considered and designed with our city’s long-term Broadband Plan in mind.

1. Our proposal specifically addresses “increasing online learning for K-12 and postsecondary students.” While it may be true this particular provider appears to provide fiber to the schools, our focus, now gained from experience over the last 18 months strongly shows the vital need for much greater access for the student in their respective homes. While connectivity to the school was the past imperative, this alone is no longer sufficient. If our students are to compete in today’s and tomorrow’s world, they need reliable access in the home before, and after school. Our CARES Act grant application is targeted to bring high speed internet into the homes of our children, residents, and families in underserved areas to further enhance their ability to access learning opportunities only



provided by reliable internet access. Our proposed project will provide this service while also addressing the future needs for higher speeds that will be needed for learning opportunities by bringing fiber to underserved homes in our community.

The files on the following link show specific evidence that most of the proposed area is served only by insufficient analog infrastructure and that the average speeds shown on speed tests in the proposed area are well below the desired standard. Based upon site surveys, visits from qualified engineers, fiber to the home is not ubiquitously available in the area. There are many homes in this area where there is no access to reliable high-speed internet as defined by state and national standards, hence the underserved designation.

https://heyburncityorg-my.sharepoint.com/:f:/g/personal/admin_heyburncity_org/Er2vHz-EWC5Lnu26LRz19JcBRXwR3wDB-eOwP4ppsshQEw

2. Completion of this important project as designed clearly addresses telehealth opportunities in our community, which have become increasingly important due to COVID-19 effects. Expanding the ability for our community members who on average are below the median income level of our area, to access affordable real-time telehealth services is a priority and should not be restricted. As the telehealth industry grows and becomes an integral part of overall access to quality healthcare, the need for individuals with limited mobility to have access to health professionals from their homes is dependent on quality high speed internet. Telehealth services were an integral part of our planning for our grant application.
3. Public Wi-Fi access is a key component in this effort, particularly as it relates to the much-needed Community Center included in the grant application offered as a match from the city. This Community Center will provide free computer and high speed internet access for anyone including people who are underserved and not able to provide access for themselves for various economic reasons. City parks and other public spaces are part of our grant application so we can provide the important internet access throughout our parks and public facilities, and a security component as well. Additionally, the ability for a city to protect its residents and its infrastructure cannot be overstated and this grant will accommodate public safety as a secondary benefit.
4. Our proposal specifically addresses “investing in residential broadband infrastructure, especially in rural and underserved areas.” The City of Heyburn is clearly a rural community and independent of claims made by PMT, it is underserved. Our strategic plan will access pathways and leverage investments which already exist, provide fiber speeds of up to 10-Gig to city facilities, 1 Gbps/1Gbps fiber to the home (FTTH) in selected areas of the city, and wireless capabilities of up to 1 Gbps/1 Gbps but no less than 100 Mbps symmetrical to more rural areas. We are making every effort to provide future proof solutions for long-term effects and benefits. Official CARES Act language also states, “The program also provides funding to better connect homes to existing network infrastructure by adding more service drops, which run from the service line to the customer’s residence, and customer premises equipment.” This is our specific intent and plan as submitted.

Please consider the following as well,

P.O. Box 147 · 941 18th Street · Heyburn, Idaho 83336 ph. (208) 679-8158 · Fax (208) 679-2438
EQUAL OPPORTUNITY PROVIDER



1. The challenge, again referencing the City of Burley, states a request of \$1MM. While we are unsure of the amount the City of Burley is petitioning, our request is for just under that amount.
2. Most importantly, we are working towards the model the City of Burley has adopted, which is a city owned broadband infrastructure, wherein the city has greater influence in determining services provided to valued citizens, working in concert with a service provider, chosen through an official RFP process, managing the system. We invite all interested providers (*including the incumbent challenging provider*) to submit their proposals in an equitable RFP process.
3. We reiterate that the challenge, as written, is unclear nor specific to the City of Heyburn or any legitimate objections they may have. While we are making every responsible effort to respond, it seems unreasonable to give it serious consideration when compared to the study, thought, and responsible effort we have made to respectfully petition public funds for the good of the public.

Please carefully consider our grant application. The services we will be able to provide to our citizens will greatly improve public safety issues, provide much needed and enhanced internet access, promote economic development, and most importantly support the residents and businesses in our community.

Sincerely,

Tony Morley
Administrator, City of Heyburn

July 23, 2021

Idaho Department of Commerce

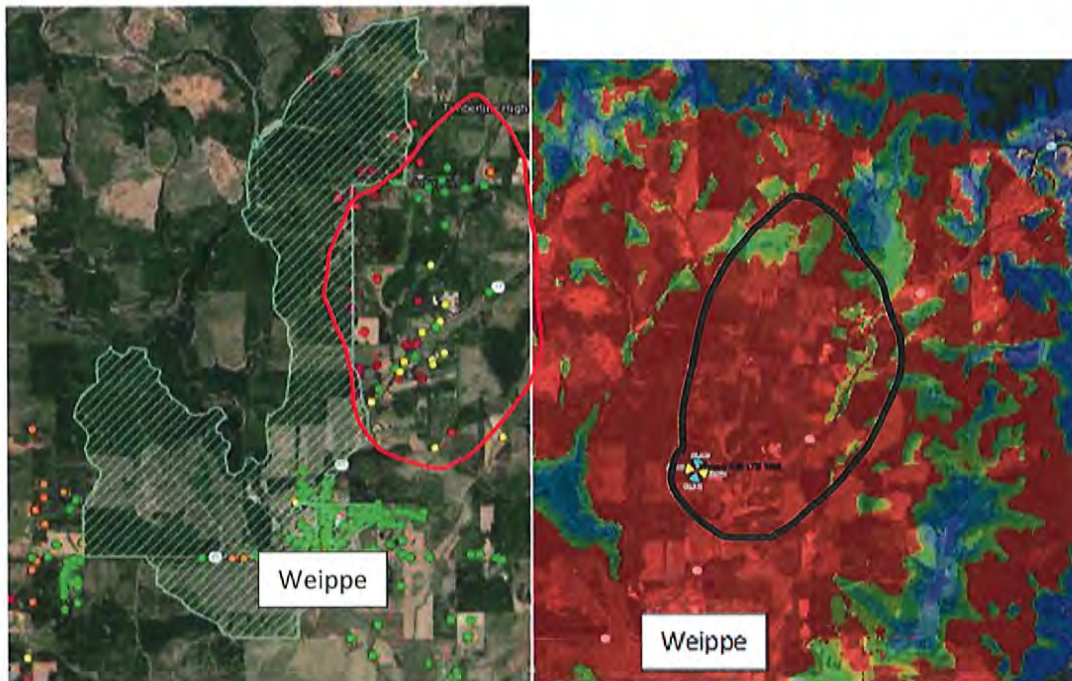
Broadband CARES Act grants

RE: Response to challenger APP-004816, APP-004817

Clearwater County is writing in response to the challenge to our grant proposal APP 004816 and 004817 by Ziply Fiber. We appreciate Ziply's interest in Clearwater County however, we do not believe the very high-cost areas with very sparsely located homes are in the near term build out plan. In areas with low density and limited public roadway access, such as North Weippe and Fraser, fixed wireless solutions offer residents an alternative to satellite connectivity. We believe fixed wireless solutions offer affordable, quality, and consistent broadband connectivity without the latency and data cap issues found with satellite providers.

In response to challenges Ziply notes the recent RDOF award, which shows little overlap to where homes are located in the proposed fixed wireless service area.

North Weippe APP-004816



Clipped from Ziply challenge

Heat map from wireless provider

The majority of homes not covered by the Ziply RDOF and currently not able to access 25/3 Mbps, would under the Clearwater County proposal, have access to a robust fixed wireless solution.

Fraser APP-004817

Clipped from Ziply challenge- hashed RDOF award area



Fixed wireless coverage map projection from wireless provider



The majority of homes not covered by the Ziply RDOF and currently not able to access 25/3 Mbps, would under the Clearwater County proposal, have access to a robust fixed wireless solution.

In summary, Clearwater County values any and all providers willing to deploy services in our rural unincorporated areas. In the proposed service areas we believe fixed wireless technology offers a broadband connectivity solution for our rural residents.



City of McCall

INFORMATION SYSTEMS

www.mccall.id.us

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Main 208-634-7142

Fax 208-634-3038

July 27, 2021

Tom Kealey, Director
Idaho Dept of Commerce
Broadband Office
700 W State Street
Boise, ID 83702

Re: Response to Ziplly and Sparklight Challenges to City of McCall Broadband Grant Program Applications

Dear Director Kealey:

The City of McCall has received challenges from two internet service provider incumbents, Ziplly and Sparklight, regarding the City's two applications for CARES grant funding (2021) to further its RAPID Broadband effort – Deinhard Opportunity Loop (APP-004819) and Pilot Neighborhood: Fiber for Local Housing (APP-004821). The challenges state that these proposed projects are "overbuilding in an area that currently offers fiber solutions with significant broadband speeds. By providing funding for a municipality to install fiber into an area that is already built with the intent to ultimately sell internet services in direct competition, does not follow the spirit or intent of this funding..." There is no restriction contained within the Idaho CARES Act Broadband Grant guidelines that causes this statement to be true. Instead, the guidelines read "Projects must expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety." And "Projects must provide broadband service within the proposed project areas." Both grant applications submitted by the City of McCall meet these guidelines and, in addition, would be part of a community owned fiber infrastructure that would expand service to essential public facilities and workforce housing at a level unavailable via the challenging incumbents. Community owned fiber infrastructure would result in lower broadband costs to residents, students, and workers in our community through competition and greater access to internet providers. This type of public\private cooperation should be the spirit of funding by the Department of Commerce going forward.

Best Regards,

Chris Curtin | InfoSys Manager

216 E. Park Street | McCall | Idaho 83638

Direct: 208.634.8999 | Cell: 208.315.3576

Eric Forsch

From: Laurel Thomas <lthomas@priestriver-id.gov>
Sent: Friday, July 23, 2021 2:22 PM
To: COM Broadband
Subject: Challenge Response - Priest River

Follow Up Flag: Follow up
Flag Status: Flagged

Idaho Department of Commerce
RE: Response to Broadband CARES Act Broadband Grant APP-004829

The City of Priest River is writing in response to challenges received against its application to the Idaho Department of Commerce CARES Act Broadband grant application to construct a fiber to the premise network. The two challengers: Concept Communications and Wired or Wireless.

Coverage in Priest River, Idaho

- In preparing application APP-004829, we vetted widely accepted data sources, Broadband Now (<https://broadbandnow.com>) and the Federal Communications Commission Broadband map (<https://broadbandmap.fcc.gov>)
- According to Broadband Now, Concept Communications is reported to have 3.7% coverage in Priest River, Idaho.
- Wired or Wireless is not reported in Broadband Now. The Federal Communications Commission broadband map identifies Wired or Wireless as a fixed wireless provider in select census blocks.

Ziply Fiber operates in Idaho as an incumbent local exchange carrier and is regulated by the Idaho Public Utilities Commission. As a local exchange carrier, or telephone company as they are more commonly known, Ziply Fiber's network interconnects with more than 100 other local and regional communications companies. In addition to wholesaling access to our network, Ziply Fiber also allows other providers to resell services from its network. Expansion of the Ziply Fiber network in Priest River will benefit all interested providers. The enhancement of the provider landscape will enable competition to the benefit of the businesses, residents, and public facilities in Priest River. The City of Priest River strongly encourages the Idaho Department of Commerce to object the grant challenges from Concept Communications and Wired or Wireless. We wholeheartedly believe the Ziply Fiber improvements will benefit all our citizens and construct a resilient fiber to the premise network. A resilient communications infrastructure will enable our community to function through the worst of times. A fiber to the premise network addresses the CARES Act connectivity criteria.

Thank you,
Laurel Thomas, CMC
City Clerk/Treasurer
City of Priest River
208-448-2123, EXT 100
<http://priestriver-id.gov>

From: [Laurel Thomas](#)
To: [COM Broadband](#)
Subject: Your T1 Wifi Challenge Response - Priest River
Date: Wednesday, July 28, 2021 10:47:47 AM

Idaho Department of Commerce
CARES Act Broadband 2021

RE: Your T1 Wifi Challenge to APP-004824 Priest River

The City of Priest River in collaboration with Zippy Fiber is prepared to address the challenge presented by Your T1 Wifi, a local fixed wireless internet Service Provider (ISP).

The ISP challenge suggests there are several Internet service Providers in the Priest River market providing broadband access. According to our pre-application research (FCC broadband map and Broadband Now) there are, 14 providers of internet service to residential customers in and around Priest River (Broadband Now). Broadband Now indicates that 90% of Priest River residents lack access to broadband choices. Neither the Broadband Now nor FCC Broadband Map recognize Your T1 WIFI as a provider of broadband access in the Priest River zip code 83856.

The ISP challenge indicates “...*My company provides residential packages from 1mbps to 50 Mbps and Business packages up to 100 Mbps in the city of Priest River...*” However, according to the ISP website <http://yourt1wifi.com/Products.php> 15 Mbps appears to be the maximum available and only in locations in proximity to towers.

In Zippy fibers pre-application analysis of the proposed funded service area identified 8.3% of the premises had no (0%) access to internet and 0.3% has access => 25/3 Mbps. APP- 004824 will enable a Zippy Fiber build out to serve every home with 1/1 Gbps.

Regarding the ISP challenge comment “...*(Frontier) already received grants to build its infrastructure and didn't Honor those agreements.*” Zippy Fiber has proven to be a strong partner with Idaho municipalities in connection with the first round of CARES Grants. Its track record with the cities of Wierpe, Orofino and Potlatch demonstrated that Zippy Fiber delivers on its commitments to build fiber infrastructure according to the schedule it sets. For the reasons cited in this letter, Zippy Fiber and Priest River should be permitted to advance its application to bring fiber-based services to the citizens of the County.

We appreciate the ISP's interest in providing residential internet. We strongly encourage the Idaho Commerce Broadband Office to consider the long-term value of a fiber to the home project, as applied for in APP-004824. A fiber to the home project will provide Priest River citizens with affordable, resilient, and future proof connectivity currently unavailable.

Thank you,
Laurel Thomas, CMC
City Clerk/Treasurer
City of Priest River

208-448-2123, EXT 100

<http://priestriver-id.gov>

July 27, 2021

Eric Forsch
Idaho Department of Commerce - Broadband Office
700 W State Street
Boise, Idaho 83702

Re: Idaho Broadband Fund CARES Act Grant Application – Response to Challenge
Applicant ID: APP-004824
Applicant Name: City of Priest River
Application Title: Priest River Fiber to the Home
(the “Application”)

Dear Mr. Forsch:

Ziply Fiber Northwest, LLC (“Ziply”) is working with Priest River on the above-referenced Application. Ziply is writing this letter in response to the challenge made by Wired or Wireless, Inc. (“WOW”) to the Application.

Background

Under the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”), Congress established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to states, tribes and local governments. These funds may be used to cover costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19); (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 31, 2021. See 42 USC Section 601(d). Pursuant to this authority, the State of Idaho administered \$38,361,350 of CARES Act funds in 2020, with all funds being provided to applicants who proposed and built broadband infrastructure to satisfy the requirements of the CARES Act.

The State of Idaho has \$10 million from its CARES Act allotment. Pursuant to federal authority, the State has initiated a second round of grant proposal solicitations, including proposals for the construction of broadband infrastructure. The Idaho State Department of Commerce has published guidelines for these broadband grants which are designed to comply with the CARES Act. Pursuant to these guidelines, the proposed projects must:

- Satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

- Be necessary due to the COVID-19 public health emergency.
- Expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety. Projects that would not be expected to increase capacity to a significant extent until the need for telework, telehealth, distance learning, and public safety have passed due to this public health emergency would not be necessary due to the public health emergency and therefore would not be eligible uses of Broadband Grant funds. Projects must provide broadband service within the proposed project areas.
- Be completed and operable and verified no later than December 31, 2021. Projects that are not completed, operable, and verified by December 31, 2021 will not be reimbursed.
- Include broadband infrastructure and equipment costs meeting CARES Act criteria. Satellite service is not eligible for grant award.

See, Idaho Broadband Fund: CARES Act Broadband Grant- Guidelines (“Idaho Guidelines”), Section 2A(1)-(5).

This Application

Pursuant to the Idaho Guidelines, Priest River submitted the Application for Fiber to the Premises broadband infrastructure construction. The Application proposes the construction of fiber optic-based broadband infrastructure to 1,042 residences and businesses in Priest River. This broadband infrastructure will enable Priest River to expand rural broadband capacity to assistance with telework, telehealth, distance learning and public safety, the shortcomings in all of these areas caused and exacerbated by the ongoing COVID-19 pandemic.

The Challenge

WOW has filed a challenge to the Application. WOW’s challenges are based on some misconceptions: (a) that the COVID-19 health emergency is over, (b) that the broadband proposal will not help meet the telework, telehealth, distance learning and public safety needs of the citizens of Priest River, (c) there are already sufficient telecommunications providers in Priest River and (d) commercial arrangements with potential third parties are not included in the proposal.

WOW’s challenges are unpersuasive. The proposed broadband project will provide approximately 1 Gigabit symmetrical broadband services to areas of Priest River that are underserved today. This quality of broadband service will enable all of the activities cited by the CARES Act as essential, particularly for rural areas of the State of Idaho. The assistance in weathering the COVID-19 storm and readying the citizens of Priest River capable of managing any resurgence of the spread of the disease in the future is immense. Our recent experience in managing a new world imposed on us by this pandemic has highlighted the need for all citizens to have access to sufficient broadband services to live and work in a safe and effective environment without shutting down all economic and educational activity. The proposal in the Application meets the needs of Priest River and the requirements of the CARES Act in meeting those needs.

1. The Application Contains a Proposal that Constitutes a Necessary Expenditure Incurred Due to the Public Health Emergency

The COVID-19 pandemic is not over. WOW's challenge suggests that we should no longer worry about this disease because some restrictions have been lifted. This argument ignores everything we have learned about this disease. At times, it appears that the spread of the disease is controlled only to learn that shortly thereafter the infections and deaths have worsened. We are now faced with a new variant of the disease that is particularly transmissible and is causing hospitalizations and deaths among primarily unvaccinated people. While it would be tempting to believe WOW's wishful thinking, the facts do not support this conclusion. As of today, Idaho is reporting nearly 200,000 active cases of COVID-19 with 318 new cases reported. The state is operating under Stage 4 – Stay Healthy Guidelines issued by Governor Brad Little including physical distancing, sanitation and encouraging the use of facial coverings.

The broadband project is designed to help individuals during the current pandemic. WOW suggests that the Stage 4 condition in the State of Idaho permits kids to go back to school, open businesses and lift mask requirements. This statement suggests a point of time and would substitute WOW's interested business point of view for that of the State of Idaho. The broadband project would assist Priest River residents to act in such a way to help slow or stop the spread of the disease by making telework, telehealth and remote learning possible. By enabling these services, Priest River would lessen the probability of a backslide into a greater spread of the disease.

In addition, WOW's challenge is not made specifically to the Application. Essentially, WOW argues that no broadband infrastructure grants would be permissible under current health conditions. Following WOW's logic, all broadband grants must be invalidated. WOW cannot be permitted to substitute its view of the pandemic for the view of public health officials in the State of Idaho. The pandemic exists. The State of Idaho is within its authority under the CARES Act to grant funds for broadband infrastructure to help address the effects of this pandemic.

2. The Area Covered by the Application Is Not Sufficiently Served

In several of its delineated challenges, WOW suggests that the area in Priest River covered by the Application are already served by providers who provide internet services at speeds of 25 Mbps download and 3 Mbps upload. Despite its hints in its challenge, WOW identifies only two such providers -itself and Concept Cable, WOW's backhaul provider. WOW suggests it can reach speeds of 30 Mbps by 10 Mbps but submits only one speed test without any description of when, how or where this speed test was conducted. There is no evidence that a customer would actually experience this speed or how the speeds may degrade with usage. One isolated speed test in conditions that may not reflect a customer experience is inadequate to demonstrate the entire area is served appropriately. In close review of the FCC Form 477 Broadband Deployment and the US Commerce National Telecommunications and Information Administration Broadband Availability Map, the proposed project area is not served by a provider reaching service speed of at least 25 Mbps by 3 Mbps.

More importantly, WOW does not demonstrate that even a 30 by 10 speed profile is sufficient to meet the needs of Priest River in fighting the pandemic. In particular, WOW does not show that its wireless network can handle expanded customer demand due to the pandemic. WOW further does not show where 3 Mbps, or even 10 Mbps, upload speed is adequate to support all of the two-way video needs that telework, telehealth or remote learning would require. Relying on an older definition of broadband services does not address the current needs of Idaho citizens.

In a separately delineated challenge, WOW suggests that because it has one E-Rate customer that the Application to provide services to 1,042 locations should be rejected. In no way does WOW provide any evidence that this one customer provides an infrastructure sufficient to serve the entire area. Again, WOW relies on its wireless services that do not approach the capacity of the infrastructure proposed in the Application. This one E-Rate library service does not pre-empt Priest River from receiving a grant to expand Fiber to the Premises to so many of its residents.

3. WOW's Remaining Challenges are Insufficient to Reject the Application

In its challenge, WOW makes a number of claims that do not form the basis of a valid challenge. For example, WOW asks that Priest River negotiate and reveal a number of commercial terms that are outside of the scope of the CARES Act grant process. Contrary to WOW's assertions, Priest River has disclosed that its commercial partner in the construction process will be Ziplly Fiber. Priest River also discloses that Ziplly Fiber will be spending a considerable amount of its own capital in the construction of the facilities in the area. The grant parameters are similar to the \$38,361,350 million in broadband grants that the State has issued, resulting in new broadband facilities to hundreds of locations across Idaho. The program has operated well in addressing the needs of the State during the pandemic and should not be entirely reworked because WOW could not meet these requirements of a grant proposal on its own.

