

Categorical Exclusion Documentation and Decision Record for the Hunter Communications, Inc. Buried Fiber Optic Line Right-of-Way OR 068378

DOI-BLM-OR-M040-2015-0008-CX

Proposed Action Title: Hunter Communications, Inc. Hilt Backbone Fiber Optic Project
Location: T. 41 S., R. 2 E., Section 17, NE Corner within the Cascade-Siskiyou National Monument, Ashland Resource Area, Jackson County, Oregon

Proposed Action

Hunter Communications, Inc. is proposing to bury a fiber optic cable approximately 1.5 linear feet (17 inches) across BLM-managed land as part of the Hilt Backbone Fiber Optic Project (Map 1). This project will place fiber optic cable underground and connect to an existing telecommunications compound outside of Hilt, California. The proposed alignment will increase the bandwidth available to the public and increase functionality of smart phones and wireless media devices to meet public need. In addition, by increasing the extent and quality of wireless coverage to remote and mountainous areas, the ability to initiate 911 calls for emergency service is also increased. Certain new generation data services will also be enhanced and made usable for the area covered by this particular project. These services will also include future enhancements in the ability to “geo-locate” users who initiate 911 calls in remote areas.

The location of the bore crossing is within the Cascade-Siskiyou National Monument (CSNM). Three other routes were considered for the project that would have involved ground-disturbing activities within the CSNM. In order to lessen any potential negative impacts to monument resources or, none of the other alternatives were pursued. The project will not alter the existing appearance of the BLM property under which it would cross.

Except for the very short (17 inches) crossing on BLM lands, the remainder of the project will occur on private lands. Hunter Communications will place bore pits on private property on either side of BLM land located in T. 41 S., R. 2 E., Sec. 17, NE $\frac{1}{4}$ NE $\frac{1}{4}$, and then will directional drill under BLM land at the corner of Section 17. The 2 to 3 inch conduit with locate wire will be bored under at a depth of approximately 42 to 48 inches. The fiber optic cable will be pulled through the conduit. There should be no above-ground disturbance on BLM-managed lands. No temporary work areas will be needed in association with the BLM property. The proposed right-of-way would be 2 feet x 1.5 feet and contain approximately 0.01 acres. The timeframe for work on BLM lands is anticipated to last no longer than 7 days. The term of the right-of-way would be 20 years.

The project is within the range of a federally listed endangered plant, Gentner’s fritillary (*Fritillaria gentneri*). No impact to this plant species would occur because there is no surface ground disturbance associated with this project within BLM-managed lands since the boring will occur beneath the 17 inches of BLM property.

Project Design Features

Project Design Features (PDFs) are an integral part of the Proposed Action and have been developed to avoid or reduce the potential for adverse impacts to monument resources. The following PDFs are included in this project.

Botany/Noxious Weeds

- Known locations of Bureau Sensitive Species (BSS) plants would be protected as recommended by the resource area botanist.

