

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT
GRANTS PASS FIELD OFFICE
2164 NE Spalding Ave
Grants Pass, OR 97526

Categorical Exclusion Determination and Decision Record
Hunter Communications Buried Fiber Optic Cable OR 068187

DOI-BLM-OR-M070-2015-0005-CX

A. Background

Description of Proposed Action

Hunter Communications, Inc. is proposing to bury approximately 10,229 linear feet of fiber optic line within the road way and/or prism of BLM roads 36-5-35 and 37-5-9 to a communication facility located on Mt. Blue.

The proposed project is located in Josephine County near Grants Pass. The grant request is for a 30 year term. The legal description is Township 36 South, Range 5 West, Section 35, and Township 37 South, Range 5 West, Section 03, Willamette Meridian, Josephine County, Oregon. Work would occur within the BLM-managed Matrix Land Use Allocation and an adjacent private parcel. This CX only documents work along the 36-5-35 and 35-5-9 roads on BLM administered land (see attached map for details). The timeframe for work on the two BLM parcels is anticipated to last no longer than two months.

Hunter Communications is proposing to use a mini excavator to trench a line 14 inches deep by 14 inches wide along the proposed 10,229 feet. They will also be placing 15 inch wide by 24 inch long by 12 inch deep utility vaults approximately every 1,500 to 3,500 feet, mounted flush with the ground and will be located outside of the existing road surface and if possible on the upper bank side of the road. Placement of each vault will result in a 24 inch by 26 inch disturbance area. The proposed right-of-way is 15 feet wide, 10,229 feet long and contains approximately 3.52 acres. Hunter Communications will stay at least two feet away from an existing buried power line along the same road section.

Any disturbance to the travel surface and drainage features of BLM road prisms 36-5-35 and 37-5-9 will be rehabilitated to their original conditions following project implementation. Rehabilitation includes, but is not limited to, placement and compaction of approved weed free aggregate surfacing which shall be approved by the Authorized Officer.

The project is within the range of a federally listed endangered plant, *Fritillaria gentneri*. Surveys for this plant will be completed prior to project implementation, and sites located within the proposed project area will receive a protection buffer. There are no Bureau Sensitive or Survey and Manage species located within the proposed ROW that would require mitigation.

Project Design Features: Project Design Features (PDFs) are specific measures included in the Proposed Action to minimize impacts on the human environment. All of the following would be applied as appropriate to the Proposed Action:

Streams and Riparian Zones

- Equipment refueling would be at least 150 feet from streams, ponds or other wet areas. Equipment would not be stored in floodplains or 150 feet from water bodies or wetlands. Hydraulic fluid and fuel lines would be in proper working condition.
- To avoid sediment from entering streams or other water bodies, excavated material would be placed on stable, non-floodplain locations.
- To ensure sediment does not leave the construction site, soil stored overnight on slopes greater than 60 percent will have erosion control measures installed, such as sediment fences or straw wattles.
- To ensure proper road maintenance, the fiber optic cable and utility boxes will be installed outside of the travel surface when possible, avoid areas that are needed for road maintenance and/or deep enough to allow cleaning of borrow ditches, run-out ditches, and culverts.
- To maintain slope stability, the cutting or removal of vegetation would be minimized.
- No water for construction activities would be withdrawn from streams or other water bodies; any water needed for the project would come from a municipal source or other source with proper water rights and approved by the Authorized Officer.

Soils

- Work would be temporarily suspended if monitoring indicates that rain storms have saturated soils. Soils are considered to be saturated when a soil sample at 4-6 inches is greater than 25% soil moisture or when there is water running or pooling on the road surface.
- To reduce potential erosion, mulching would be done as soon as possible after excavation.
- The Authorized Officer would be informed of any spill of 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.
- Soil disturbance associated with installation of the trench and utility boxes and associated maintenance work would be limited to the existing road prism. The road prism is the surface disturbance created to build the road and includes cut slopes, fill slopes, borrow ditches and the travel surface of the road.
- Installation of the fiber optic line and vault boxes, and maintenance and repair activities are restricted to dry conditions between May 15 and October 15. If emergency repair of the road

or the fiber optic line is required between October 15 and May 15, a conditional waiver of this restriction may be requested from the BLM. Installation, maintenance and repair activities should be suspended at any time there is more than 1/4 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 road surface or working areas and when the road surface is not saturated.