4. WOW's Technology and Speed Test Evidence is Inadequate to Form the Basis of a Challenge

WOW operates a fixed wireless broadband network serving 11 counties in the inland pacific northwest, an area of densely forested landscape. Fixed wireless relies upon line-of-sight transmission of radio signaling. Over time the reach of the signal declines unless the user is in close proximity to the tower location where the signal is being emitted. The true performance of the network could only be measured through a series of sequentially expanding tests taken at random points within the network reach.

By contrast, Ziplly Fiber is proposing a fiber to the location network project eliminating the ever changing environmental conditions as a concern for the long term access of the broadband network.

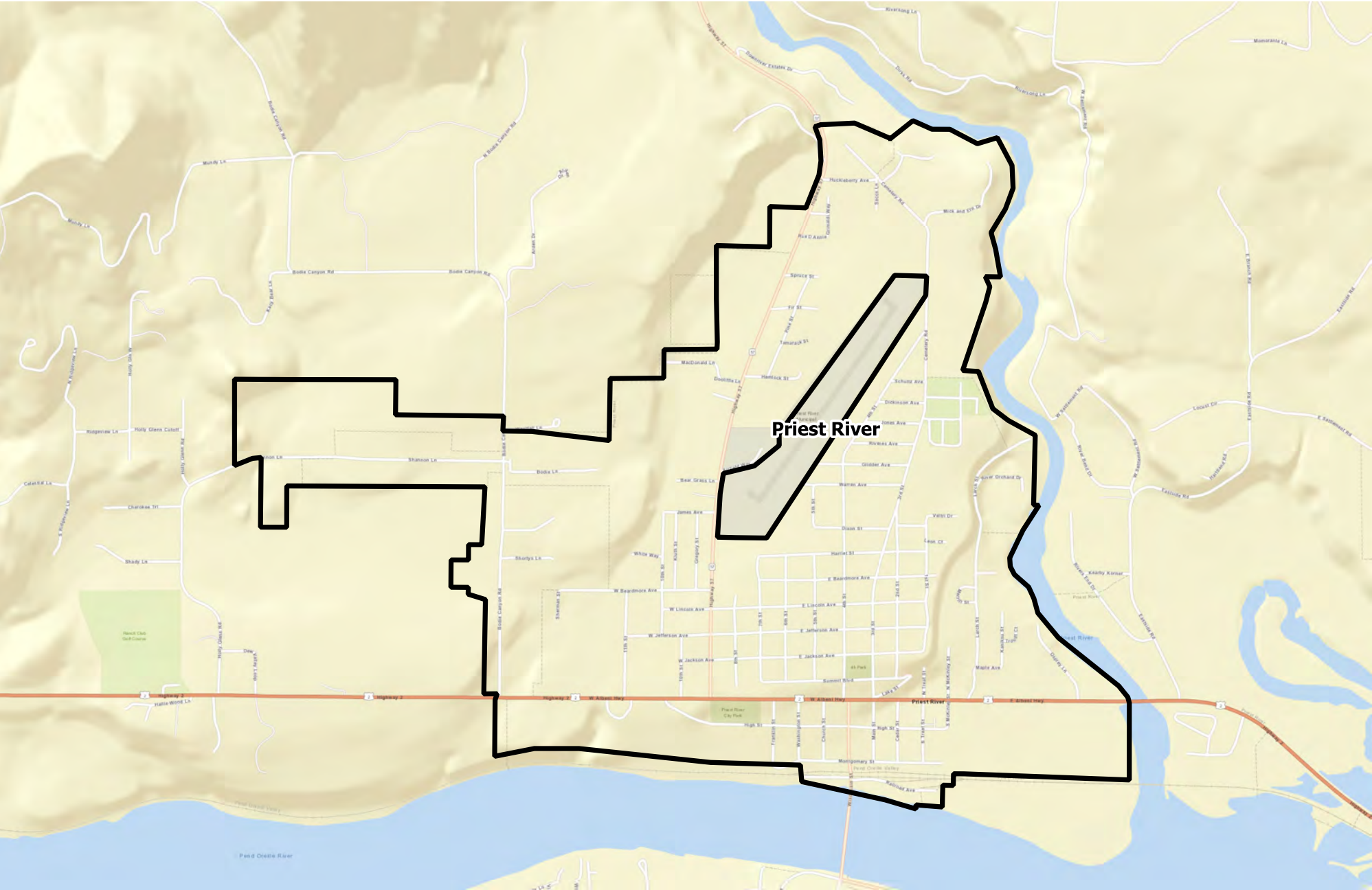
Ziplly Fiber has proven to be a strong partner with Idaho municipalities in connection with the first round of CARES Grants. Its track record with the cities of Weippe, Orofino, Potlatch and Wardner has demonstrated that Ziplly Fiber delivers on its commitments to build fiber infrastructure according to the schedule it sets. For the reasons cited in this letter, Ziplly Fiber and Priest River should be permitted to advance its application to bring fiber-based services to the citizens of Priest River.

Sincerely,

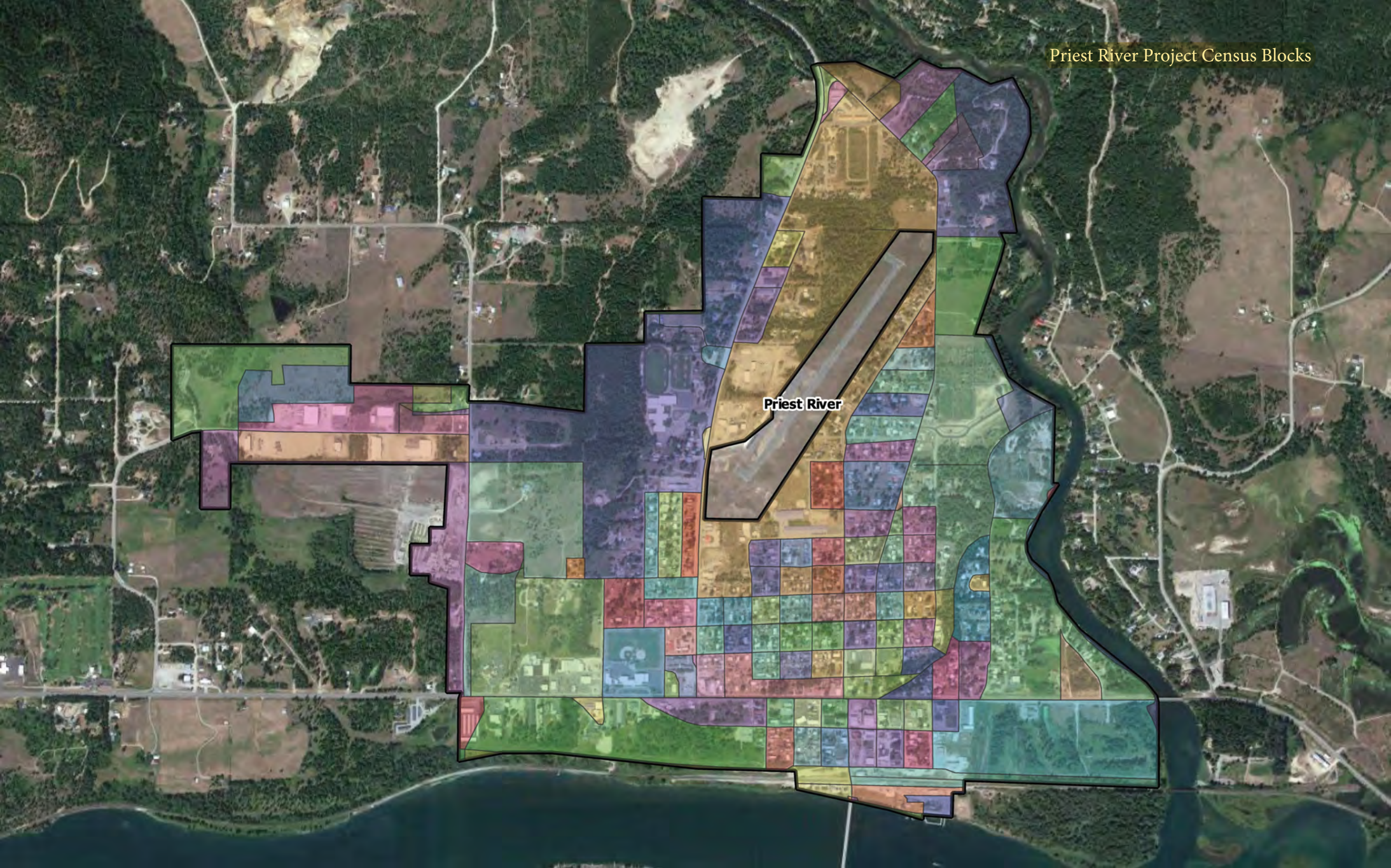


Jessica Epley
Vice President, Regulatory & External Affairs

Priest River, ID Project Area

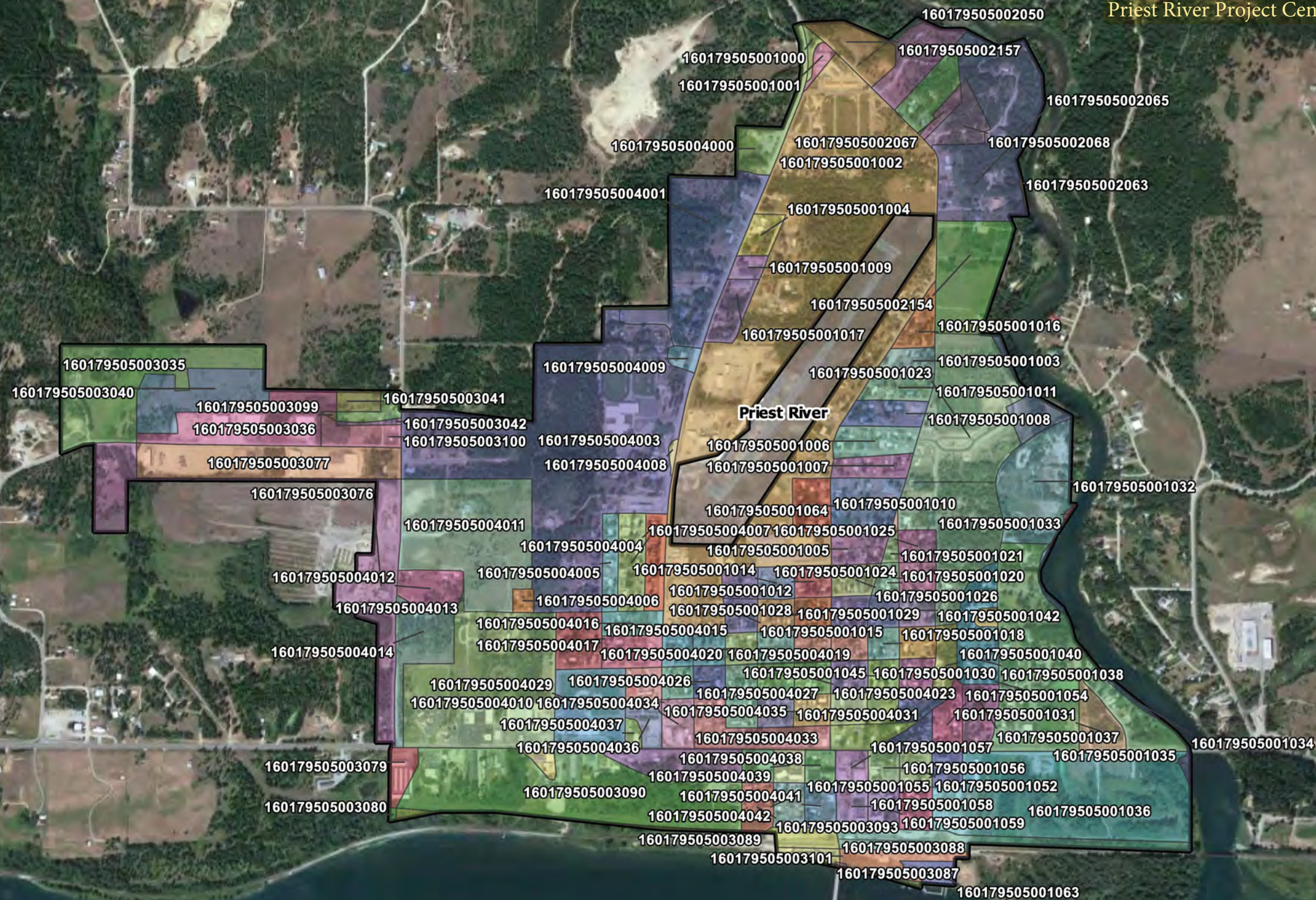


Number of Households Served by the Project:		
1,089		
Current broadband speeds provided to the project area:		
ZIPLY SERVICE		
Max Down Mb	Max Up Mb	%
30	1	67.7%
12	1	9.8%
18	1	9.3%
0	0	8.3%
3	0.384	0.9%
15	2	1.7%
9	1	1.6%
0.768	0.384	0.3%
35	2	0.1%
32	3	0.2%
19	1.5	0.1%
15	1	0.1%
0.384	0.384	0.1%
55	6	0.1%
Proposed broadband speeds to be provided to the project area up to 1G/1G to all households		
Current technology used to provide service to the project area		
Zipty: ADSL, ADSL2+, ADSL2+ Bonded		
Proposed technology to be provided to the project area:		
GPON Fiber To The Premises to all households		

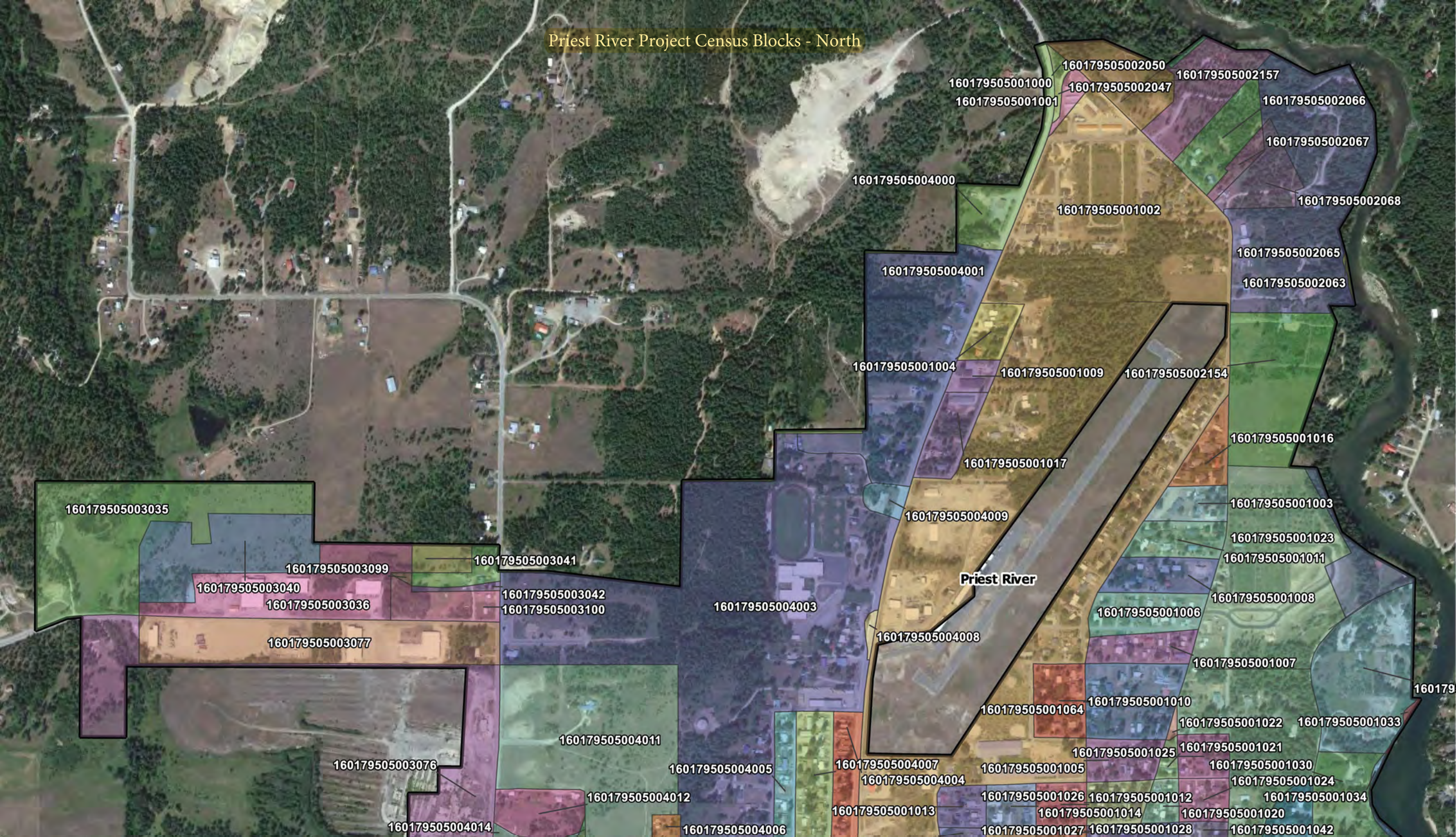


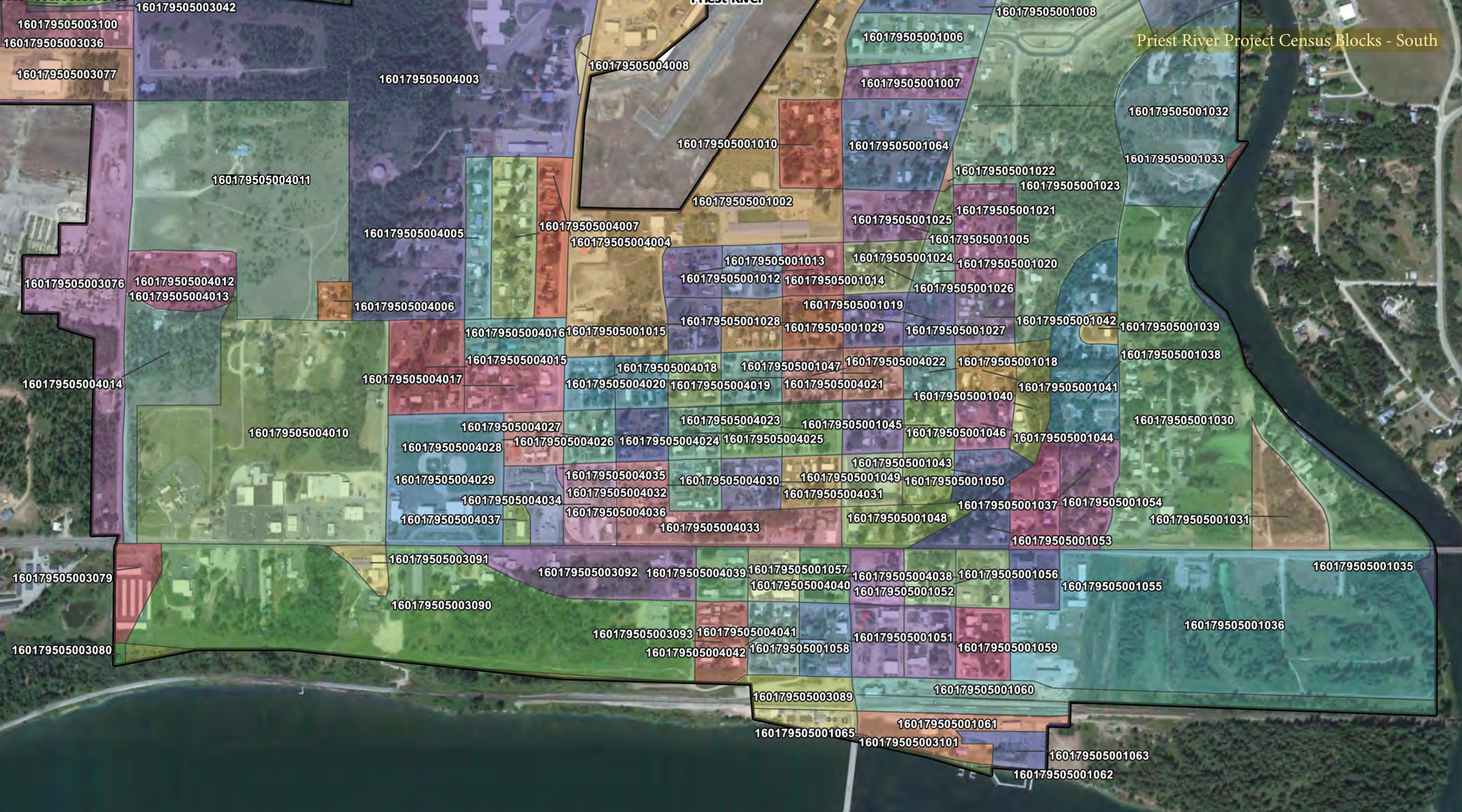
Priest River

Priest River Project Census Blocks



Priest River Project Census Blocks - North





Priest River Project Census Blocks - South

160179505003100
160179505003036
160179505003077
160179505003042
160179505004003
160179505004011
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160179505003080
160179505004008
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160179505001002
160179505001013
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160179505001052
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160179505004041
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160179505001032
160179505001033
160179505001030