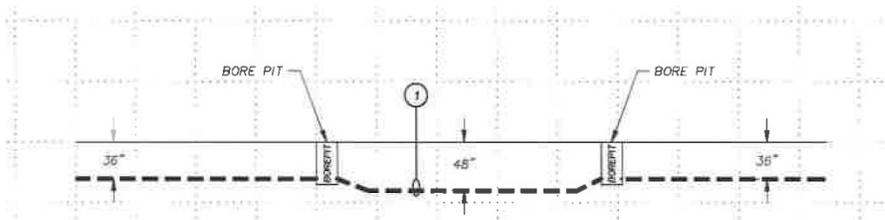
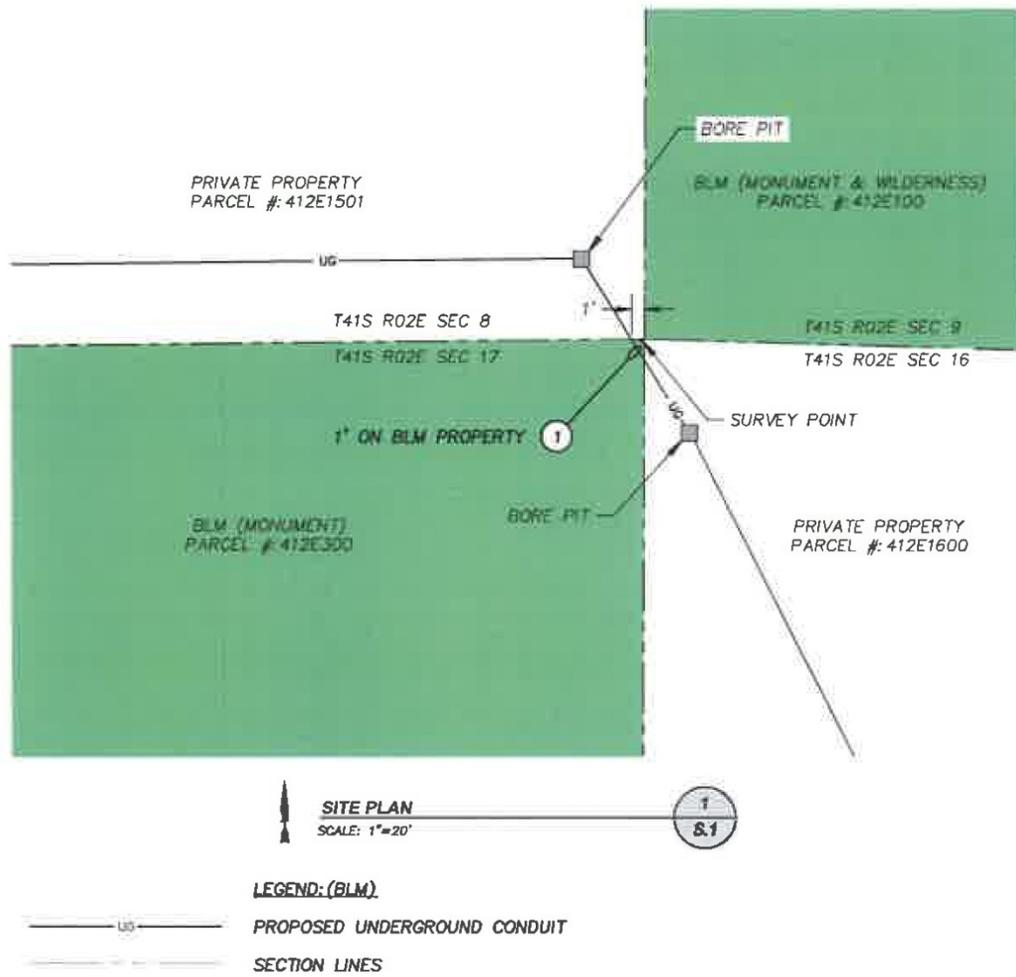
Archaeological/Paleontological/Cultural Resources

- If during project implementation the contractor encounters or becomes aware of any objects or sites of paleontological or cultural value on federal lands, such as fossils, historical or pre-historical ruins, graves, grave markers, or artifacts, the contractor shall immediately suspend all operations in the vicinity of the cultural value and notify the BLM of the findings. The project may be redesigned to protect the cultural resource values present, or evaluation and mitigation procedures would be implemented based on recommendations from the resource area archaeologist with concurrence by the Ashland Field Manager and State Historic Preservation Office.

Hydrology/Soils

- Boring activities are restricted to the dry season (May 15th – October 15th). Boring, installation, and maintenance activities should be suspended at any time there is more than ¼ inch of rain during a 24-hour period, but may resume once conditions have dried out. Dry conditions are when there is no pooling of water on or near the boring area and when the area is not saturated.
- The Authorized Officer would be informed of any spill or waste diesel, oil, hydraulic fluid or any hazardous materials. If a spill occurs, contaminated soil would be removed from the site and disposed of at an approved landfill in accordance with federal regulations.

Map 1. Location of proposed underground bore crossing.



Land Use Plan Conformance

The proposed action is located on BLM-administered land within the Cascade-Siskiyou National Monument (Map 1). The Proposed Action is in conformance with and tiered to the 2008 *Cascade-Siskiyou National Monument Record of Decision and Resource Management Plan* (ROD/RMP). The Proposed Action is consistent with the *Medford District Integrated Weed Management Plan Environmental Assessment* (1998) and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985) and the 2001 *Record of Decision and Standards and Guidelines for Amendments to Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*. The Proposed Action is in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), the Endangered Species Act (ESA) of 1973, the Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act, and the Archaeological Resources Protection Act of 1979.