Noxious/Invasive Species

- All equipment, especially equipment used to plow the trench, would be thoroughly washed at an approved location before moving into the federal project area to remove soil and plant parts to prevent the spread of noxious weeds and disease.
- Any areas of disturbed soil must be reseeded with a seed mixture approved by the Grants Pass Field Office Botanist, and must be mulched using certified weed free straw.
- Gravel or aggregate used must be free of noxious weeds and/or noxious weed seed and approved by the Grants Pass Field Office Botanist.

Cultural

- The BLM analyzed project activities for their potential to affect significant cultural resource sites. No sites have been recorded in the project area. However, if cultural resources or vertebrate fossils are discovered during project implementation, work would be suspended immediately in the area until the BLM is notified. The project would then be redesigned to protect the cultural resource values present, or evaluation or mitigation procedures would be implemented based on recommendations from the Field Office Archaeologist, with input from interested federally recognized Tribes, approved by the Field Manager, and with concurrence from the State Historic Preservation Office (SHPO).
- The BLM archaeologist would be notified at least two weeks before excavation work begins to allow for cultural resource monitoring during ground disturbing activity.

B. Plan Conformance Review

This proposal is consistent with policy directed by the following:

- *Final Supplemental Environmental Impact Statement and Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (Northwest Forest Plan FSEIS, 1994 and ROD, 1994) as amended,
- *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision* (EIS, 1994 and RMP/ROD, 1995),
- *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon* (FSEIS, 2004 and ROD, 2004),
- *Final SEIS for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (2000), and the *ROD and Standards and Guidelines for*

Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (2001),

- *Medford District Integrated Weed Management Plan Environmental Assessment (1998) and tiered to the Northwest Area Noxious Weed Control Program (EIS, 1985).*

C. Compliance with NEPA

The proposed action qualifies as a categorical exclusion under Department of Interior Manual 516 DM 2 Appendix 4, E (16) “Acquisition of easements for an existing road or issuance of lease, permits, or right-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.”

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM Appendix 5 apply.

D. NEPA Categorical Exclusion Review

Extraordinary circumstances (CFR § 46.215) provides for a review of the following criteria for Categorical Exclusion to determine if exceptions apply to the Proposed Action based on actions which may:

1. *Have significant adverse effect on public health or safety.*

Yes No

Remarks: All proposed activities follow established rules concerning health and safety.

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.*

Yes No

Remarks: The BLM has conducted this type of activity in the past with no significant impacts.

3. *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.*

Yes No

Remarks: Past experience from this type of activity has shown to have no highly controversial environmental effects or result in unresolved conflicts to resources.

4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental effects.*

Yes No

Remarks: Past experience from this type of activity has shown no highly uncertain,

potentially significant, unique or unknown risks.

5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*

Yes No

Remarks: Similar actions have taken place on the Medford District and there is no evidence that this type of action would establish a precedent or decision for future action.

6. *Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.*

Yes No

Remarks: The BLM has conducted this type of activity in the past with no significant direct, indirect, or cumulative effects.

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.*

Yes No

Remarks: There are no listed or eligible sites on the National Register of Historic Places within the Proposed Action area.

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.*

Yes No

Remarks: The project will have no impacts on listed wildlife species or any species proposed for listing. The activities proposed in this project have no impact on listed plant species or proposed threatened or endangered species or have an impact on designated Critical Habitat.

9. *Violate a Federal law, or a State, local, or Tribal law or requirement imposed for the protection of the environment.*

Yes No

Remarks: This project does not violate Federal, State, local or Tribal law or any requirement for the protection of the environment.