All Residential Internet Providers in Priest River, Idaho

1. ZiPLY Fiber - 60% Available in 83856



Speeds up to:
24mbps

Pricing starts at:
Unlisted

Plans:
0

DSL Internet

2. Viasat - 100% Available in 83856



Speeds up to:
100mbps

Pricing starts at:
\$49.99 per month

Plans:
4

Satellite Internet

3. HughesNet - 100% Available in 83856



Speeds up to:
25mbps

Pricing starts at:
\$39.99 per month

Plans:
4

Satellite Internet

4. Desert Winds Wireless - 25.7% Available in 83856



Speeds up to:
100mbps

Pricing starts at:
Unlisted

Plans:
0

DSL Internet

5. Concept Communications Corp - 3.7% Available in 83856



Speeds up to:
1,000mbps

Pricing starts at:
\$69.95 per month

Plans:
2

Fiber Internet

6. Concept Communications Corp - 3.6% Available in 83856



Speeds up to:
550mbps

Pricing starts at:
\$49.95 per month

Plans:
4

Cable Internet

7. Pend Oreille Valley Networks - 89.3% Available in 83856



Speeds up to:
30mbps

Pricing starts at:
\$74.95 per month

Plans:
3

Fixed Wireless Internet

8. AIR-PIPE - 86.2% Available in 83856



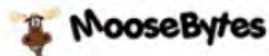
Speeds up to:
30mbps

Pricing starts at:
Unlisted

Plans:
0

Fixed Wireless Internet

9. MooseBytes - 34.4% Available in 83856



Speeds up to:
30mbps

Pricing starts at:
\$49.95 per month

Plans:
5

Fixed Wireless Internet

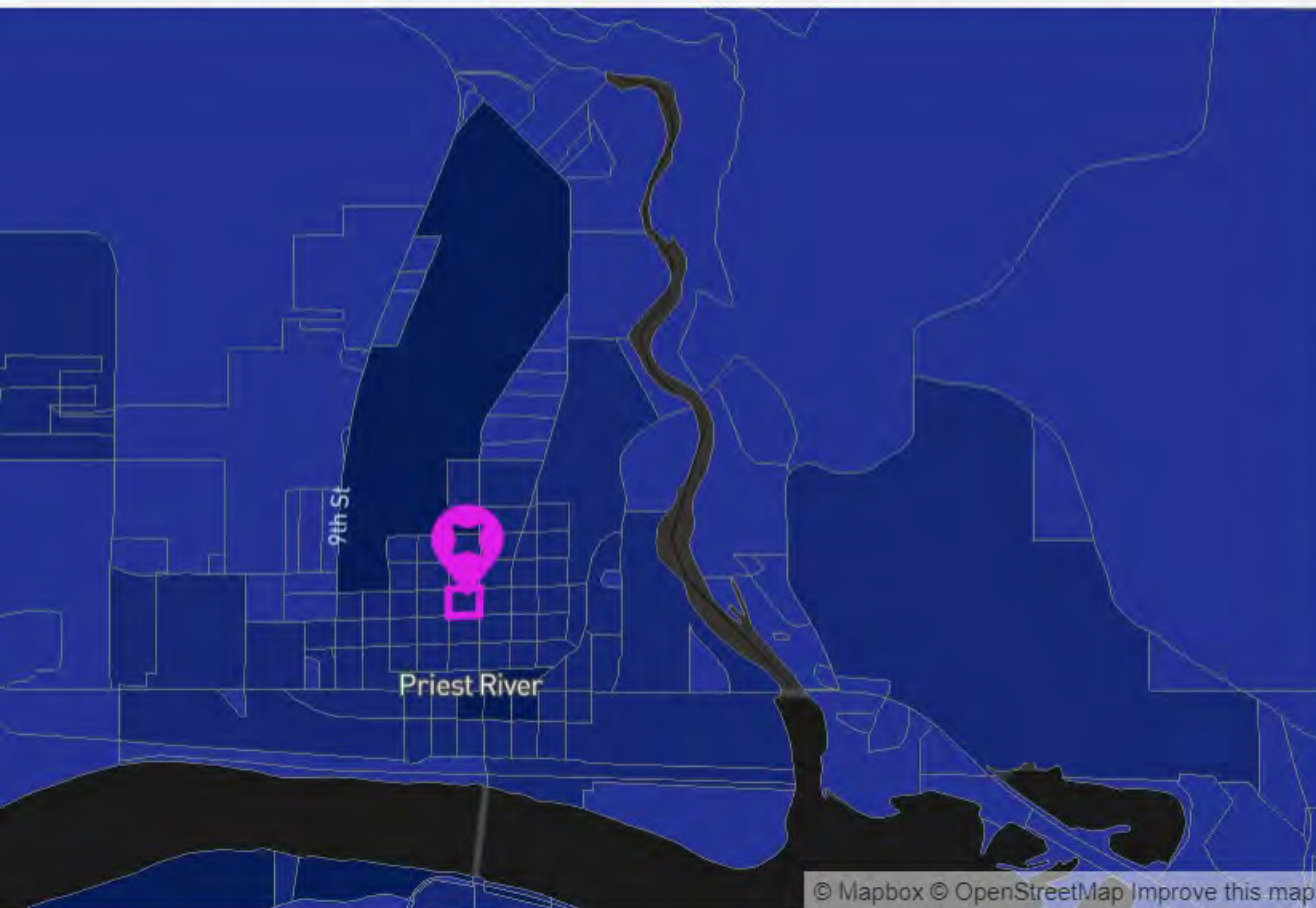
10. Desert Winds Wireless - 5.2% Available in 83856



Internet Access in Priest River, Idaho

The average download speed in Priest River is 14.23 Mbps. This is 79.7% slower than the average in Idaho and 556.1% slower than the national average.

- There are 14 internet providers in Priest River with 11 of those offering residential service
- Priest River is the 71st most connected city in Idaho ahead of Oldtown and Naples, but behind Newport, Sagle, and Sandpoint.
- Idaho is the 49th most connected state in the U.S.
- There are 10 companies offering business internet services in Priest River.
- 90% of Priest River residents are still severely limited in wired broadband choices.
- 100% of residents in Bonner County have access to fixed wireless internet service.
- Fiber optic internet is available to just 1% of Bonner County residents.



Broadband

Technology ADSL, Cable, Fiber, Fixed Wireless, Satellite, Other
Speed $\geq 25/3$ Mbps
Date June 2020 (*latest public release*)

Provider	Tech	Down (Mbps)	Up (Mbps)
+ ViaSat, Inc.	Satellite	100	3
+ Northwest Fiber, LLC	ADSL	90	5
Wired or Wireless, Inc.	Fixed Wireless	30	10
+ Pend Oreille Valley Networks, Inc.	Fixed Wireless	30	10
+ Hughes Network Systems, LLC	Satellite	25	3
+ Northwest Fiber, LLC	ADSL	12	1
+ Northwest Fiber, LLC	ADSL	6	1
VSAT Systems, LLC	Satellite	2	1.3



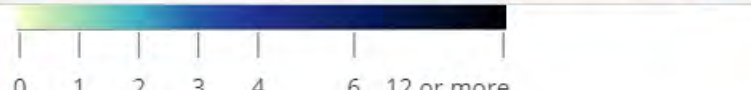
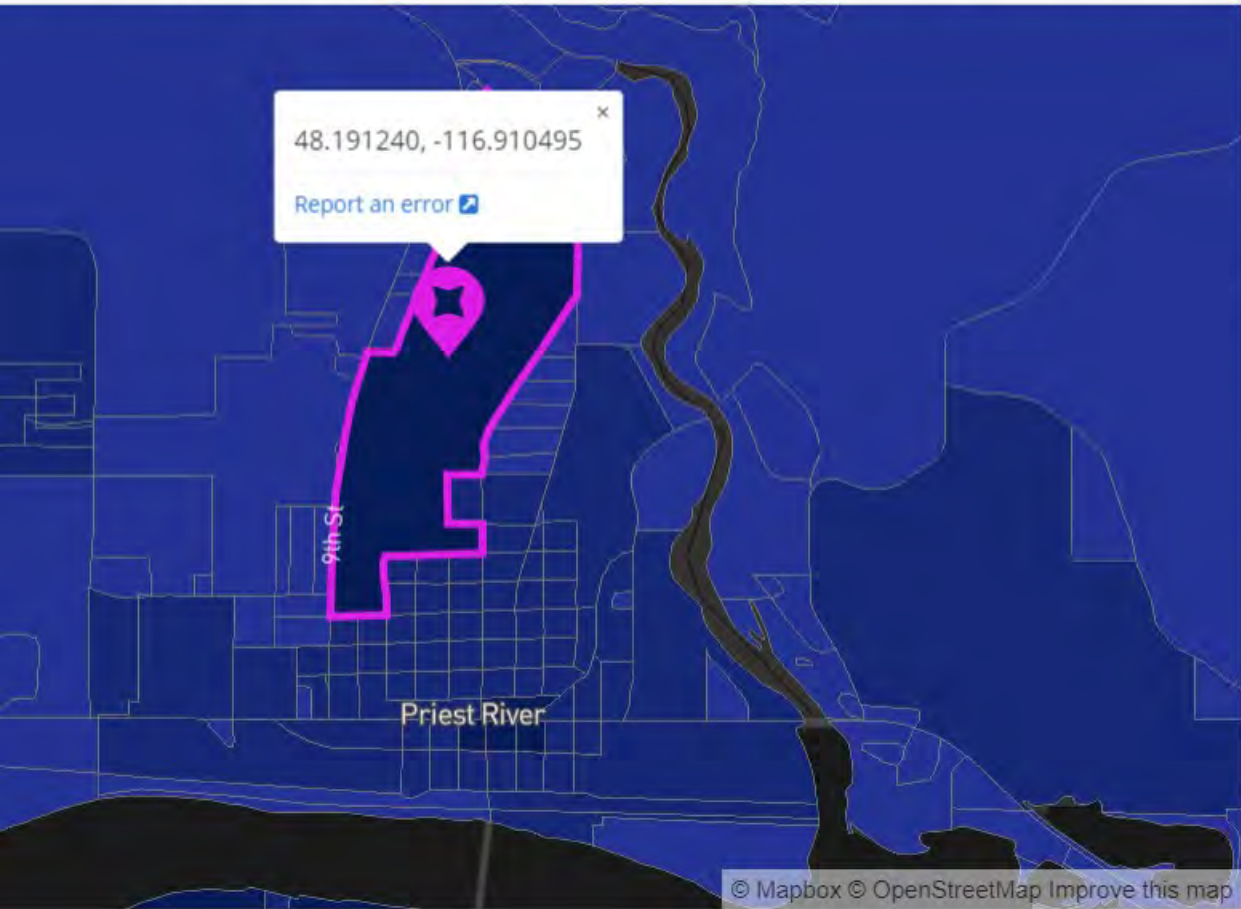
Broadband

Technology ADSL, Cable, Fiber, Fixed Wireless, Satellite, Other

Speed $\geq 25/3$ Mbps

Date June 2020 (*latest public release*)

Provider	Tech	Down (Mbps)	Up (Mbps)
+ ViaSat, Inc.	Satellite	100	3
Wired or Wireless, Inc.	Fixed Wireless	30	10
+ Pend Oreille Valley Networks, Inc.	Fixed Wireless	30	10
+ Hughes Network Systems, LLC	Satellite	25	3
+ Northwest Fiber, LLC	ADSL	25	2
+ Northwest Fiber, LLC	ADSL	12	1
+ Northwest Fiber, LLC	ADSL	6	1
VSAT Systems, LLC	Satellite	2	1.3



Broadband

⚙

TechnologyADSL, Cable, Fiber, Fixed Wireless, Satellite, Other

Speed≥ 25/3 Mbps

DateJune 2020 *(latest public release)*

Provider	Tech	Down <i>(Mbps)</i>	Up <i>(Mbps)</i>
+ Concept Communication Corp.	Fiber	1000	1000
+ ViaSat, Inc.	Satellite	100	3
+ Northwest Fiber, LLC	ADSL	70	3
+ Pend Oreille Valley Networks, Inc.	Fixed Wireless	30	10
Wired or Wireless, Inc.	Fixed Wireless	30	10
+ Hughes Network Systems, LLC	Satellite	25	3
+ Northwest Fiber, LLC	ADSL	12	1
+ Northwest Fiber, LLC	ADSL	6	1
VSAT Systems, LLC	Satellite	2	1.3

City of Smelterville

P. O. Box 200 – 501 Main St.
Smelterville, Idaho 83868
cityofsmelterville@usamedia.tv
208-786-3351 (Phone and Fax)

Mayor, Tom Benson
City Clerk, Heidi Klein
City Attorney, Silver Valley Law, LLC

Council Members:
Jeff Frank, President
Jessica Frank
Linda Guthmiller
Charles Atha

Smelterville – APP 004829

We wish to submit a response the Wired or Wireless challenge.

We know this project will facilitate distance learning and telework required by COVID-10 health protocols. Covid and the need for distance learning and telework has not “passed”. As of 7-22-21 Shoshone County risk level is “Substantial” or Level 4. The potential of a return to hybrid or online learning, for all school districts, due to the ongoing COVID pandemic is high. Tourism in North Idaho has seen a 300% increase opening the door for increased risk of exposure from outside the area which has the potential move us backwards in the Reopening Stages closing businesses again.

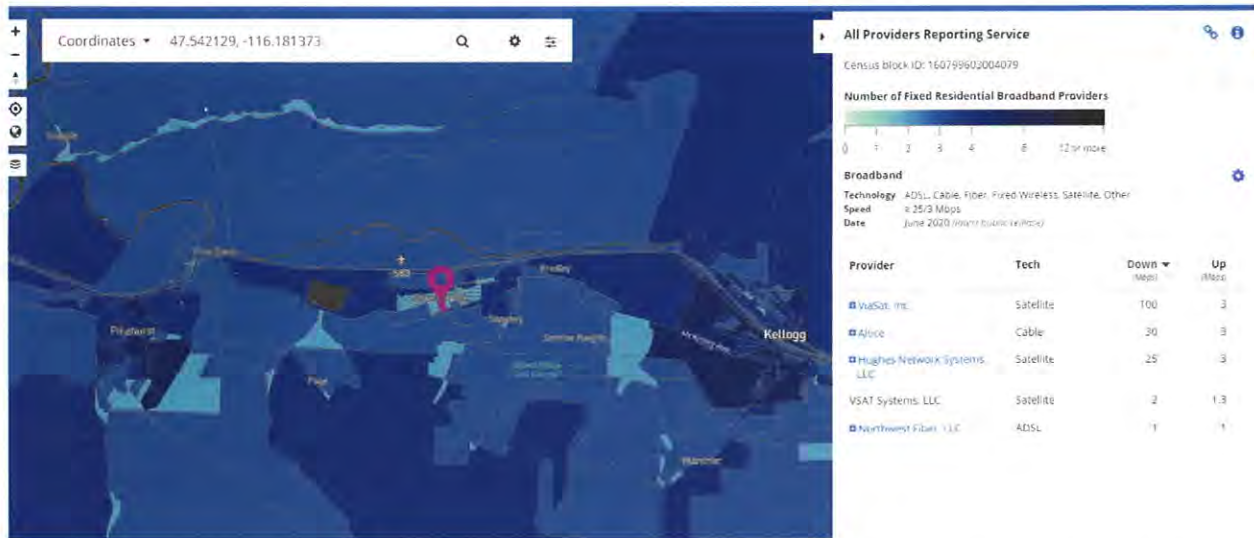
Under the Level 4 category the Kellogg School Districts Back to School Plan has strategies in place, to minimize exposure, where students will be required to stay or be sent home. At Level 4, elementary through high school learning has a digital learning day. This is due to the ongoing pandemic and requires broadband speeds not currently seen to participate in education. The ability for our children to receive an education is a priority and must be available at home. While the school district does receive E-Rate, that is specific to the school buildings. This does not solve at home learning barriers. This project is a step forward in solving the digital divide and mitigating the homework gap by providing consistent, high speed, affordable connections that allow for at home learning.

This area is home to business owners, community leaders, retirees, and low-income residents. The ability to work online, attend virtual meetings, and many online activities required in daily life will give our residents the option to limit their exposure risk for themselves and the community.

The CAF funding referenced is from 2018 and is for 10/1 service. We do not agree this is a valid challenge. Those funds received have not improved the broadband speeds in Smelterville or anywhere in the project area.

If you highlight the areas within the project area being proposed for service and check the, arguably flawed, FCC broadband mapping, you see that the Wired or Wireless does not provide service to most of the Smelterville residents, a limited number of residents in Pinehurst and does not provide service in Page or Bear Creek. Several service areas submitted on the form 477 are not developed or are a part of the Superfund sites where development cannot occur.

Office Hours Monday-Thursday 9:00 a.m. to 3:00 p.m.



An analysis of the coverage claims show that the Wardner Peak, Atlas Cell Tower, and C&E locations have significant shadowed areas in Smelterville, especially along the south portion of town, where most residences are located. Presenting the words “Cambium Networks” does not provide proof of the same or similar equipment. J&R Electronics is deploying carrier grade equipment as described in our application. We find the challenge that Wired or Wireless provides service in these areas to be overstated and not a valid challenge.

The proposed project area does include the Pinehurst Elementary School and the Pinehurst Library. This application was focused on Smelterville. The one tower site will see all of Smelterville, and the strategic location also provides service to most of Pinehurst, Page and Bear Creek. These communities were included to demonstrate the wide area of the project and emphasize the low cost per household deployment of the project. Pinehurst is a hub and houses institutions that have received e-rate funding but are not the majority of the locations being served by the McCloud Tower. This tower is a 10-gigabit internet feed connected at their Kellogg headend. The proposed network is not oversubscribed, has room for growth and has scalability to increase bandwidth as needed. E-Rate received is specific to the school and library buildings and does not address the need for access in the home for distance learning.

Wired or Wireless submitted internal diagnostic tests between access points and subscriber equipment as a challenge to speed tests “accurately reflecting existing availability”. These types of tests are not speed tests as stated in the challenge, but link capacity tests that only show local capability of the equipment between an access point and the connected subscriber modem. No actual internet speed tests were submitted as proof of internet service availability from Wired or Wireless. This is not the standard described in the grant process and doesn’t accurately reflect Internet access.

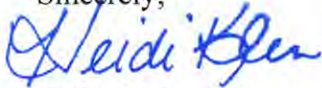
Taxpayer funds for for-profit companies are a part of public private partnership imperative to rural communities like Smelterville. These programs, like the USDA Community Connect program, and others that exist at most levels of government provide the competitive advantage for the communities. It is the private company’s responsibility to seek out and pursue these opportunities. That does provide a “fair and competitive” process maximizing fund dollars with a benefit to the community and the contractor. All ISPs had the opportunity for this grant if they had a project that fit within the guidelines and timelines prescribed.

Office Hours Monday-Thursday 9:00 a.m. to 3:00 p.m.

The Smelterville City Application for the McCloud Project does qualify for the grant in that it will provide minimum service of 25/3 in areas where students and residents reside who are unable to use broadband for even the simplest of daily task. The COVID-19 pandemic is not over, and Shoshone County is in a position of possible COVID-19 health protocols again. The ability to provide reliable and affordable broadband to the homes and small businesses is necessary and prudent specific to the ongoing COVID-19 health emergency. Other funding, including CAF, are either not relevant to the project area or are outside the dates stated on the application and below 25/3 speeds. The School District and library E-Rate will not provide access to children who may have to experience at home learning again. The proposed area is not overbuilt and will provide service to many residents and areas who, if they have an ability to connect, rely on cell or satellite service. Private/Public partnerships are one of the sustainable ways that small communities can implement many projects. Wired or Wireless had the opportunity to compete in this grant program if they had chosen to do so.

We appreciate the opportunity to be considered for this grant funding. Please contact us with any questions.

Sincerely,



Heidi Klein
City Clerk

City of Smelterville

P. O. Box 200 – 501 Main St.
Smelterville, Idaho 83868
cityofsmelterville@usamedia.tv
208-786-3351 (Phone and Fax)

Mayor, Tom Benson
City Clerk, Heidi Klein
City Attorney, Silver Valley Law, LLC

Council Members:
Jeff Frank, President
Jessica Frank
Linda Guthmiller
Charles Atha

Smelterville APP4829 – Ziplly Fiber Challenge response

We wish to respond to the Ziplly Fiber Challenge.

Idaho procurement process (Idaho Code Title 67, Chapter 92) is specific to purchase of property. These projects do not include purchase of any property by the City of Smelterville. This statute does not apply.

We have our concerns regarding the RDOF awards as stated. These funds were awarded to Frontier Communications not Ziplly Fiber, Northwest Fiber, LLC., WaveDivision Capital or Searchlight Capital Partners.

Frontier no longer services Idaho after selling its network assets to avoid bankruptcy. Considering this asset sale, current litigation with Frontier and concerns with Frontier's history of missed CAF deadlines, the certainty of RDOF award is vague and we are concerned that Ziplly may not be entitled to these awards.

If these funds are available to Ziplly, the challenges state they have been awarded RDOF funds to deploy. This does not mean the infrastructure currently exists but that it will, at a future indeterminate date. This does not address the current low speeds or prove an overbuild as fiber service is not currently available.