This project is not a habitat disturbing activity, as defined in page 22 of the Standards and Guidelines of the 2001 *Record of Decision and Standards and Guidelines*, for any Survey and Manage species. Because the project is not habitat disturbing, the Survey and Manage provisions, including pre-disturbance surveys, are not required under the 2001 *Record of Decision and Standards and Guidelines*, (Standards and Guidelines, p. 7, 21-22).

The Proposed Action is in conformance with the applicable land use plan because the CSNM RMP allows for the continued authorization of needed rights-of-way (VER-2, p. 114). “Rights-of-way may be granted when no feasible alternate route or designated rights-of-way corridor is available, but the authorization will need to be consistent with protecting monument objects and every measure will be taken to minimize negative impact to monument resources (VER-2, pp. 114-115).”

Compliance with NEPA

The proposed action is categorically excluded from further documentation under NEPA in accordance with 516 DM 11.9 E (17) and as follows.

516 DM 11.9 E (17) Grant of short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances having effects that may significantly affect the environment as documented in the following review. The proposed action has been reviewed, and none of the extraordinary circumstances described in 43 CFR §46.215 rise to the level of significance. A summary of the extraordinary circumstances is listed below. The action must have a significant or a disproportional effect on the listed categories to warrant further analysis and environmental review.

NEPA Categorical Exclusion Review

Department of the Interior Regulations 43 CFR § 46.205 (c) require that any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances found at 43 CFR § 46.215. The Code of Federal Regulations at 43 CFR § 46.215 provide for a review of the following criteria for categorical exclusion to determine if exceptions apply to the Proposed Action based on actions which may:

CX Extraordinary Circumstances Documentation	Yes	No
1. Have significant impacts on public health or safety.		X
<p>Rationale: Operations will follow Federal and State Occupational Safety and Health Administration standards designed to prevent job-related illness or injuries. The placement of a 17-inch section of fiber optic conduit and cable bored underground will have negligible effects on public health and safety. The project will improve the extent and quality of wireless coverage in remote and mountainous areas which will increase the ability to initiate 911 calls for emergency services which would have a positive effect to public health and safety.</p>		
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		X
<p>Rationale: This project is located within the Cascade-Siskiyou National Monument. The Proposed Action is not significant as only crosses 17 inches of BLM lands underground within the monument. There are no prime farmlands, wetlands, or ecologically significant or critical areas affected.</p>		
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		X
<p>Rationale: Based on past experience from these types of activities, there are no predicted environmental effects from the Proposed Action that are considered to be highly controversial nor are there unresolved conflicts concerning alternative uses.</p>		
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
<p>Rationale: The activities proposed in this CX are similar to those approved in BLM authorizations. The BLM interdisciplinary team of resource specialists reviewed this project and determined there are no highly uncertain, potentially significant, unique, or unknown risks.</p>		

CX Extraordinary Circumstances Documentation	Yes	No
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
Rationale: The activities proposed in this CX are addressed and authorized under the CSNM ROD/RMP. This project will implement the decisions made in those land use plans. The proposed activities are widely used on federal lands throughout Oregon and there is no evidence this type of project would establish a precedent or decision for future actions that would have significant environmental effects.		
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
Rationale: The Proposed Action places a 17-inch section of fiber optic conduit and cable underground across a corner of BLM-manage land in the CSNM. The BLM interdisciplinary team reviewed the project and incorporated PDFs into the project design to minimize any potential impacts to resources and prevent off-site effects that could potentially contribute to the cumulative effects of other projects in the area. The interdisciplinary team determined that the fiber optic project would not result in a cumulative significant effect when added to relevant past, present, and reasonably foreseeable actions in the area.		
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		X
Rationale: There are no significant impacts to properties listed, or eligible for listing, on the National Register of Historic Places. No National Register Listed sites, or sites eligible for listing, were identified in areas of potential effect (APE) during archaeological survey or extensive background research.		
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		X
Rationale: Areas proposed for treatment have been reviewed by the BLM botanist, wildlife biologist, and fisheries biologist. The project does not have the potential to affect listed, or proposed to be listed species and their habitats.		
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
Rationale: The proposed activities conform to CSNM RMP's direction for management of public lands in the Medford District and comply with applicable laws, rules, and regulations.		
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
Rationale: Similar actions have occurred throughout the District and there is no evidence that this type of project would have a disproportionately high and adverse effect on said populations.		