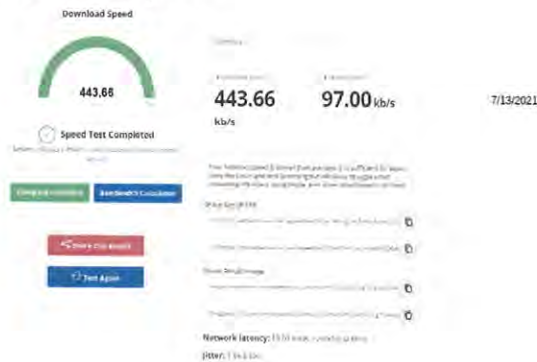
According to the Ziplly Fiber construction map on their website, all the communities in this project area are not scheduled as a future build out and when searching addresses there is not fiber service available at this time. The attached tests are of the speeds typically experienced within the area served by Ziplly Fiber. Speeds of below 1 Mbps are unusable in todays world for any common online work, meetings or other needs.

The disclaimer on the website states- *"Maps depict current plans for deployment, are projections subject to change as circumstances warrant, and are not a guarantee of any future network architecture."*

Office Hours Monday-Thursday 9:00 a.m. to 3:00 p.m.

Smelterville City Hall

506 6th St. Pinehurst



We appreciate the position Ziply Fiber serves as a local exchange carrier, and they are investing in fiber for our future needs. Current access is limited across the Silver Valley. In Smelterville, Pinehurst, Page and Bear Creek and most residents do not have access to speed half of the federal standard. J&R Electronics uses fixed wireless access points, connected via gigabit microwaves, to leverage leased point to point fiber from Ziply Fiber. This delivery method leaps over existing copper and cable systems to deliver a reliable broadband option to residents, efficiently and affordably.

We assert that Shoshone County communities need additional ISP providers and networks options to provide the comprehensive coverage to all the communities. This project will address the immediate need of this community by a set date of no later than December 31, 2021.

A defined service delivery date provides key information for community planning. As of July 22, 2021, Shoshone County was moved back to Level 4 or “Substantial” risk. We know the communities in this project area will have speeds needed as we again see the social distancing, health protocols, online learning and telework implemented because of COVID-19. As school starts again districts will implement digital learning. This project will assist our emergency personnel, residents, businesses, and school district efficiently navigate the return to Level 4 health protocols. We can avoid the homework gap, loss of revenue in small businesses online sales and allow for telework, e-health and an improvement in the digital divide.

We respectfully submit these responses the Ziply Fiber challenge to demonstrated sufficient eligibility and community need for the Idaho CARES Act Broadband Grant.

Thank you for the opportunity to be considered for this grant funding. Please contact us with any questions.

Sincerely,

Weide Klen

Heidi Klein
City Clerk

Office Hours Monday-Thursday 9:00 a.m. to 3:00 p.m.



Teton County

Emergency Management

Greg Adams, Coordinator
(208)354-2703
gadams@co.teton.id.us

Idaho Department of Commerce Broadband Office
700 W. State Street
Boise, ID 83702
VIA email: broadband@commerce.idaho.gov

To Whom It May Concern:

In response to Silverstar's challenge to our grant application;

We will receive no other funding or be reimbursed by the Alternative Connect America Model II funding for this project. Since the Alternative Connect America Model II funding is exclusively for carriers and doesn't apply to local governments it isn't even an option for us. However, I am glad that Silverstar is looking at that since they received funding from both programs.

We believe these funds are "necessary" to establish a temporary public medical facility for our response to COVID-19. We are losing our currently identified alternative care site for our hospital and are trying to prepare another site that will work. We are extremely concerned about the spike in COVID transmission and are seeking to be ready for the potential surge in hospitalizations we could be receiving this fall. In fact, as of last night our region had jumped from 2 regional residents being treated for COVID in regional hospitals to 12 in just 7 days. The demand for vaccine locally has fallen flat and less than half of Idahoans age 12 and up are currently vaccinated. Mask usage has become a thing of the past and trying to reestablish it with a significant percentage of observance will be extremely difficult. In addition, with the Delta variant being up to 60% more easily spread, a significant surge seems highly likely at this point. We greatly appreciate your consideration for this project to help us be better prepared to protect our citizens and visitors from what appears to be coming next. Thank you!

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Adams", is written over a horizontal line.

Greg Adams,
Teton County IT Director and Emergency Management Coordinator



Idaho Broadband Advisory Board
c/o Idaho Department of Commerce
700 W. State Street
Boise, ID 83702

July 27, 2021

To the Committee:

This letter addresses the questions raised in the challenge to Kootenai County's Application "APP-004836", brought by the company Wired or Wireless, Inc. ("WOW").

BACKGROUND

This project will provide last mile fiber broadband facilities to 375 household units and businesses in unincorporated Twin Lakes Village, which is in Kootenai County. Twin Lakes Village is a mix of single-family homes and multi-family homes.

There are many families with children in this neighborhood – distance learning is a vital focus of the CARES Act. Students and teachers in this project area remain at risk of having their educational situation upended as the pandemic has not ended.

Additionally, adults who live in this neighborhood often drive no less than 30 minutes in any direction to work in Spokane, Sandpoint, or Coeur d'Alene. For those residents who have companies that still require telecommuting (or may go back to that method), retaining their jobs requires real broadband. Telework/telecommuting is a clearly approved target of the CARES Act funds.

We ask the Advisory Board to reject this challenge and help these Idahoans secure broadband internet service.

WOW CHALLENGES ADDRESSED POINT BY POINT

In their challenge, WOW argues that the project

"...does not legally fall within the CARES Act parameters as its costs do not constitute a 'necessary expenditure' incurred 'due to the public health emergency' as defined by the Act and, thus, are ineligible for grant funding under the Act."

In fact, the proposed project meets all the necessary requirements of the CARES Act criteria. Here is a reminder of the relevant Eligible Project criteria from the "Idaho Broadband Fund: CARES Act Broadband Grant: Guidelines:

2. Eligible Projects

A. To be eligible for funding under the Broadband Grant, projects must meet the following eligibility criteria:



- i. *Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.*
- ii. *Projects must be necessary due to the COVID-19 public health emergency.*
- iii. *Projects must expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety. Projects that would not be expected to increase capacity to a significant extent until the need for telework, telehealth, distance learning, and public safety have passed due to this public health emergency would not be necessary due to the public health emergency and therefore would not be eligible uses of Broadband Grant funds. Projects must provide broadband service within the proposed project areas.*

For the residents who will be served in the geographic area proposed, this project will demonstrably improve opportunities to telework, improve access to telehealth services, and facilitate distance learning by allowing them to get fiber-optic broadband to their homes. Therefore, the project clearly meets all the criteria under the Idaho Broadband Grant Guidelines and CARES Act.

This project will provide fiber to the home with underground construction in the neighborhood.

There are 375 residences in this project area, the residents of which include varied ages, employment positions, with some homes being owner occupied and some rented. The homes and multi-family dwelling units in the project area include occupants with young children in school, full-time working people, and a range of employments.

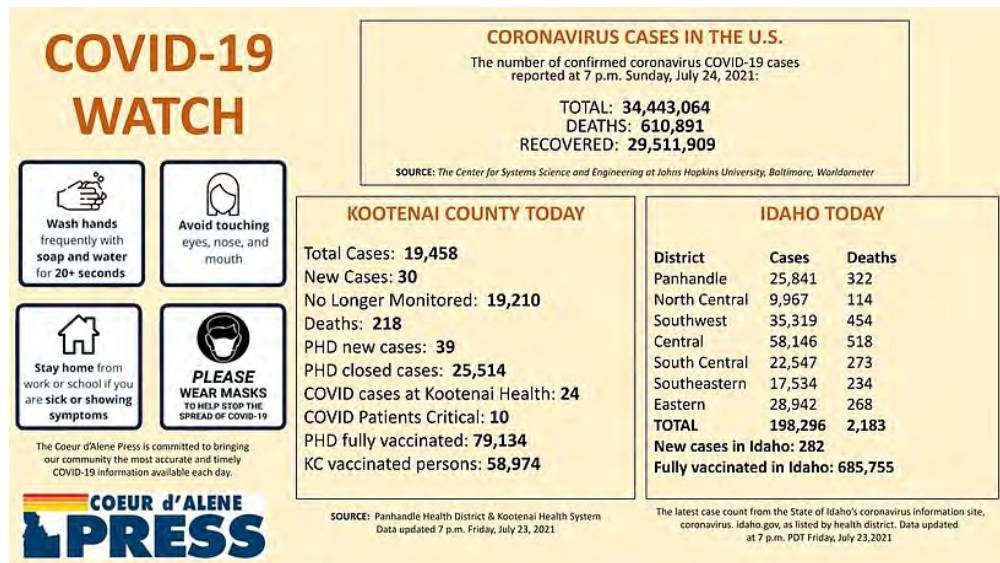
WOW asserts that “...the need for distance learning and telework as a result of the pandemic has passed.”

Neither the Federal nor State government has made any official declaration that the pandemic is over, with each level of government still operating under a state of emergency. As a result of the ongoing needs created by the Pandemic, the Idaho Broadband Advisory Board is again soliciting projects for another round of funding under the CARES Act.

As of 7:00 pm on July 23, 2021 (coincidentally also the deadline for the challenges to these grants), Panhandle Health District reported 30 new cases in the county alone, with 24 COVID inpatient cases at Kootenai Health, the public hospital in Kootenai County. Of those, 10 were in Critical Care. The different variants of COVID-19 are again causing an increase in cases and critical care patients in the area.

There is no guarantee that schools won't have to go back to distance learning. Nor is there a guarantee that companies will not require employees to telecommute for longer periods of time.

Though we all might wish it to be true, neither the challenger, nor the county, nor the proposed provider has the authority to declare an end to the Pandemic and the conditions that prompt the CARES Act funding.



So as the Committee is aware, the pandemic remains a real threat - not only nationally, but in local communities as well. As the pandemic continues it is imperative that there be opportunities in remote areas for telework, adequate access to telehealth services, and opportunities to promote distance learning.

WOW asserts that the project area is a “high-end residential community surrounding a private golf club and adjacent to highly desired lake front”.

WOW is incorrect in their facts in this challenge. Twin Lakes Village is a public golf course available to anyone who wishes to make a reservation, not a “private golf club”. Additionally, the current hyper-inflation of the real estate market in North Idaho the last few years has nothing to do with the current state of internet service nor the socioeconomics of current long-time residents and renters.

WOW asserts that “multiple providers serve this area” and “this area is well served by multiple providers”.

Known existing facilities in this neighborhood for telephone and internet are decades old and residents report they are not providing effective broadband. Only one company challenged this application (WOW), and the facts refute their assertion. WOW has challenged multiple projects across North Idaho, yet in this challenge WOW provides no actual tangible evidence that they are even providing service in this neighborhood.

The Twin Lakes Village Property Owners Association sent a survey to their residents in early 2021. More than 35% of the residents replied in short order, which is a high percentage of respondents to any



voluntary survey. Residents reported unusable internet connections and no decent service from their current provider. The speed tests included with the grant application showed evidence of that and comments detailing the problems were included in the letters of support with the application.

A representative sample of some of the survey comments to the Property Owners Association included these below showing residents who have tried the options, and none are working:

If TLV is not up graded to a fiber connection, my family & I may be forced to relocate, as our internet connection is a part of our work. We are barely getting by with what we have now and in some cases have to drive out of the neighborhood to use a cellular connection to get done what we need to get done.

Current companies offering service cannot provide enough speed for the increased demand of people working from home as well as kids in virtual school, speed is not great enough to stream services. The current provider is also at capacity of clients out here, we can't even add a new customer. We are desperate for high quality, high speed service.

My internet goes out just about daily. I am very tired of resetting the router. It was the same with Frontier. Just do not understand why.

Twin Lakes Village needs better internet service ASAP!

Bring it in as soon as possible!

Fiber is necessary to keep up with current technologies.

One of the letters of support submitted with this project was from the Twin Lakes Village Property Owners Association and it was almost plaintive in the need for better service:

Please accept this letter in support of the application submitted by Intermax Networks for the Idaho State Broadband Grant to assist with expanding broadband opportunities in our community. We are familiar with Intermax Networks and have been working for the past 10 months to try to bring fiber internet to Twin Lakes Village, to solve our problem with access to reliable highspeed internet.

Twin Lakes Village has been working for years to find a reliable internet solution for our residents to be able to work from home, participate in tele-health appointments, stream movies, and operate IOT devices. There are also businesses in the village such as the pro shop, office, restaurant, and a C-store that will be positively impacted by reliable internet service.

This community – located in a relatively remote rural part of the county - is clearly in dire need of upgraded service. If the provider challenging the application had better more reliable service, perhaps these residents wouldn't be so desperate for real broadband service.

Even if there were multiple providers in this area, the Idaho Broadband Advisory Board specifically chose not to exclude overbuilding for cases just like this – where the incumbent is failing to invest sufficiently to provide real, substantive broadband for residents.



SUMMARY

In closing, the challenge from WOW is not supported by the law that created the CARES Act, nor does it make any legal case that the State of Idaho is wrong in its grant process.

The challenge from WOW is also unrelated to the facts on the ground in this neighborhood, as the letters of support from the residents and the speed tests submitted prove.

The challenge from WOW should be rejected and the project allowed to continue pursuant to the committee's direction.

Sincerely,

A handwritten signature in blue ink, appearing to read "M.R.K.", with a stylized flourish at the end.

Michael R. Kennedy
President and CEO

mkennedy@intermaxteam.com

208-415-1772

In Fybercom's Challenge to Idaho Broadband Grant application APP-004857 they claim a "failure to meet the application criteria". However, upon further review we can find no evidence in their challenge to justify this claim. In-fact we cannot find that any of Fybercom's claims even address the project criteria?

Listed below are the project requirements as copied from both the grant guidelines as well as the grant application itself:

2. Eligible Projects

A. To be eligible for funding under the Broadband Grant, projects must meet the following eligibility criteria:

- Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety (CARES Act Federal Register Guidance can be found here. Frequently asked questions can be referenced here.)*
- Projects must be necessary due to the COVID-19 public health emergency.*
- Projects must expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety. Projects that would not be expected to increase capacity to a significant extent until the need for telework, telehealth, distance learning, and public safety have passed due to this public health emergency would not be necessary due to the public health emergency and therefore would not be eligible uses of Broadband Grant funds. Projects must provide broadband service within the proposed project areas.*
- Projects must be completed and operable and verified no later than December 31, 2021. Projects that are not completed, operable, and verified by December 31, 2021 will not be reimbursed.*
- Include broadband infrastructure and equipment costs meeting CARES Act criteria. Satellite service is not eligible for grant award.*

The submitted Grant application APP-004857 has already shown that the grant meets all the listed criteria. As the Challenge has provided no evidence to the contrary, we see no reason to relitigate the eligibility of this grant. However, we will provide you with additional evidence and information. We will also attempt to address the specific claims made by Fybercom.

To the specific claims made in Fybercom's challenge they seem to be a bit confused:

- They reference a claim about numbers and locations of towers. Nothing of the sort was ever raised or claimed in the application? The current providers are simply inadequate or don't provide equal access.*
- Fybercom makes interesting claims about coverage and available speeds, yet their own data seems to suggest something different. They claim 95% of the area has access to 100/10 yet only the city utilizes it (for free). This seems to support the assertion in the application that "Residents with limited incomes simply cannot afford the exorbitant cost of premium services." Further they claim to service "58% of the businesses and residences in the proposed area with their 40x10Mbps product." However, their own map shows less than 50 customers. The grant*

project hopes to service over 200 locations. That means less than 25% of homes utilize their service. That is substantially less than the 58% they claim. Why is this? It certainly isn't because the competition is excellent. I will also note that they offer no evidence of the actual speeds delivered at these residential locations.

- Fybercom states that multiple providers service the proposed grant area. One of those is Direct Communications. They currently service the Elementary school only and do not currently offer additional services in our area. Another listed provider is Century Link whose advertised service are 1.5 Mbps for half of the town and 10/1Mbps for the other. As the screen shots in our application show they deliver far less than that. None of the other listed providers make any claims that Roberts grant application shouldn't qualify.
- They have provided an entire list of schools that don't service the residents of Roberts. Roberts has its own Elementary school. All other students must travel a two-lane highway into Rigby for in person classes. The closest emergency services are also located in Rigby. Some seem to think that a 20-minute drive for a 13-year-olds to attend class or to receive emergency medical attention is acceptable and routine. I'll let you be the judge of that. (*Please see Roberts Elementary Principal Matt Hancock's letter of support below*)
- Fybercom has stated that our private partners (Direct Communications) "cost-effectiveness isn't transparent." Below are their current speeds and pricing. As part of our agreement, they have agreed to continue offering the proposal area their lowest advertised rates. For like services.

Aberdeen, West of American Falls, Arimo, Bancroft, Bennington, Downey, Georgetown, Grace, Lava Hot Springs, McCammon, Montpelier, Paris, Preston, <u>Roberts, Soda Springs</u> , Dingle, Garden Grove, Glendale Reservoir, Immigration Canyon Route, Lewisville, Menan, Pebble Creek area, Pleasant Valley, Rapid Creek area, Virginia, West Side, Wapello	50M	\$59.95
	100M	\$69.95
	250M	\$89.95
	500M	\$119.95
	1GIG	\$159.95

Direct Communications has agreed to waive all activation and installation fees. Additionally, (unlike some current providers) they have no data caps, never throttle, and have no overages.

- In the Broadband Grant Challenge Extension Fybercom again makes claims that seem to support our original application and the need for improved broadband in Roberts.
 - Of the 15 provided speed tests, Fybercom claims that 6 are on wireless networks.
 - The grant requirements do not at any point preclude speed tests on a wireless network. It is true that a wireless router can limit the pass-through speed available. However, this potential limitation is only relevant when dealing with legitimate highspeed broadband. Even the most basic of wireless routers is more than capable of passing 50Mbps speeds or higher.

- Flybercom also notes “Also to note some the tests posted are on FlyberCom’s current network and plans they are testing with is exactly what plan and rate the customer is on.” This claim is almost comical. Let’s look closer.
 - The following are the address they call out:
 - 4862 E 671 N is on a 40 x 10Mbps plan
 - Provided speed test shows delivery speed of 10 x10.5Mbps
 - 664 N is on a 15 x 3Mbps plan
 - Provided speed test shows delivery speed of 15x2.4Mbps
 - 663 N is on a 10 x 2Mbps plan (wireless speed test)
 - Provided speed test shows delivery speed of 3.8Mbps
 - 2870 E 664 N is on a 20 x 12MBPS plan (wireless speed test)
 - Provided speed test shows delivery of 15.25 x 3.54Mbps
- So, by Flybercom’s own admission, at 3 of the 4 locations they are delivering speeds that are far below what the customer is paying for! The one location where they are meeting the contracted speed it is still far below the federal standard of Broadband (25x3). This exercise highlights one of the key issues with relying on WISPS (wireless internet service providers) for broadband service. Any WISP that relies on unlicensed bandwidth and point to multipoint equipment simply cannot deliver highspeed broadband on a consistent basis. This type of ISP technology provides exactly what the above data indicates. Wireless internet providers consistently deliver speeds far slower than what the customer signed up, what they expected, and they struggle deliver broadband speeds. Once again, the current providers are simply inadequate and don’t provide equal access.

We fully believe that the rising tide raises all ships. In Roberts we welcome and encourage all providers. We hope that Flybercom’s ship will rise also. In the interest of equal access, our private partner has agreed to make circuits and data available at fair market rates. We firmly believe that the more providers that we can incentivize to provide in our area the better and less expensive the services will be. Unfortunately, there is currently a huge percentage of our area that is simply underserved. We believe that without the Idaho Broadband Grant those needs will not be met. Our citizens will continue to struggle with the ongoing technological advancements and the digital divide will grow ever larger.

Below we have attached supplemental information to highlight and support the need for increased Broadband in the proposed grant area:

CITY OF ROBERTS, ID

- Populations 700
- 50% Hispanic
- Businesses: BJ's Bayou, US Post Office, Cody James Equipment, Gas Station and Café, Lucy's Pizza, Grocery Store, Automotive Repair Shop, Idaho Community Council Health Clinic, Roberts Elementary.

ROBERTS ELEMENTARY

- Roberts Elementary School serves 152 students in grades Pre-kindergarten-5.
- Roberts Elementary is placed in the bottom 50% of all schools in Idaho for overall test scores, (math proficiency is bottom 50%, and reading proficiency is bottom 50%) for the 2017-18 school year.
- The percentage of students achieving proficiency in math is 20-24% (which is lower than the Idaho state average of 44%) for the 2017-18 school year. The percentage of students achieving proficiency in reading/language arts is 25-29% (which is lower than the Idaho state average of 54%) for the 2017-18 school year.
- Minority enrollment is 51% of the student body (majority Hispanic), which is higher than the Idaho state average of 25% (majority Hispanic).
- Top 10% most diverse schools in the state.



To Whom it May Concern:

I am writing this letter in support of increasing the internet accessibility for our school children in Roberts Idaho

Last year, as many communities in our nation battled to educate our students at home while our schools were closed. In our community this impacted us both while we were in and out of school. We had our students who were 100% online for part of the time, some home part time while they were in school and as we transitioned back students used the internet while attending regular classes in person.

In our community we have students who can't get service based on their location because of an inability to get a good signal. These students went to the public library, used a district provided hotspot or went without service. We have students who have multiple siblings in school and with their internet capabilities they could only use one device at a time making it very difficult for parents to help with limited hours in the day after school. And we have students who can't afford expensive internet prices and went without.

These are challenging issues but providing an infrastructure that provides access for all, high speeds allowing for multiple devices at one time and keeping rates at a level that all families can have access would help us as a small community school meet the needs of our students.

Sincerely,
Matt Hancock
Principal, Roberts Elementary
208-228-3111

IDAHO COMMUNITY COUNCIL HEALTH CLINIC



Digital transformation is helping medical facilities provide better treatment for patients in rural areas. High-speed internet allows physicians to search files, consult with specialists, speak with remote patients, and improve patient outcomes. Leveraging technology is one thing but accessing professionals who can review, evaluate, and process the information is another. MRI, radiology, health records, and speedy contact with experts, helps get proper treatment to patients more quickly. Doctors can use remote diagnostics and alternative healthcare delivery methods to better save lives.

AREA EMPLOYEMENT DATA

Based on a recent study conducted by the Idaho Workforce Development Council, in partnership with REDI, INL and employers of several nuclear projects either under construction or to be constructed, as well as discussion with regional employers, data shows the following

POPULATION & EMPLOYMENT GROWTH

EASTERN IDAHO (2018-2028)

- Population - 38,000 plus
- Labor Supply - 14,000 plus
- Employment - 20,000 plus

IDAHO NATIONAL LABORATORY, LOCATED 17 MILES FROM ROBERTS

Seven large Nuclear Projects to be Constructed between 2020 and 2030:

- Spent Fuel Handling Recapitalization Project
- Naval Examination Acquisition Project
- Versatile Test Reactor (VTR)
- Idaho Clean-up Project
- INL Onsite Maintenance/Small Construction
- Small Modular Reactors - Site Construction
- Small Modular Reactors - Manufacturing

38 different occupations are required for the above Nuclear Projects, which the following outlines a few required occupations (this will require recruitment of new/additional workforce to Eastern Idaho):

Concrete finishers, Equipment operators, Heavy equipment operators, Iron workers, Machinists, Pipefitters, Engine, Roofers, Concrete iron workers, Finishers, HVAC mechanics, Laborers, Masons, Millworkers, Plasters, Sheet metal workers, Welders, Carpenters, Concrete laborers, Electricians, General inspectors, Insulators, Linemen, Material handlers, NQA-1 Quality inspectors, Painters, system mechanics, Etc.

Peak hiring/construction will be 2025/2026:

- Two-thirds local hires and one-third from out of state
- Eight occupations anticipate using greater than 33% apprentices (will require specialized training and certifications from Tech and higher ed institutions in Eastern Idaho. This will also require on-line courses and training, not only in the home but also on-site).
- Peak at 5,000 construction workers onsite - working on Nuclear projects in 2025/2026

Permanent and Temporary Housing will be required to accommodate the workforce coming.

Broadband/Connectivity will be key for residents - consistency and redundancy

Supply Chain will increase/recruitment of new businesses to Eastern Idaho to support nuclear, as well as regional employers.

Broadband/Connectivity will be key for businesses - consistency and redundancy

Workforce will increase with approximately 1800 coming from out of state and 1,300 employees will be hired to run the facilities once construction is completed of projects are completed.

Epicenter of Nuclear Projects will be Idaho Falls and the INL/FLUOR/Naval Reactor Facilities sites between Idaho Falls and Arco.

Construction Labor/Workforce will live within a 30-mile radius of Idaho Falls, so all communities in Bonneville, Bingham, Jefferson and Madison Counties will be impacted.

With COVID, during and after, we have seen a large uptick in Telehealth and on-line educational needs.

- Broadband/connectivity - consistency - and redundancy are in high demand – more than they have ever been before.
- In addition, the need for broadband in Eastern Idaho's smaller communities, including rural communities, will require broadband/connectivity to serve new residence coming in for jobs and new businesses that will locate to the region due to the supply chain support required for these large nuclear projects to be constructed over the next decade.

The need for high-speed broadband is already here! The need for additional broadband is coming! We must plan for the growth now - and broadband is a critical piece of the required infrastructure for growth!



CITY OF WALLACE

STATE OF IDAHO

703 Cedar Street
Wallace, Idaho 83873-2396
(208) 752-1147
Fax (208) 752-7741

Mayor
Lynn Mogensen

Clerk/Treasurer
Kristina Larson

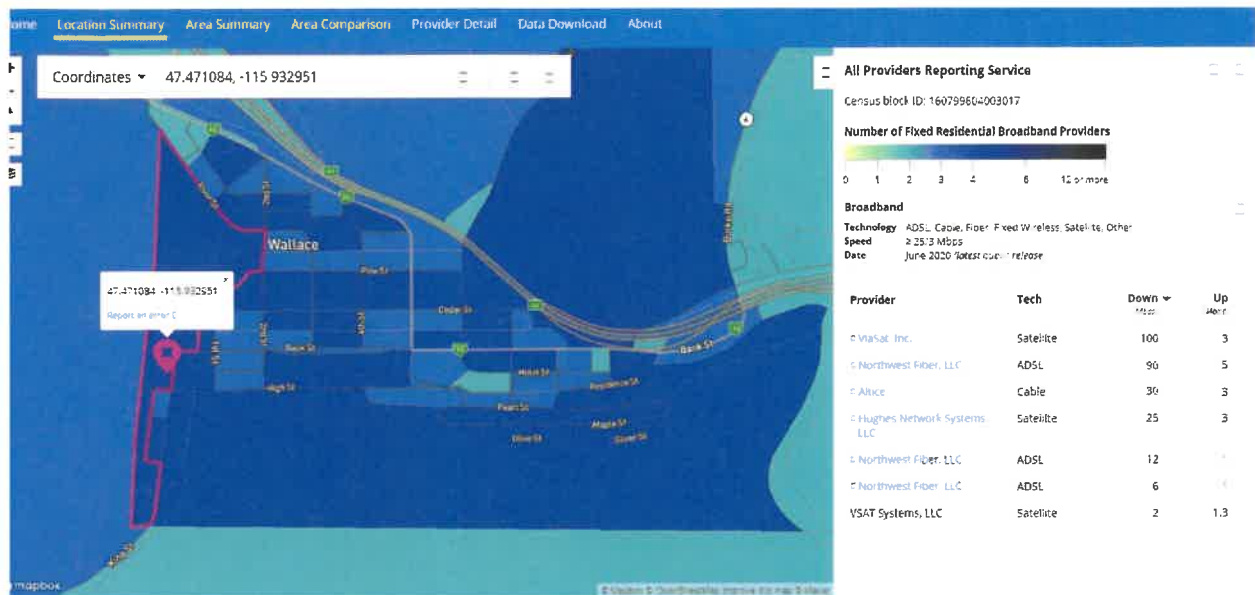
Wallace – APP 004858

We wish to submit a response to the Wired or Wireless challenge. We know this project will facilitate distance learning and telework. Covid has not passed. As of 7-22-21 Shoshone County's risk level is "Substantial" or Level 4. The potential of a return to hybrid or online learning, for all school districts, due to the ongoing COVID pandemic is high. Tourism in North Idaho has seen a 300% increase opening the door for increased risk of exposure from outside the area which has the potential move us backwards in the Reopening Stages closing businesses again.

Under the Level 4 category the Wallace School Districts COVID-19 Operational Plan has strategies in place, to minimize exposure, where students will be required to stay or be sent home. This is due to the ongoing pandemic and requires broadband speeds not currently seen to participate in education. The ability for our children to receive an education is a priority and must be available at home. While the school district does receive E-Rate, that is specific to the school buildings. This does not solve at home learning barriers. This project is a step forward in solving the digital divide and mitigating the homework gap by providing consistent, high speed, affordable connections that allow for at home learning. This area is home to business owners, community leaders, retirees, and low-income residents. The ability to work online, attend virtual meetings, and many online options for daily living now available will give those residents the option to limit their exposure risk for themselves and the community.

The CAF funding referenced in the challenge is from 2016 and is for 10/1 service. We do not agree this is a valid challenge. Those funds received have not improved the broadband speeds in Wallace or the project area, except for the Wallace Inn.

The FCC broadband map selected for the challenge is outside of the project area. If you highlight one of the better served locations within the areas proposed for service and check the, arguably flawed, FCC broadband mapping, you see there is conflicting information regarding the speeds provided. There are 3 reports from Northwest Fiber, and two that represent the actual experience of residents.



The proposed project area does include the Wallace Jr./Sr. High school but was not the focus of the additional 225-250 residents to be served. We apologize for not including this institution. The proposed area has not received previous state funding except for the Wallace Jr./Sr. High school, as a part of the Wallace School District E-Rate program. The Wallace Library does not fall in the project area and does not receive E-Rate funding. E-Rate funding is specific to only school buildings and does not address the need for access in the home for distance learning.

Speed tests submitted reflect existing service received by residents within the project area. The screen shot in this document is from the FCC mapping and includes speeds as reported but not delivered. Northwest Fiber, LLC. has three reported tests. The coordinates chosen to challenge are outside the project area. Please refer to the screen shot that highlights the best-case scenario in the proposed project area. Speed tests that were gathered do not show these speeds being delivered. These speed tests were performed at multiple addresses and times of day within the proposed project area. Form 477 only requires "Fixed providers file lists of census blocks in which they **can** or do offer service to **at least one location**, with additional information about the service." We feel that reporting requiring only one location in a census block where they can, but may not, provide service is not an accurate representation of the whole block and can be filed in a manner that is for the benefit of the ISP and not the community. We cannot agree with the merits of this challenge.

Taxpayer funds for for-profit companies are a part of public private partnership imperative to rural communities like Wallace. These programs, like the USDA Community Connect program, and others that exist at most levels of government provide the competitive advantage for the communities. It is the private company's responsibility to seek out and pursue these opportunities. That does provide a "fair and competitive" process maximizing fund dollars with a benefit to the community and the contractor. All ISPs had the opportunity to apply for this grant if they had a project that fit within the guidelines and timelines prescribed.

The Wallace City Application for the Zipline Project does qualify for the grant in that it will provide minimum service of 25/3 in areas where students and residents reside who are unable to use broadband for even the simplest of daily tasks. The COVID-19 pandemic is not over, and Shoshone County is in a position of possible health restrictions again. The ability to provide reliable and affordable broadband to the homes and small businesses is necessary and prudent specific to the ongoing COVID-19 health emergency. Other funding, including CAF, are either not relevant to the project area or are outside the dates stated on the application and below 25/3 speeds. The School District E-Rate will not provide access to children who may have to experience at home learning again. Private/Public partnerships are one of the sustainable ways that small communities can implement many projects. Wired or Wireless had the opportunity to compete in this grant program if they had chosen to do so.

We appreciate the opportunity to be considered for this grant funding. Please contact us with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Lynn Mogensen', with a long horizontal flourish extending to the right.

Lynn Mogensen
Mayor, City of Wallace

City of Osburn

921 E. Mullan Ave.
P.O. Box 865
OSBURN, ID. 83849

Phone (208)752-0001
Fax (208)753-8585

Osburn– APP004864

We wish to submit a response the Wired or Wireless challenge.

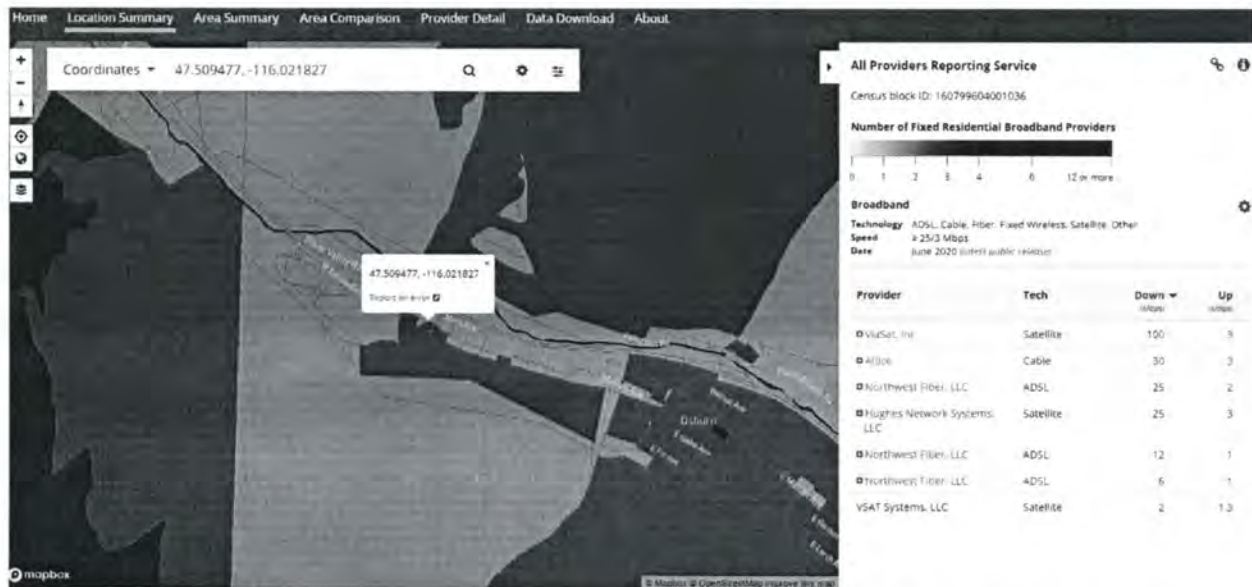
We know this project will facilitate distance learning and telework. Covid and the need for distance learning and telework has not “passed”. As of 7-22-21 Shoshone County risk level is “Substantial” or Level 4. The potential of a return to hybrid or online learning, for all school districts, due to the ongoing COVID pandemic is high. Tourism in North Idaho has seen a 300% increase opening the door for increased risk of exposure from outside the area which has the potential move us backwards in the Reopening Stages closing businesses again.

Under the Level 4 category the Wallace School Districts COVID-19 Operational Plan has strategies in place, to minimize exposure, where students will be required to stay or be sent home. This is due to the ongoing pandemic and requires broadband speeds not currently seen to participate in education. The ability for our children to receive an education is a priority and must be available at home. While the school district does receive E-Rate, that is specific to the school buildings. This does not solve at home learning barriers. This project is a step forward in solving the digital divide and mitigating the homework gap by providing consistent, high speed, affordable connections that allow for at home learning.

This area is home to the South Fork Sewer District, business owners, community leaders, retirees, and low-income residents. The ability to work online, attend virtual meetings, and many online options for daily living now utilized will give those residents the option to limit their exposure risk for themselves and the community.

The CAF funding referenced is from 2015 and is for 10/1 service. Most of the CAF projects are outside of the Two-Mile project area. We do not agree this is a valid challenge. Any funds received in or around the Two-Mile project area have not improved the broadband speeds in Osburn as indicated by the speed tests performed at various homes and businesses at varied times of days.

The FCC broadband map selected for the challenge is outside of the project area. If you highlight one of the better served locations within the areas proposed for service and check the, arguably flawed, FCC broadband mapping, you see Northwest fiber is still under the 25/3 minimums. Altice, (Suddenlink) advertises 30/3 those residents and businesses to not see and experience multiple outages during the month. If you check other areas within the project area, many have satellite as the only option.



The proposed project area does not include any libraries or schools. The proposed area has not received previous state funding that we are aware of. The Silver Hills Elementary School was a part of the previous grant and helped build the eastern half of Osburn. The central, western and many southern locations were not served due to time constraints and shortages in equipment. E-Rate funding is specific to only school buildings and does not address the need for access in the home for distance learning.

Speed tests submitted reflect existing service being received by residents within the project area. The screen shot above is the FCC mapping as reported on form 477. Northwest Fiber, LLC. reported service still does not meet the minimum speeds. The coordinates chosen to challenge are outside the project area. Please refer to the screen shot that highlights the best-case scenario in the proposed project area. Speed tests that were gathered do not show these speeds being delivered. These speed tests were performed at multiple addresses and times of day within the proposed project area.

Form 477 only requires "Fixed providers file lists of census blocks in which they can or do offer service to at least one location, with additional information about the service." We feel that reporting requiring only one location in a census block where they can, but may not, provide service is not an accurate representation of the whole block and can be filed in a manner that is for the benefit of the ISP and not the community. We cannot agree with the merits of this challenge.

Taxpayer funds for for-profit companies are a part of public private partnership imperative to rural communities like Osburn. These programs, like the USDA Community Connect program, and others that exist at most levels of government provide the competitive advantage for the communities. It is the private company's responsibility to seek out and pursue these opportunities. That does provide a "fair and competitive" process maximizing fund dollars with a benefit to the community and the contractor. All ISPs had the opportunity to apply for this grant if they had a project that fit within the guidelines and timelines prescribed.

The Osburn City Application for the Tow-Mile Project does qualify for the grant in that it will provide minimum service of 25/3 in areas where students and residents reside who are unable

to use broadband for even the simplest of daily task. The COVID-19 pandemic is not over, and Shoshone County is in a position of possible health restrictions again. The ability to provide reliable and affordable broadband to the homes and small businesses is necessary and prudent specific to the ongoing COVID-19 health emergency. Other funding, including CAF, are either not relevant to the project area or are outside the dates stated on the application and below 25/3 speeds. The School District E-Rate will not provide access to children who may have to experience at home learning again. Private/Public partnerships are one of the sustainable ways that small communities can implement many projects. Wired or Wireless had the opportunity to compete in this grant program if they had chosen to do so.

We appreciate the opportunity to be considered for this grant funding. Please contact us with any questions.

Sincerely,



Lisa Millard

Clerk/Treasurer

City of Osburn

921 E. Mullan Ave.
P.O. Box 865
OSBURN, ID. 83849

Phone (208)752-0001
Fax (208)753-8585

July 27, 2021

Osburn APP04864 – Ziplly Fiber Challenge response

We wish to respond to the Ziplly Fiber Challenge.

Idaho procurement process (Idaho Code Title 67, Chapter 92) is specific to purchase of property. These projects do not include purchase of any property by the applicant. This statute does not apply.

We have our concerns regarding the RDOF awards as stated. These funds were awarded to Frontier Communications not Ziplly Fiber, Northwest Fiber, LLC, WaveDivision Capital or Searchlight Capital Partners.

Frontier no longer services Idaho after selling its network assets to avoid bankruptcy. Considering this asset sale, current litigation with Frontier and concerns with Frontier's history of missed CAF deadlines, the certainty of RDOF award is vague and we are concerned that Ziplly may not be entitled to these awards.

If these funds are available to Ziplly, the challenges state they have been awarded RDOF funds to deploy. This does not mean the infrastructure currently exists but that it will, at a future indeterminate date. This does not address the current low speeds or prove an overbuild as fiber service is not currently available.

According to the Ziplly Fiber construction map on their website, Osburn is listed as a "future fiber" build with no completion date indicated and "service unavailable at this time" when addresses are checked. Current infrastructure, including Ziplly service, does not provides the minimum necessary speeds to the community. The attached tests are of the speeds typically experienced within the area served by Ziplly Fiber.

The disclaimer on the website states- *"Maps depict current plans for deployment, are projections subject to change as circumstances warrant, and are not a guarantee of any future network architecture."*

South Fork Sewer District Office

519 Walnut Ave Osburn

Sent: Wednesday, July 14, 2021 5:03 PM



519 Walnut Ave Osburn

Ziply

1.42

1.42

Download Speed

Test Speed

4.73

1.42

Mbps

Mbps

We appreciate the position Ziply Fiber serves as a local exchange carrier, and they are investing in fiber for our future needs. Current access is limited across in Osburn and most residents do not have access to speed half of the federal standard. J&R Electronics uses fixed wireless access points, connected via gigabit microwaves, to leverage leased point to point fiber from Ziply Fiber. This delivery method leaps over existing copper and cable systems to deliver a reliable broadband option to residents, efficiently and affordably.

We assert that Shoshone County communities need additional ISP providers and networks options to provide the comprehensive coverage to all the communities. This project will address the immediate need of this community by a set date of no later than December 31, 2021.

A defined service delivery date provides key information for community planning. As of July 22, 2021, Shoshone County was moved back to Level 4 or "Substantial" risk. We know Osburn will have speeds needed as we again see the social distancing, health protocols, online learning and telework implemented because of COVID-19. As school starts again districts will implement digital learning. This project will assist our emergency personnel, residents, businesses, and school district efficiently navigate the return to Level 4 health protocols. We can avoid the homework gap, loss of revenue in small businesses online sales and allow for telework, e-health and an improvement in the digital divide.

We respectfully submit these responses the Ziply Fiber challenge to demonstrated sufficient eligibility and community need for the Idaho CARES Act Broadband Grant.

Thank you for the opportunity to be considered for this grant funding. Please contact us with any questions.

Sincerely,

Lisa Millard

Clerk/Treasurer



Idaho Broadband Advisory Board
c/o Idaho Department of Commerce
700 W. State Street Boise, ID 83702

July 28, 2021

Response to CARES Act Broadband Grant Challenge Response

Applicant: App-004866

Applicant Name: Bonner County

Application Title: Spring Creek

Challenger: Wired or Wireless, Inc (WOW)

Background

The Spring Creek project provides needed broadband service to approximately 430 households in the project area. This service will be installed via a fiber connection that provides up to 1 Gbps to the project households.

Businesses, students, and those in poor health are all affected by this lack of service. Opportunities for education, remote employment, and access to healthcare of missed or burdensome due to the lack of broadband infrastructure. For many seeking these essential services, it requires 30-90 minutes to drive to locations where this can receive the services necessary (Sandpoint, Coeur D'Alene, Spokane, WA).

Additionally, this project provides better emergency communication, and better communication for multiple government agencies, including Bonner County, Sam Owen, Clark Fork Fire Departments, and several Idaho agencies.

Kaniksu asks the advisory board to reject this challenge, allow the households in the project area to receive the broadband service they have been lacking.

Summary of Kaniksu's Response

In the challenge, Wired or Wireless ("WOW") states they have "extensive coverage" in the planned project area. Unfortunately, this information is not accurate based on the information we include below. Their challenge includes speed tests that show speeds being delivered in the Hope/Clark Fork community, but unfortunately, they do not provide information on where they performed the tests. Of the many speed tests, we had our customers perform (all within the proposed coverage area), we did not find a single customer that receives close to the speeds their tests show.