CX Extraordinary Circumstances Documentation	Yes	No
11. Limit access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 130007).		X
Rationale: The BLM resource area archaeologist reviewed the project. No Native American sacred sites were identified. The project does not significantly or adversely affect the physical integrity of any such sacred sites.		
12. Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		X
Rationale: The proposed action does not result in measurable changes to the current baseline of the risk, or actual introduction, continued existence, or spread of noxious weeds or nonnative invasive species in or from the project area.		

Decision and Rationale

Based on the attached Categorical Exclusion, it is my decision to implement the BLM’s portion of the Hunter Communications, Inc. Hilt Backbone Fiber Optic Project described in the Proposed Action within the Ashland Resource Area. In making my decision, I considered the Project Design Features that will be incorporated into the project.

In addition, I have reviewed the plan conformance statement and have determined the Proposed Action is in accordance with the approved land use plans and that no further environmental analysis is required. Therefore, an environmental assessment or an environmental impact statement is not needed. It is my decision to implement the Proposed Action as described.

Kristi Mastrofina

 Kristi Mastrofina
 Acting Field Manager
 Ashland Resource Area

6/25/2015

 Date

Administrative Review

Administrative review of rights-of-way decisions requiring National Environmental Policy Act (NEPA) assessment will be available under 43 CFR Part 4 to those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized would cause injury, and who have established themselves as a “party to the case” (see 43 CFR §4.410 (a) – (c)). Other than the applicant/proponent for the right-of-way action, in order to be considered a “party to the case” the person claiming to be

adversely affected by the decision must show that they have notified the BLM that they have a “legally cognizable interest” and the decision on appeal has caused or is substantially likely to cause injury to that interest (see 43 CFR §4.410 (d)).

Effective Date of Decision

This is a land decision on a right-of-way application. All BLM decisions under 43 CFR Part 2800 remain in effect pending an appeal (See 43 CFR § 2801.10) unless the Secretary rules otherwise. Rights-of-Way decisions that remain in effect pending an appeal are considered as “in full force and effective immediately” upon issuance of a decision. Thus, this decision is now in effect.

Right of Appeal

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a “party to the case.” (See 43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM Authorized Officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after the date of service. Only signed hard copies of a notice of appeal that are delivered to the following address will be accepted.

*BUREAU OF LAND MANAGEMENT
MEDFORD INTERAGENCY OFFICE
Ashland Resource Area
3040 Biddle Road
Medford, OR 97504*

Faxed or e-mailed appeals will not be considered.

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed from is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed and the reasons why the decision is believed to be in error. If your notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision. A petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant’s success on the merits,

3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the Board and the Regional Solicitor at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations (43 CFR § 4.413(a)). At the end of your notice of appeal you must sign a certification that service has been or will be made in accordance with the applicable rules (i.e., 43 CFR §§ 4.410(c) and 4.413) and specify the date and manner of such service.

The IBLA will review any petition for a stay and may grant or deny the stay. If the IBLA takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until IBLA makes a final ruling on the case.

U.S. Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy Street, MS 300-QC
Arlington, Virginia 22203

Regional Solicitor
Pacific Northwest Region
U.S. Department of the Interior
1220 S.W. 3rd Avenue
Portland, OR 97204

Hunter Communications, Inc.
801 Enterprise Drive
Central Point, OR 97502

Contact Person

If you have questions or comments, please contact Kathy Minor, Planning and Environmental Coordinator, at 541.618.2245.

References

USDI Bureau of Land Management. 2008. *Cascade-Siskiyou National Monument Record of Decision and Resource Management Plan*. Medford, OR.