Kaniksu has provided Bonner County with letters and speed tests results for specific addresses and the names associated with those addresses, as such, these results can be verified for accuracy. Additionally, as detailed later in this challenge response, Kaniksu has researched the speeds available by each



provider, and has reached out to their sales departments to confirm what is available in the community and the project area.

The Spring Creek community has been especially hurt due to the neglect of most of the providers over the years. This neglect is mostly due to the cost to provide broadband service to the community. In Kaniksu's opinion, the Spring Creek community is a perfect candidate for grant money, as it will likely never receive adequate broadband service without some sort of subsidy.

Kaniksu seeks to respond to WOW's challenge. We have broken our response into sections based on each question.

Challenge 1: Application Section 2. Eligible Projects

WOW has challenged the above-referenced project's eligibility, asserting that the referenced project is not eligible because it does not meet the CARES Act requirements, stating that "the need for distance learning and telework as a result of the pandemic has passed."

This grant program description itself specifically outlines, "The Idaho Broadband Advisory Board seeks to fund broadband projects across the state that are necessary for the COVID-19 public health emergency, **and may include assisting with or improving distance learning, telehealth, telework, and public safety**" (emphasis added). If this challenge were to be accepted as valid, then the entire CARES Act Broadband Grant program itself would need to be cancelled.

First, it's important to note that the Bonner County Board of Commissioners certified via a notified document submitted with the grant application that the proposed project will meet the CARES Act criteria. Additionally, the Idaho Broadband Advisory Board, in its June 7th meeting, discussed specifically that the criteria for the CARES Act would mean that applications would need to meet criteria such as, "for people to telework, have access to telehealth, and for online learning" (IBAB meeting minutes, June 7, 2021 - https://commerce.idaho.gov/content/uploads/2021/06/6.7.2021_Idaho-Broadband-Advisory-Board-Meeting-Records.pdf).

The Spring Creek application directly provides for expanding access for distance learning, telehealth, telework, and public safety, and will be completed by the deadline outlined by the criteria: December 31, 2021. This meets both the CARES Act criteria and the intent of the Idaho Broadband Advisory Board for this grant program.

Further, the CARES Act guidance, as cited in the challenge itself, lists the following as examples of eligible expenses (both of which are covered by the Spring Creek application):

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.



- Expenses to improve telework capabilities for public employees to enable compliance with COVID–19 public health precautions.

WOW’s challenge falsely asserts that the need for response to COVID19 has passed. Unfortunately, COVID19 is still present in Idaho and in Bonner County, and recently cases have even begun to rise again due to the more transmissible Delta variant and relatively low vaccination rates in the area (<https://public.tableau.com/app/profile/idaho.division.of.public.health/viz/DPHIdahoCOVID-19Dashboard/Home>). The CDC released new guidance as recently as yesterday, July 27, 2021, due to increasing cases in some communities. While businesses are open and schools are operating in-person right now, there may still be outbreaks which lead to isolated closures. Particularly for schools, Idaho’s re-opening framework states that temporary closures may be necessary when people with COVID19 have been in the building (<https://www.sde.idaho.gov/re-opening/files/Idaho-Back-to-School-Framework-October-2020.pdf>) It is “necessary” to improve broadband infrastructure to underserved areas, because when these closures happen, they disproportionately impact families that live in underserved areas, such as the Spring Creek region. Additionally, individuals who may have been exposed to COVID19 will still need to comply with COVID19 precautions to help stop outbreaks. Individuals who do not have access to reliable broadband will be less able and less likely to comply with public health precautions.

The proposed expenditures for the Spring Creek project are in fact, despite the challenge’s assertions, “due to” the COVID19 public health emergency. The digital divide existed long before COVID19, but the pandemic both exacerbated and revealed the impact of these disparities. While Idaho is in a much better place than it was a year ago, the fact is that Bonner County still has community transmission (as identified by Idaho Division of Public Health), and cases are currently increasing. This project will address existing challenges from COVID19 and will “mitigate similar disruptions in the future” – as outlined by the grant application.

The WOW challenge also asserts that the identified project area is already sufficiently served with Broadband, and as such, is not eligible under the CARES Act criteria. As identified in the Spring Creek application, key community leaders and local speed tests demonstrate that this is simply not the case. The chief of the volunteer fire department in the area supports this project due to the current poor communication infrastructure in the area. The speed tests submitted in the application are tied to specific addresses within the identified project area, showing the lack of broadband – some households were not even able to maintain a stable enough connection to conduct a speed test. Please see the rebuttal to the additional challenge points for more information about the lack of existing coverage.

Question: Provide an overview of the project, including why the project is important and how it will address the broadband needs of the community. Include a scope of work description, along with a list of ISPs that can provide the proposed service.

The challenge does not include data that shows WOW’s “extensive coverage” in the area. Their speed tests did not include locations, coverage maps, or data that would show which type of equipment is



installed to demonstrate speeds available in the project area. Despite the missing data points, Kaniksu will attempt to address many of the points brought up in the challenge.

- **Large monopole tower in the city core of Clark Fork –** Kaniksu did an inspection of the tower and found none of the radios and antennas appeared to face directly towards the proposed project area. One is possibly on the edge of the project area. Further the height of the tower (estimated at 90-100 feet) prevents adequate ability to serve the proposed project area. All homes are either partially or fully obstructed (see screenshot 1). Finally, the tower height does not allow for it to clear trees and vegetation that exists in the project area. Please see the pictures in the appendix to show the terrain for the proposed project area. No data was submitted to show households in the project area who have or could connect to this tower.
- **Extensive cable distribution system in Clark Fork, and in Hope, East Hope and on the Hope Peninsula.** WOW uses an antiquated cable system that is not capable of delivering speeds above approximately 6 Mbps (via WOW sales department). Based on speed tests performed by customers looking to switch from WOW to Kaniksu, their typical speeds are closer to 1Mbps or less. Further the cable system is only available to an estimated 50 homes in the project area. No data was included to show what customers in the project area can connect and receive at or near the project speeds.
- **Pole above the Clark Fork water tower that provides coverage to the spring creek area.** This is a pole above the Clark Fork water tower with a single PtMP radio. The AP radio is not high enough to serve the customers in the project area due to trees, and other terrain issues. Additionally, even if the radio could serve the proposed project area, the single radio would not have the capacity to serve the customers in the project area (100+ homes) in this portion. The challenge does not include any data to show what service could be received from this pole.
- **Tower on Gold Mountain covering entire area.** The challenge argues they can serve the “entire” project area from their Gold Mountain tower. This tower is between 10-15 miles away from the project area, depending on the home. The use of link planning software shows that it is not possible to serve many parts of this project (Screenshot 2). The rest of the project area is blocked by vegetation. No data has been submitted to show they can serve the project from this tower.
- **Tower sites on top of Schweitzer and Baldy Mountains.** This site is between 18-25 miles away from the project area. Major equipment manufacturers recommend distances less than 12 miles for their equipment to work reliability and be able to deliver the speeds proposed by this project. No data was included to demonstrate the challenger has customers in the project area

connected from these tower sites.

PTMP Mode Distance Limitations	
Bandwidth	Distance Limit
20/40/80 MHz	22.5 km (14 mi)
30/60 MHz	15 km (9.3 mi)
50 MHz	18 km (11.2 mi)
10 MHz	37.5 km (23.3 mi)

Source: Ubiquiti (help.ui.com)

- **Extensive fiber infrastructure providing 10 Gbps to headend in Hope and Clark fork tower.** The headend in Hope is a single licensed Point to Point radio, pointing away from the project area. The tower in Clark Fork does not have the ability to serve any of the project area. No information was included in the challenge to show how the fiber infrastructure is specifically benefiting the proposed project area, since the tower is outside of the project area.
- **In the process of overbuilding our extensive cable facilities with GPON.** The grant is about providing funding to areas that are underserved today. The challenger suggests that their future plans invalidate the project. To the knowledge of Kaniksu, this work has not been started, and WOW has not submitted with their challenge any information that shows their work to build out this network. Kaniksu also contends that most of their proposed fiber network is outside of the project area.

. After receiving a copy of the challenge from WOW, Kaniksu went out to the various parts of the project area and did an assessment to see what competitor radios shows up at properties through the project area. This included homes in East Spring Creek (Clark Fork Tower & Water tower pole), Denton Road (Gold Mountain & Clark Fork Tower), West Spring Creek (Gold Mountain & Schweitzer/Baldy Mountain), and the peninsula (Gold Mountain, Schweitzer/Baldy Mountain). No site survey resulted in a connection that Kaniksu would consider adequate to install. These have been included at the end of the document for review.

Question: Explain how your project meets Cares Act Criteria, is necessary for the public health emergency, and mitigates similar disruptions in the future.



The challenge states they can deliver speeds up to 30 Mbps, and Ziply can deliver speeds up to 10 Mbps in the project area. No speed tests (with locations), and no coverage maps were submitted as evidence. Kaniksu called each of the providers who have service in or around the project area and talked to their sales departments. Except for Intermax, which has limited to no service availability in the project area, none were able to deliver greater than 10 Mbps in or around the community. Below are the results from each provider's sales department.

Wired or Wireless-

Speed	Price	Notes
6 Mbps Asymmetrical	\$89.95	\$214 Install Fee
10 Mbps Down/3Mbps Up	\$109.95	\$214 Install Fee

Ziply Fiber

Speed	Price	Notes
6 Mbps Asymmetrical	\$40 1 st year, \$50 second year	Clark Fork & Hope

Intermax Networks

Speed	Price	Notes
25 Mbps/ 3 Mbps	\$77.99	Limited availability in Hope, no availability in Clark Fork area.

The challenger has nothing on their websites that clearly identified what speeds they can deliver. The only mention of speeds on their website is regarding "burst" speeds. Each of their plans have the same 30 Mbps burst speed. One can reasonably assume that their standard speeds are below the burst speeds. Based on this, WOW is not able to consistently deliver 30 Mbps.

Pricing Plans

[Home](#) > [Pricing Plans](#)

CHOOSE YOUR PLAN

Choose the level of service that best fits your sustained usage levels. The number of devices and amount of streaming you need will guide you in choosing the appropriate service level.*

STARTER	BRONZE	SILVER	GOLD	PLATINUM
\$39.95 month	\$49.95 month	\$69.95 month	\$89.95 month	\$109.95 month
Basic Internet speeds	Limited Video Streaming	Multi-Device Streaming	Multi-Device & User Streaming	High-Use Streaming
Speed Bursts up to 30 Mbps	Speed Bursts up to 30 Mbps	Speed Bursts up to 30 Mbps	Speed Bursts up to 30 Mbps	Speed Bursts up to 30 Mbps
Unlimited Bandwidth	Unlimited Bandwidth	Unlimited Bandwidth	Unlimited Bandwidth	Unlimited Bandwidth
24 x 7 x 365 Local Support	24 x 7 x 365 Local Support	24 x 7 x 365 Local Support	24 x 7 x 365 Local Support	24 x 7 x 365 Local Support
5 Personal Email Addresses	5 Personal Email Addresses	5 Personal Email Addresses	5 Personal Email Addresses	5 Personal Email Addresses
No Equipment Rental Fees	No Equipment Rental Fees	No Equipment Rental Fees	No Equipment Rental Fees	No Equipment Rental Fees
CALL TO PURCHASE	CALL TO PURCHASE	CALL TO PURCHASE	CALL TO PURCHASE	CALL TO PURCHASE

*Price packages not available in all areas. Please call for more information.

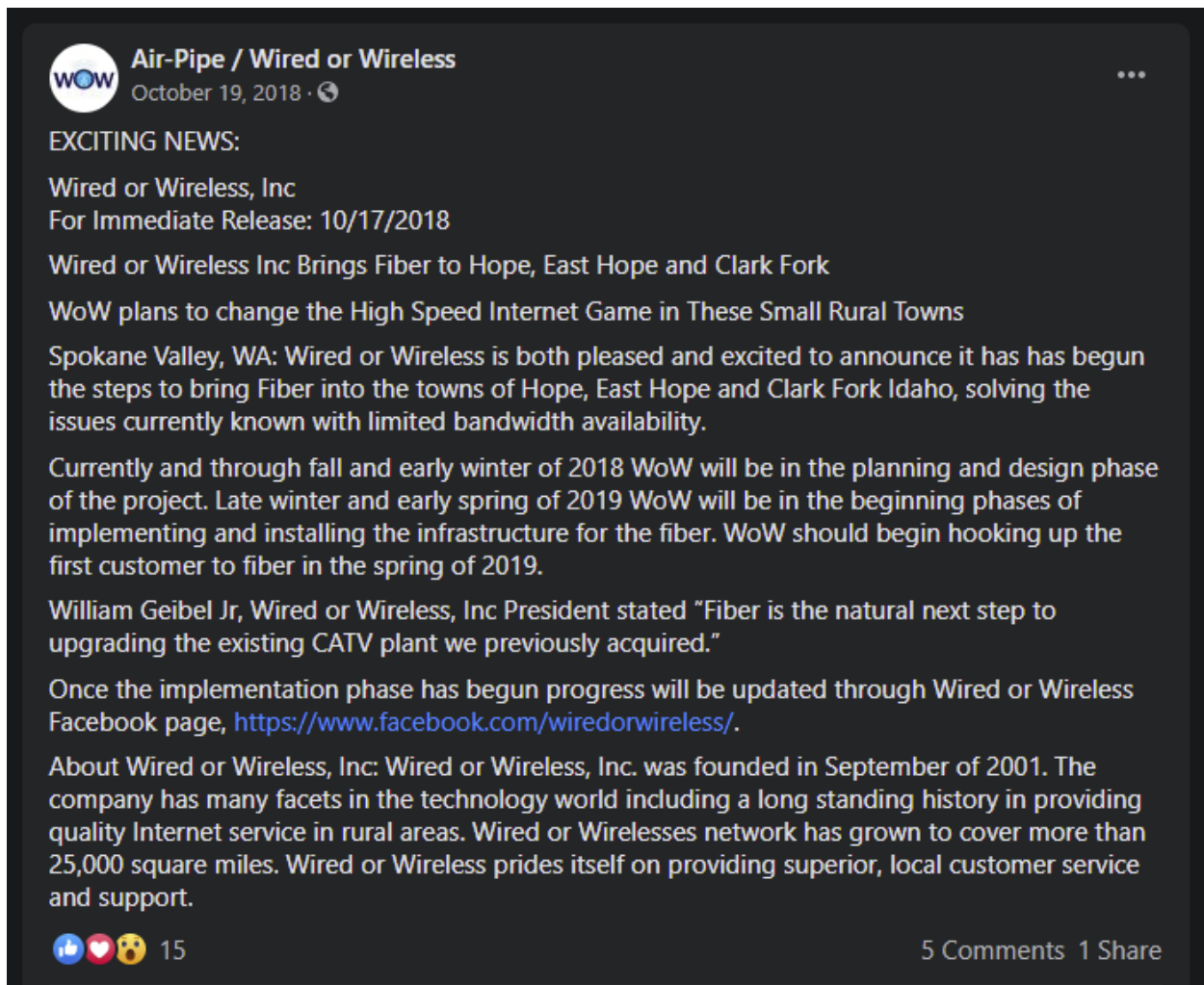
Question: Explain how your project delivers a cost-effective broadband infrastructure solution to the community?

The challenger suggests that they have backbone fiber in place, but doesn't provide any information on where. We are left with no explanation on how this backbone serves the Spring Creek community. The challengers use of the future-tense verb "will" suggest they plan to install, not that it is already available. To our knowledge, again because no data was submitted to prove it, WOW has not installed any of their proposed fiber network in the Trestle Creek, Hope and Clark Fork area. In our view, the challenger cannot use their desire to install service as an argument to against this application. WOW includes other

communities (Trestle Creek, cities of East Hope & Hope) in their proposed network that are not part of the project area, which is irrelevant to the application being considered.

The challenger states they are in the process of installing fiber but has no mention of fiber on their website. No fiber plans & pricing, no fiber coverage maps, nothing that documents their proposed install fees.

WOW first announced they would install fiber back in Oct 2018 with a target complete date of Spring 2019, over two years ago (Screenshot 3). Since that time, nothing has been installed, and the community is left wondering, if or when it might happen.



Source: Wired or Wireless Facebook Page, post dated Oct 19, 2018

Finally, WOW has provided no information to show their proposed fiber coverage maps, and to demonstrate that their proposed network would benefit those in the Spring Creek community.

Question: Submit 10 or more, recent, fixed location Speed Tests.

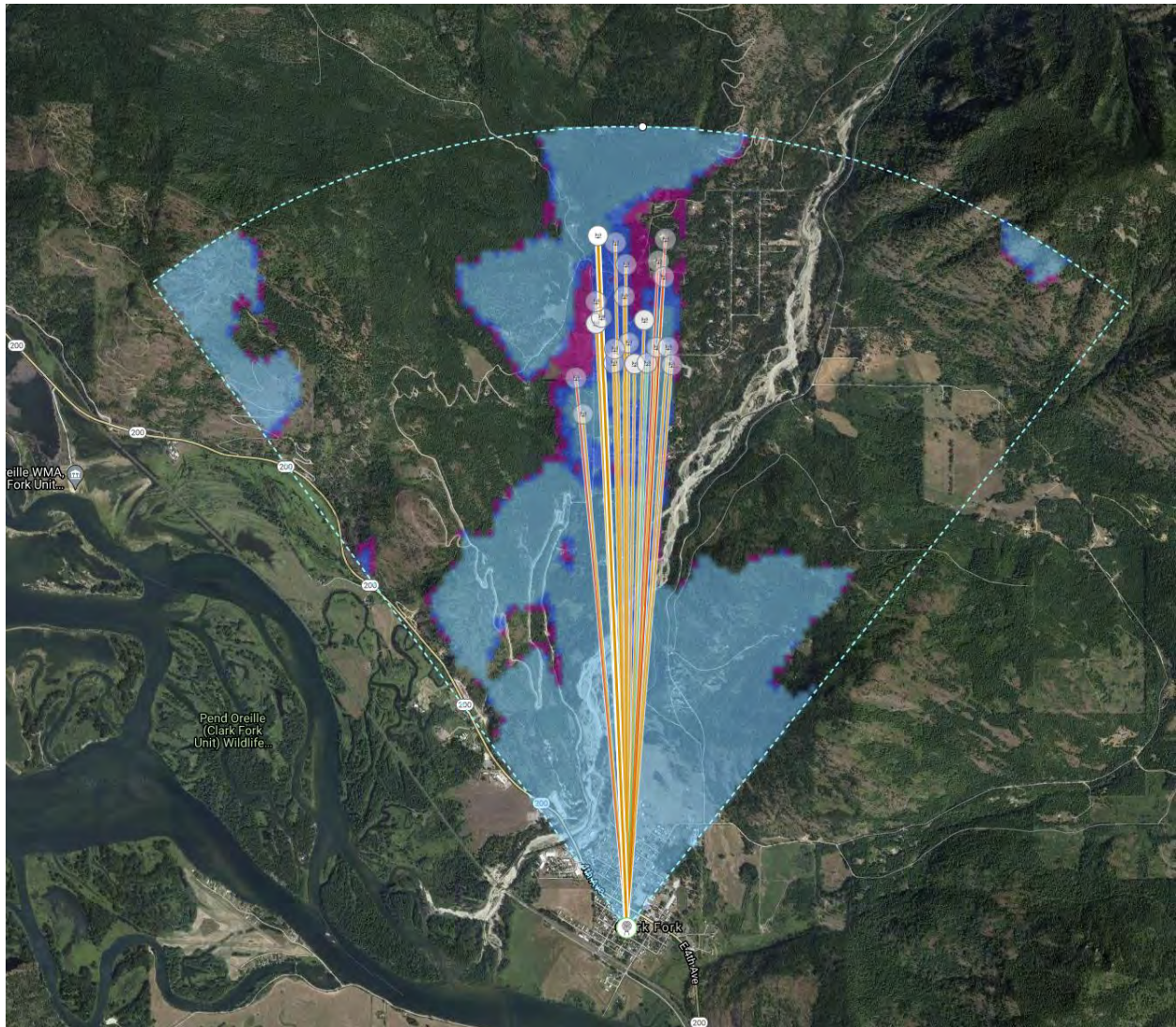


WOW has provided no location information or other data that would show the advisory board which addresses or households the speed tests were from. The application includes a minimum of 10 speed tests, all of which include names and addresses where the tests were performed. Most also have letters from the property owners stating the lack of internet service available at their address.

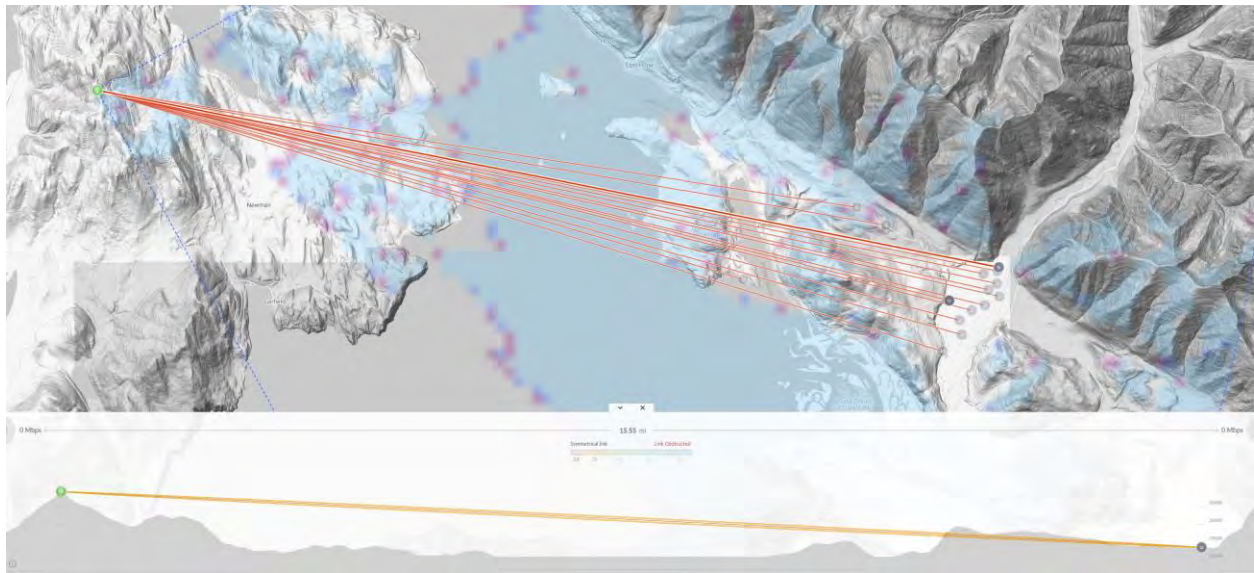
Has your project area received or been awarded any federal funds (CAFII/RDOF/USDA Reconnect) in the past two years, or will it receive federal funding over the next two years? If so, explain why additional funding was/is necessary in the project area?

The application is basing this answer based on the date the CAFII funding was awarded. The award was 2 years and 11 months ago. Well after the 2-year mark asked in the question. The Spring Creek project has only a small portion of it that is covered by CAFII funding. Further, if there were concerns about a potential overlap in projects, Intermax, the recipient of the CAF II funding would have submitted a challenge to this project, which they did not.

Screenshots



Screenshot 1. Clark Fork monopole looking towards proposed project area. Green lines are line of sight, orange area partially obstructed and red is blocked. This tool does not consider tree or other vegetation issues that would block signal. Average tree height in the area is 90 feet tall. **Source:** Ubiquiti Link Planning tool.



Screenshot 2. The WOW/POVN tower on top of Gold Mountain, and the areas it would potentially serve. Please remember that this link planning tool cannot take into consideration tree cover or other vegetation issues that block the signal. WOW states that the entire coverage area can be served from their gold mountain tower, yet every link (red line) on the east side of the project area is blocked by terrain.

Site Survey Results-

Each site survey will consist of an approximate location (address, or cross streets where available) and a screen shot from a 5 Ghz Point to MultiPoint radio capable of seeing other 5 Ghz tower radios. The purpose of this site survey is to demonstrate what fixed wireless providers have coverage in the project area. Since the signal is expressed in negative numbers, a -40 would be a stronger signal than a -90. Best practice in the industry with 5Ghz radios would be to connect at better than a -72.

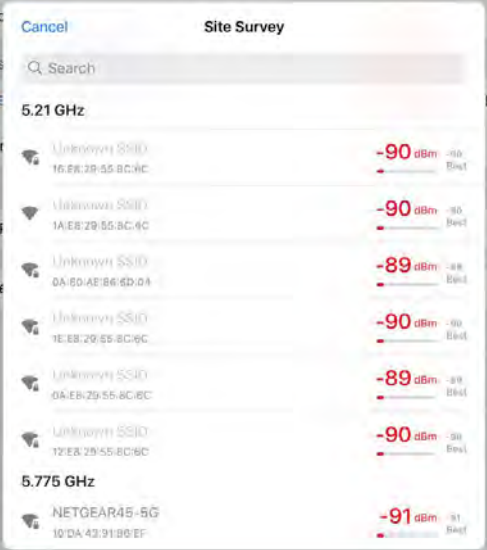


Please keep in mind that other home routers will show up in the site survey, since they are on the same frequency. If no radios were found at a location, the screen will show as “Scanning...”

Known radio names to be looking for –

Radio Name	Owner
12-0	WOW at Clark Fork Tower
12-1	WOW at Clark Fork Tower
12-2	WOW at Clark Fork Tower
POVN-GM-Bottle Bay	WOW (Gold Mountain-Bottle Bay)
ImaxBaldyRS0	Intermax @ Baldy Mountain
KAN-XXX	Kaniksu radios are prefixed with KAN-

31 Keibert Loop



Site Survey

Search

5.21 GHz

SSID	Signal Strength	Channel
Unknown SSID 16:EB:29:55:8C:4C	-90 dBm	36
Unknown SSID 1A:EB:29:55:8C:4C	-90 dBm	36
Unknown SSID 0A:EB:29:55:8C:4C	-89 dBm	36
Unknown SSID 1E:EB:29:55:8C:4C	-90 dBm	36
Unknown SSID 0A:EB:29:55:8C:4C	-89 dBm	36
Unknown SSID 12:EB:29:55:8C:4C	-90 dBm	36

5.775 GHz

SSID	Signal Strength	Channel
NETGEAR45-BG 10:DA:43:91:00:EF	-91 dBm	31

3:22 AM Wed Jul 28 LTE 97% 5G

Location

Latitude	48.204005
Longitude	-116.287226
Device installation height	618.0 m

[Use iPad Location](#)

West Spring Creek & Carter Creek Road



2:59 AM Wed Jul 28

87% 84

Cancel

Location

Done

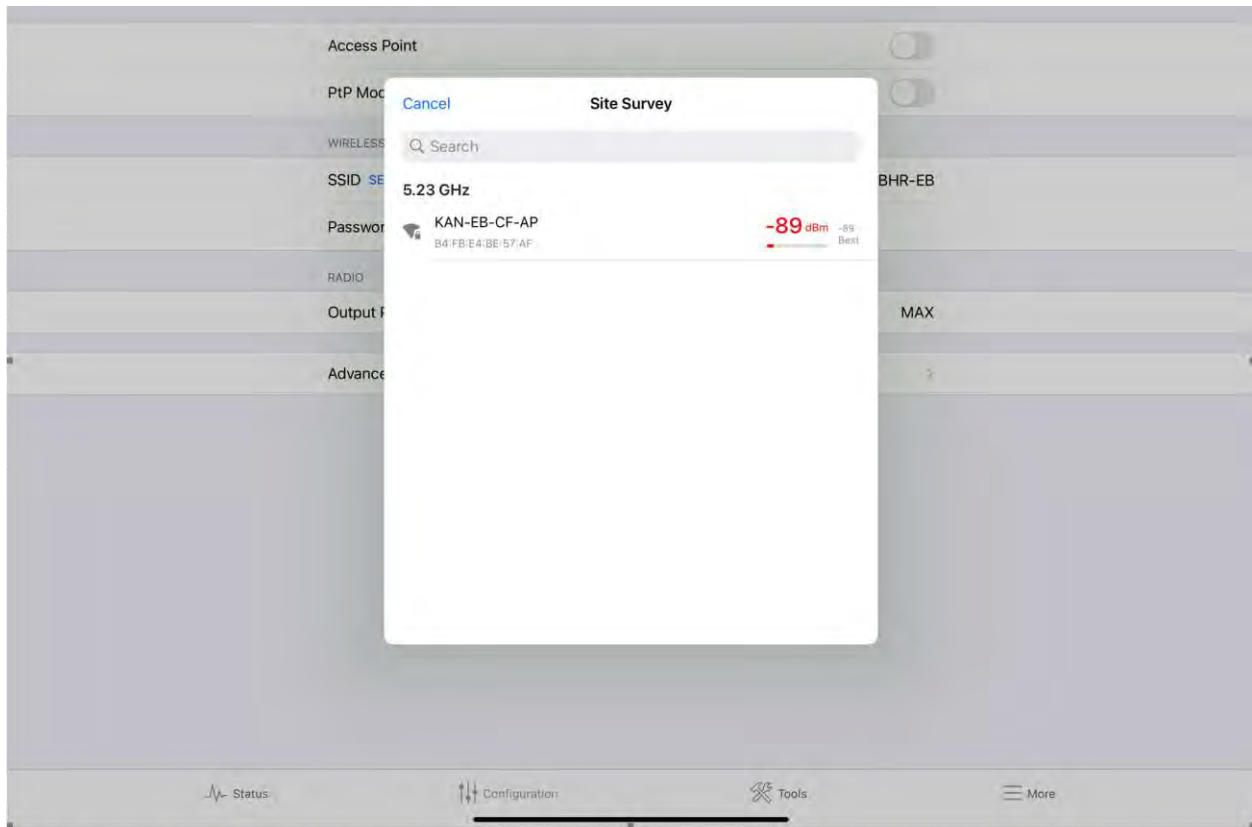
Latitude 48.219190

Longitude -116.236835

Device installation height 618.0 m

[Use iPad Location](#)

987 West Spring Creek



2:50 AM Wed Jul 28

83% 83%

Cancel

Location




Done

Latitude	48.219190
Longitude	-116.236835
Device installation height	618.0 m

Sunset View Ln & West Spring Creek



2:46 AM Wed Jul 28

81%   

[Cancel](#)

Location

[Done](#)

Latitude	48.219190
Longitude	-116.236835
Device installation height	618.0 m

633 West Spring Creek Road



2:54 AM Wed Jul 28 84%

Cancel	Location	Done
Latitude	48.219190	
Longitude	-116.236835	
Device installation height	618.0 m	

229 Circle Drive



3:08 AM Wed Jul 28

91% 91%

Cancel

Location

Done

Latitude	48.215120
Longitude	-116.280265
Device installation height	618.0 m

Old Cougar Road & West Spring Creek



2:34 AM Wed Jul 28

75%

Cancel

Location

Done

Latitude	48.209881
Longitude	-116.219125
Device installation height	618.0 m

2973 West Spring Creek Road



2:28 AM Wed Jul 28

72%

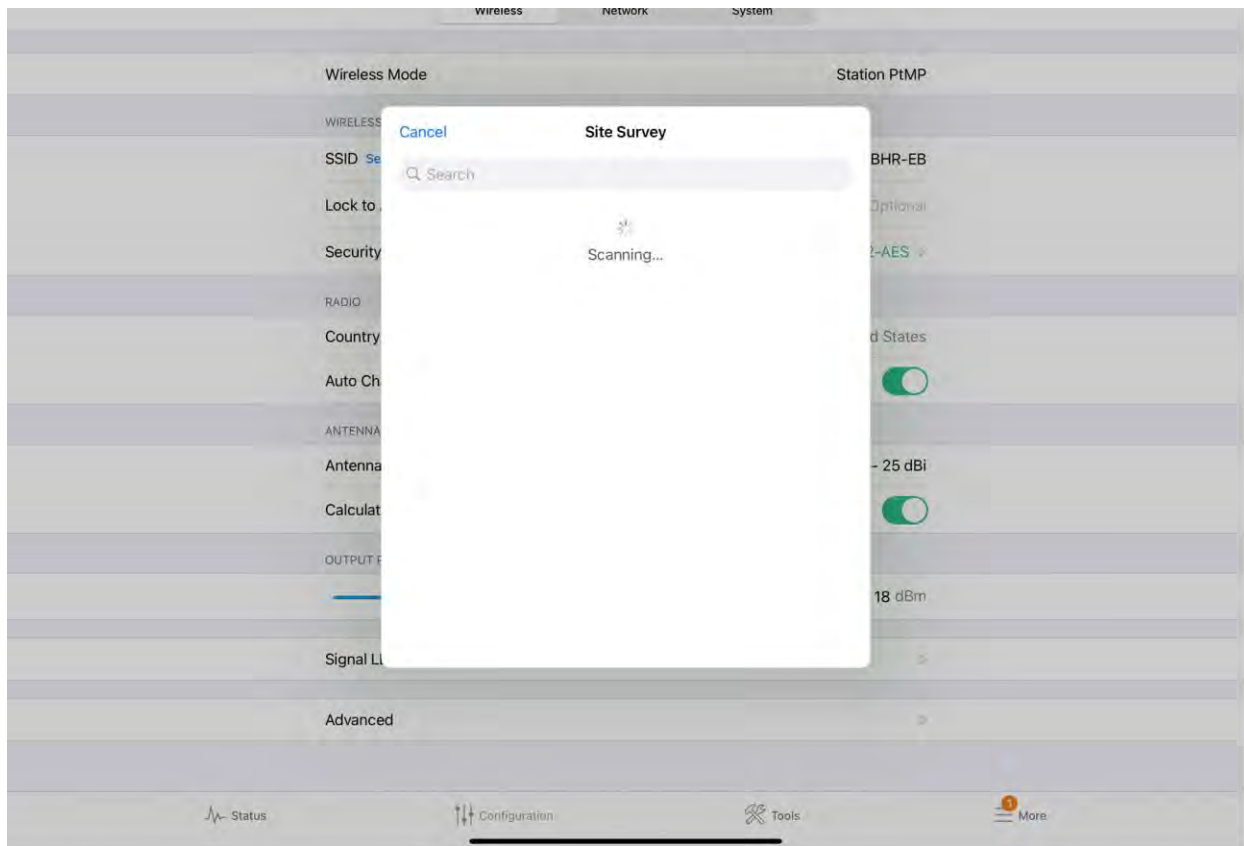
Cancel

Location

Done

Latitude	48.195615
Longitude	-116.187284
Device installation height	618.0 m

3501 West Spring Creek Road



2:20 AM Wed Jul 28

68%

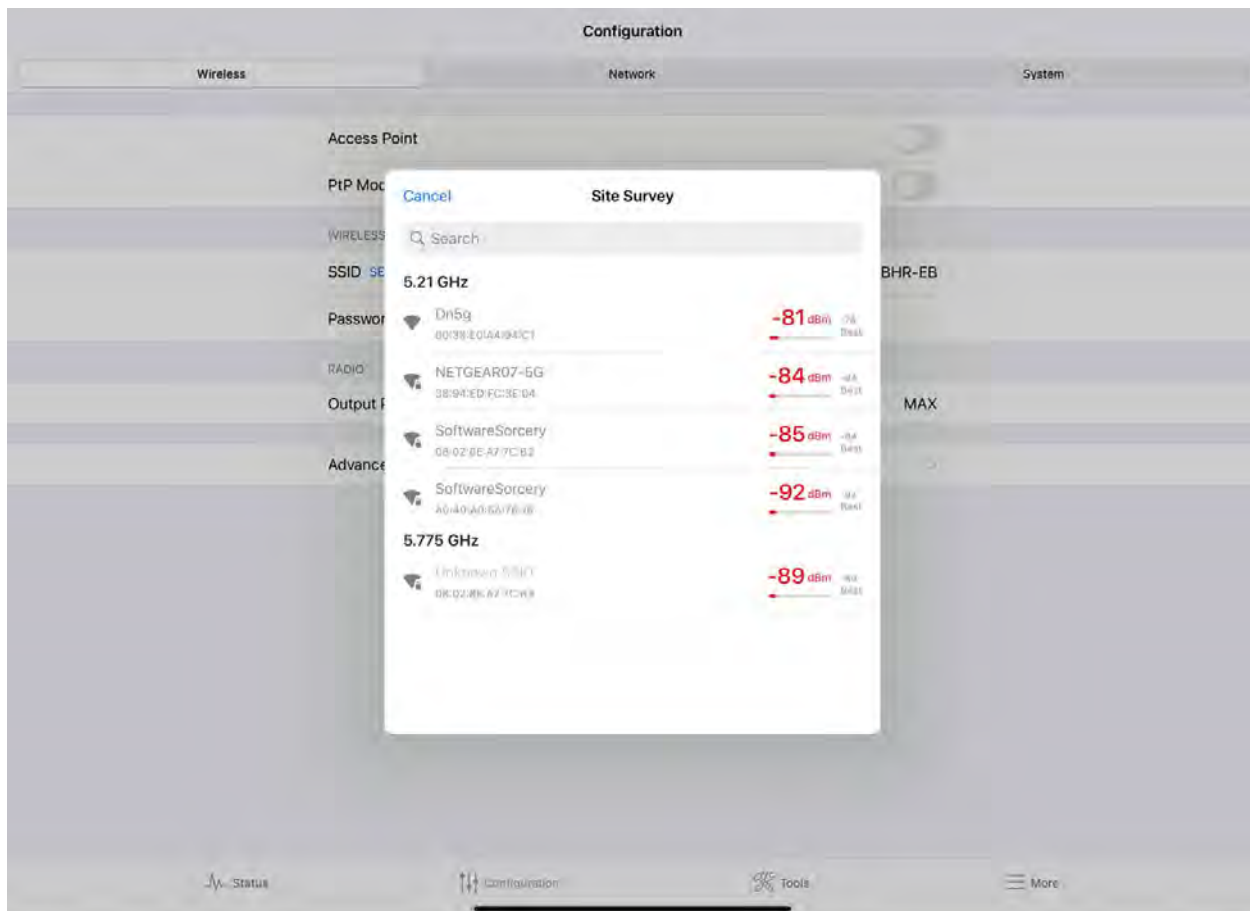
Cancel

Location

Done

Latitude	48.19561507536811
Longitude	-116.18728367879257

Old Sam Owen Road & Denton Road



1:54 AM Wed Jul 28

54% 5G

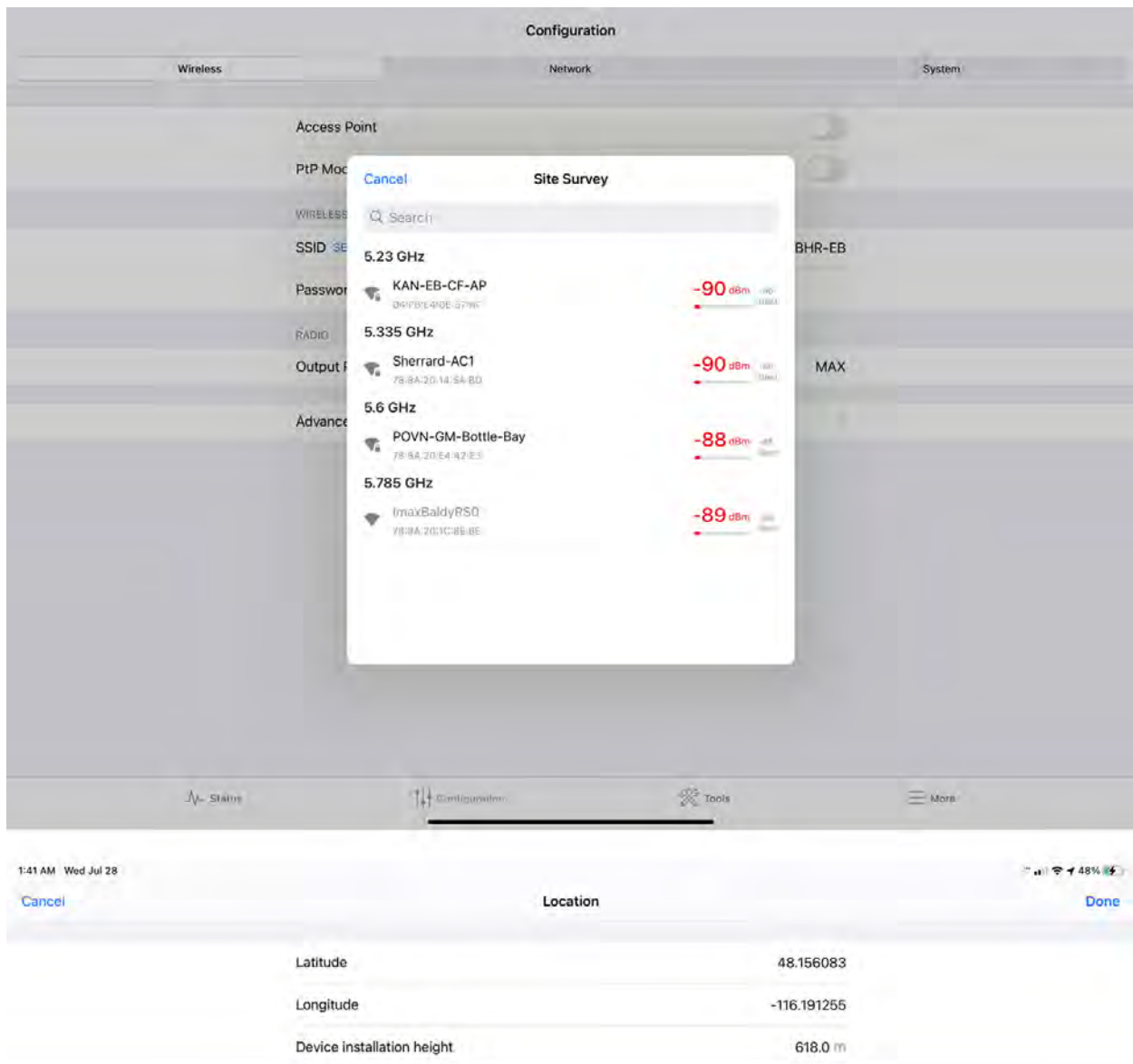
Cancel

Location

Done

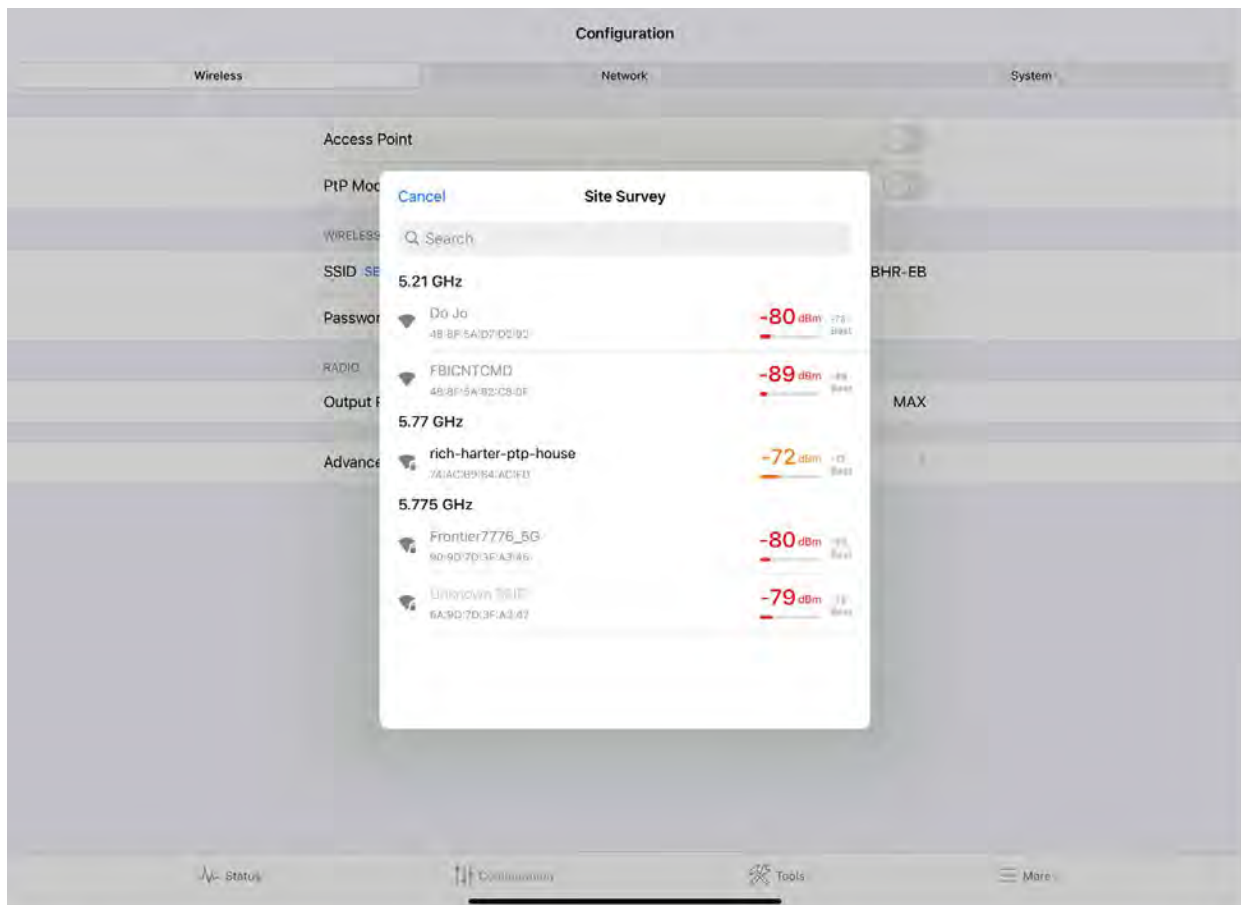
Latitude	48.223053
Longitude	-116.266245
Device installation height	618.0 m

“Drift yard”/ID Fish & Game Property*



*No home at this location. A site survey was done here as it is the most open spot in the project coverage area. It has a LOS towards WOW's tower (POVN) at Gold Mountain, and towards their Clark Fork tower. Despite the openness of the location, WOW (POVN) is coming in at a -88, not strong enough to connect.

Stoney Brook Ln & East Spring Creek



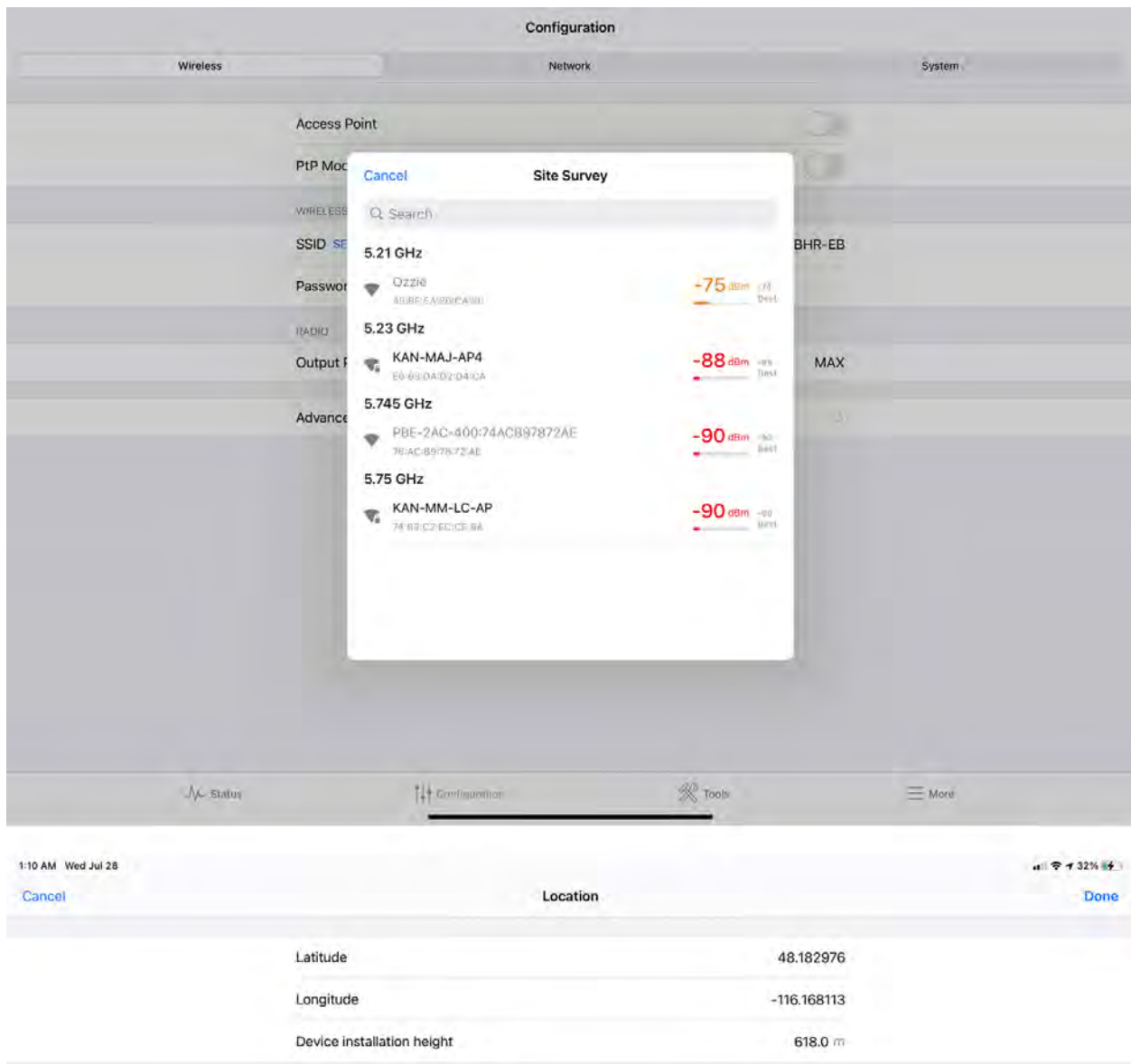
1:06 AM Wed Jul 28 29%

[Cancel](#) [Done](#)

Location

Latitude	48.184958
Longitude	-116.180645
Device installation height	618.0 m

Mountain View Road & East Mountain View Road



Photos



The view from 50 feet, next to the Clark Fork Tower. Even at Kaniksu's estimated 90 ft for the tower height, there is not enough elevation to serve any homes in the project area (red oval).



View from Denton Road & Old Same Owen. Trees prevent the ability to connect to WOW's tower on Gold Mountain, and their fixed wireless service is not be available here.



View from Circle Drive on the Hope Peninsula, looking towards Gold Mountain. Connecting to WOW's tower on Gold Mountain is not possible for this neighborhood.



View from West Spring Creek Road, approximately 1.5 miles up. Vegetation and terrain make it impossible to connect via fixed wireless connection. Ziplify Fiber is delivering actual speeds of around 2 Mbps or less. Trees obstruct the view to WOW's Towers on Schweitzer, Baldy, Gold Mountain and Clark Fork, for nearly everyone in the neighborhood.

July 27, 2021

Eric Forsch
Idaho Department of Commerce - Broadband Office
700 W State Street
Boise, Idaho 83702

Re: Idaho Broadband Fund CARES Act Grant Application – Response to Challenge
Applicant ID: APP-004867
Applicant Name: Bonner County
Application Title: Blanchard Fiber to the Home
(the “Application”)

Dear Mr. Forsch:

Ziply Fiber Northwest, LLC (“Ziply”) is working with Bonner County on the above-referenced Application. Ziply is writing this letter in response to the challenge made by Wired or Wireless, Inc. (“WOW”) to the Application.

Background

Under the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”), Congress established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to states, tribes and local governments. These funds may be used to cover costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19); (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 31, 2021. See 42 USC Section 601(d). Pursuant to this authority, the State of Idaho administered \$38,361,350 of CARES Act funds in 2020, with all funds being provided to applicants who proposed and built broadband infrastructure to satisfy the requirements of the CARES Act.

The State of Idaho has \$10 million from its CARES Act allotment. Pursuant to federal authority, the State has initiated a second round of grant proposal solicitations, including proposals for the construction of broadband infrastructure. The Idaho State Department of Commerce has published guidelines for these broadband grants which are designed to comply with the CARES Act. Pursuant to these guidelines, the proposed projects must:

- Satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving opportunities to telework, improving access to telehealth services, facilitating distance learning, and improving public safety.

- Be necessary due to the COVID-19 public health emergency.
- Expand rural broadband capacity to assist with telework, telehealth, distance learning, and public safety. Projects that would not be expected to increase capacity to a significant extent until the need for telework, telehealth, distance learning, and public safety have passed due to this public health emergency would not be necessary due to the public health emergency and therefore would not be eligible uses of Broadband Grant funds. Projects must provide broadband service within the proposed project areas.
- Be completed and operable and verified no later than December 31, 2021. Projects that are not completed, operable, and verified by December 31, 2021 will not be reimbursed.
- Include broadband infrastructure and equipment costs meeting CARES Act criteria. Satellite service is not eligible for grant award.

See, Idaho Broadband Fund: CARES Act Broadband Grant- Guidelines (“Idaho Guidelines”), Section 2A(1)-(5).

This Application

Pursuant to the Idaho Guidelines, Bonner County submitted the Application for Fiber to the Premises broadband infrastructure construction. The Application proposes the construction of fiber optic-based broadband infrastructure to 693 residences and businesses in Bonner County. This broadband infrastructure will enable Bonner County to expand rural broadband capacity to assistance with telework, telehealth, distance learning and public safety, the shortcomings in all of these areas caused and exacerbated by the ongoing COVID-19 pandemic.

The Challenge

WOW has filed a challenge to the Application. WOW’s challenges are based on some misconceptions: (a) that the COVID-19 health emergency is over, (b) that the broadband proposal will not help meet the telework, telehealth, distance learning and public safety needs of the citizens of Bonner County, (c) there are already sufficient telecommunications providers in Bonner County and (d) commercial arrangements with potential third parties are not included in the proposal.

WOW’s challenges are unpersuasive. The proposed broadband project will provide approximately 1 Gigabit symmetrical broadband services to areas of Bonner County that are underserved today. This quality of broadband service will enable all of the activities cited by the CARES Act as essential, particularly for rural areas of the State of Idaho. The assistance in weathering the COVID-19 storm and readying the citizens of Bonner County capable of managing any resurgence of the spread of the disease in the future is immense. Our recent experience in managing a new world imposed on us by this pandemic has highlighted the need for all citizens to have access to sufficient broadband services to live and work in a safe and effective environment without shutting down all economic and educational activity. The proposal in the Application meets the needs of Bonner County and the requirements of the CARES Act in meeting those needs.

1. The Application Contains a Proposal that Constitutes a Necessary Expenditure Incurred Due to the Public Health Emergency

The COVID-19 pandemic is not over. WOW's challenge suggests that we should no longer worry about this disease because some restrictions have been lifted. This argument ignores everything we have learned about this disease. At times, it appears that the spread of the disease is controlled only to learn that shortly thereafter the infections and deaths have worsened. We are now faced with a new variant of the disease that is particularly transmissible and is causing hospitalizations and deaths among primarily unvaccinated people. While it would be tempting to believe WOW's wishful thinking, the facts do not support this conclusion. As of today, Idaho is reporting nearly 200,000 active cases of COVID-19 with 318 new cases reported. The state is operating under Stage 4 – Stay Healthy Guidelines issued by Governor Brad Little including physical distancing, sanitation and encouraging the use of facial coverings.

The broadband project is designed to help individuals during the current pandemic. WOW suggests that the Stage 4 condition in the State of Idaho permits kids to go back to school, open businesses and lift mask requirements. This statement suggests a point of time and would substitute WOW's interested business point of view for that of the State of Idaho. The broadband project would assist Bonner County residents to act in such a way to help slow or stop the spread of the disease by making telework, telehealth and remote learning possible. By enabling these services, Bonner County would lessen the probability of a backslide into a greater spread of the disease.

In addition, WOW's challenge is not made specifically to the Application. Essentially, WOW argues that no broadband infrastructure grants would be permissible under current health conditions. Following WOW's logic, all broadband grants must be invalidated. WOW cannot be permitted to substitute its view of the pandemic for the view of public health officials in the State of Idaho. The pandemic exists. The State of Idaho is within its authority under the CARES Act to grant funds for broadband infrastructure to help address the effects of this pandemic.

2. The Area Covered by the Application Is Not Sufficiently Served

In several of its delineated challenges, WOW suggests that the area in Bonner County covered by the Application are already served by providers who provide internet services at speeds of 25 Mbps download and 3 Mbps upload. Despite its hints in its challenge, WOW identifies only one such provider -itself. WOW suggests it can reach speeds of 30 Mbps by 10 Mbps but submits only one speed test without any description of when, how or where this speed test was conducted. There is no evidence that a customer would actually experience this speed or how the speeds may degrade with usage. One isolated speed test in conditions that may not reflect a customer experience is inadequate to demonstrate the entire area is served appropriately. In close review of the FCC Form 477 Broadband Deployment and the US Commerce National Telecommunications and Information Administration Broadband Availability Map, the proposed project area is not served by a provider reaching service speed of at least 25 Mbps by 3 Mbps.

More importantly, WOW does not demonstrate that even a 30 by 10 speed profile is sufficient to meet the needs of Bonner County in fighting the pandemic. In particular, WOW does not show that its wireless network can handle expanded customer demand due to the pandemic. WOW further does not show where 3 Mbps, or even 10 Mbps, upload speed is adequate to support all of the two-way video needs that telework, telehealth or remote learning would require. Relying on an older definition of broadband services does not address the current needs of Idaho citizens.

In a separately delineated challenge, WOW suggests that because it has one E-Rate customer that the Application to provide services to 693 locations should be rejected. In no way does WOW provide any evidence that this one customer provides an infrastructure sufficient to serve the entire area. Again, WOW relies on its wireless services that do not approach the capacity of the infrastructure proposed in the Application. This one E-Rate library service does not pre-empt Bonner County from receiving a grant to expand Fiber to the Premises to so many of its residents.

3. WOW's Remaining Challenges are Insufficient to Reject the Application

In its challenge, WOW makes a number of claims that do not form the basis of a valid challenge. For example, WOW asks that Bonner County negotiate and reveal a number of commercial terms that are outside of the scope of the CARES Act grant process. Contrary to WOW's assertions, Bonner County has disclosed that its commercial partner in the construction process will be Ziplly Fiber. Bonner County also discloses that Ziplly Fiber will be spending a considerable amount of its own capital in the construction of the facilities in the area. The grant parameters are similar to the \$38,361,350 million in broadband grants that the State has issued, resulting in new broadband facilities to hundreds of locations across Idaho. The program has operated well in addressing the needs of the State during the pandemic and should not be entirely reworked because WOW could not meet these requirements of a grant proposal on its own.

4. WOW's Technology and Speed Test Evidence is Inadequate to Form the Basis of a Challenge

WOW operates a fixed wireless broadband network serving 11 counties in the inland pacific northwest, an area of densely forested landscape. Fixed wireless relies upon line-of-sight transmission of radio signaling. Over time the reach of the signal declines unless the user is in close proximity to the tower location where the signal is being emitted. The true performance of the network could only be measured through a series of sequentially expanding tests taken at random points within the network reach.

By contrast, Ziplly Fiber is proposing a fiber to the location network project eliminating the ever changing environmental conditions as a concern for the long term access of the broadband network.

Ziplly Fiber has proven to be a strong partner with Idaho municipalities in connection with the first round of CARES Grants. Its track record with the cities of Weippe, Orofino, Potlatch and Wardner has demonstrated that Ziplly Fiber delivers on its commitments to build fiber infrastructure according to the schedule it sets. For the reasons cited in this letter, Ziplly Fiber and Bonner County should be permitted to advance its application to bring fiber-based services to the citizens of the County.

Sincerely,



Jessica Epley
Vice President, Regulatory & External Affairs



City of Burley
1401 Overland Ave
Burley ID, 83318
(208) 878-2224

July 23, 2021

Idaho Broadband Advisory Committee

Mr. Eric Forsch

Idaho Department of Commerce

Dear Mr. Forsch,

In response to the letter from PMT CEO, Dan Hoover, dated July 21, 2021, challenging the application to the Broadband Grant from the City of Burley, Idaho, please consider the following.

The challenge states "the application for the City of Burley (does) not comply with the guidelines stated within the CARES Act applications for funding." This allegation is vague and overbroad and does not give notice as to which guideline the challenger is referring to. The challenge should not be considered for this reason.

That being said, the application certainly complies with the guidelines. According to the Idaho Broadband Fund CARES Act Broadband Grant guidelines for application eligibility, the first stipulation states; "Projects must satisfy the CARES Act criteria, which is designed to address key areas of public health and safety by improving access to telehealth services, facilitating distance learning, and improving public safety."

Further, official CARES Act language stipulates, "States' efforts to expand connectivity using these federal resources must focus on four specific needs: increasing access to online learning for K-12 and postsecondary students, supporting telehealth services, deploying more public Wi-Fi access points, and investing in residential broadband infrastructure, especially in rural and underserved areas."

We firmly maintain our affirmative response to the question posed in the grant application, "Does your project meet the CARES Act criteria?"

1. Our proposal specifically addresses "increasing online learning for K-12 and postsecondary students." While it may be true a particular provider appears to provide fiber to the schools, our experiences of the last 18 months strongly show the absolute, required need for greater access for the student *in the home*. The proposed service area

currently does not have that capability and represents an ideal initial area for the City of Burley to provide this access, through fiber, to citizens and students in their homes. Importantly, the referenced challenge states fiber is available to Burley City offices. This does not directly address our proposed goal of supplying fiber to the home, and to the specific area in question. The purpose of the proposed project as described in the application is not to provide fiber to the city offices or the library. The purpose is to provide high speed internet by fiber to the underserved homes within the proposed area. The students living in this area need reliable internet access in their homes. Our proposed project will provide this service and the quality of the access provided is designed to be "future proof" as the need for higher speeds continues in the future. The files on the following link show specific evidence that most of the proposed area is served only by insufficient analog infrastructure and that the average speeds shown on speed tests in the proposed area are well below the desired standard. Although there may currently be fiber to the school and the library, which would register some relatively higher speeds, the homes of the students where there is no access to high speeds are woefully underserved.

https://burleyidahoorg-my.sharepoint.com/:f/g/personal/administrator_burleyidaho_org/Eqggav7Rp05Go6gB1aCS6ZIBrrlu448120lAsV913wbHrA?e=f6U3QW

2. Our proposal specifically addresses "investing in residential broadband infrastructure, especially in rural and underserved areas." The City of Burley, as a whole, is considered by definition a rural area. Additionally due to the mature nature of the proposed service area, which include natural obstructions to wireless solutions, fiber to the home is the urgent and needed solution for strategically placed city broadband infrastructure. Our proposal includes a well-designed and engineered plan to do so.
3. While these two main objectives are clearly accomplished, additional CARES Act criteria are naturally and greatly enhanced, namely telehealth opportunities.
4. Official language also states, "The program also provides funding to better connect homes to existing network infrastructure by adding more service drops, which run from the service line to the customer's residence, and customer premises equipment." This is our specific intent and plan as submitted.

A few key points worth mentioning,

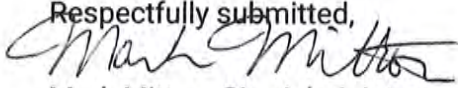
1. The referenced challenge suggests the City of Burley has petitioned for \$1MM, the application clearly states the sum of \$438,583.00.
2. Although irrelevant to the issues at hand, the reference to a previously quoted price by PMT is in error. The quote was not for the same network, and the quote was in excess of

\$1.4MM for a system that only connected city offices and did not bring internet service to the homes.

3. We recognize the current presence of "redundant broadband pathways" to the city from more than one provider. However, our efforts are strategically focused on our City's Broadband Plan to ultimately bring fiber to the home in underserved areas utilizing those pathways. Those pathways alone will not get the needed internet access to the homes.
4. Lastly, while we recognize and genuinely applaud all efforts from any provider to bring internet access (wireless or fiber) to homes without the resources to do so, this has no bearing whatsoever on our application as submitted.

Once again, our well-designed, and carefully engineered proposal clearly complies with the guidelines stated within the CARES Act applications for funding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Mitton", written over the typed name.

Mark Mitton, City Administrator