10. *Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).*

Yes No

Remarks: Similar actions have taken place on the Medford District and there is no evidence that this type of action would have a disproportionately high or adverse effect on low income or minority populations.

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 13007).*

Yes No

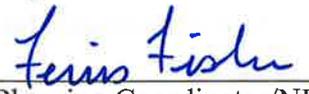
Remarks: No traditional use areas or sacred sites have been identified within the Project Area; no known ceremonial or religious sites will be affected by proposed project activities.

12. *Contribute to the introduction, continued existence, or spread of noxious weeds or non-native 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).*

Yes No

Remarks: The activities involved within the Proposed Action would not affect current populations of noxious weeds or increase the risk of introducing new sites. The Project Design Features incorporated into this document will limit the spread of noxious weeds.

Reviewers:

 Botany	5/18/15 Date	 Wildlife	5/18/15 Date
 Cultural Resources	5/18/15 Date	 Soils/Hydrology	5/18/15 Date
 Engineering	5/18/15 Date	 Planning Coordinator/NEPA	5/19/15 Date

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Decision Record

Hunter Communications Buried Fiber Optic Cable OR 068187

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Proposed Action

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The legal description is Township 36 South, Range 5 West, Section 35, and Township 37 South, Range 5 West, Section 03, Willamette Meridian, Josephine County, Oregon. Work will occur within the BLM-managed Matrix Land Use Allocation and an adjacent private parcel. This Decision Record only authorizes work along the 36-5-35 and 35-5-9 roads on BLM administered land (see attached map for details). The timeframe for work on the two BLM parcels is anticipated to last no longer than two months.

Decision and Rationale

Based upon the attached Categorical Exclusion, it is my decision to allow the installation of the fiber optic line and utility vaults as described in the Proposed Action.

The Proposed Action has been reviewed by the Grants Pass Field Office staff and appropriate Project Design Features, as specified above, are incorporated into the Proposed Action. Based on the attached National Environmental Policy Act (NEPA) Categorical Exclusion review, I have determined the Proposed Action involves no significant impact to the environment and no further environmental analysis is required.

Administrative Review

Administrative review of right-of-way (ROW) decisions requiring 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 ROW 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)).

For additional information concerning this decision contact Ferris Fisher, Planning and Environmental Coordinator, telephone (541) 471-6639, 2164 NE Spalding Avenue, Grants Pass, Oregon 97526.

Implementation Date

This is a land decision on a ROW application. All BLM decisions under 43 CFR Part 2800 remain in effect pending an appeal (see 43 CFR § 2801.10) unless the Secretary of the Interior rules otherwise. ROW decisions that remain in effect pending an appeal are considered “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 (IBLA) 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 in the Grants Pass Field Office by close of business (4:30 p.m.) not more than 30 days after the effective date. Only signed hard copies of a notice of appeal that are delivered to 2164 NE Spalding Ave, Grants Pass, OR 97526 will be accepted. 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 IBLA under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed 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 (at the address listed above) and with the IBLA (at the address listed below) within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the IBLA 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:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant’s success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the IBLA and the Regional Solicitor (at the addresses listed below) at the same time such documents are served on the Authorized Officer 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 the 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
805 S.W. Broadway, Suite 600
Portland, Oregon 97205

Hunter Communications
801 Enterprise Drive
Central Point, Oregon 97502

Appeal Format Requirements: The following are some of the formatting requirements for an appeal. A document filed in a case before IBLA must, in general, be double spaced (43 CFR § 4.401(d)(2)(v)) and a Statement of Reasons may not be longer than 30 pages (43 CFR §§ 4.412(a) 4.414(b)(1)). Unless the IBLA orders otherwise, the text of a statement of reasons may not exceed 30 pages, excluding exhibits, declarations, or other attachments (43 CFR § 4.412(a)). See 43 CFR §§ 4.401, 4.412, and 4.414 for more detail and other formatting requirements.

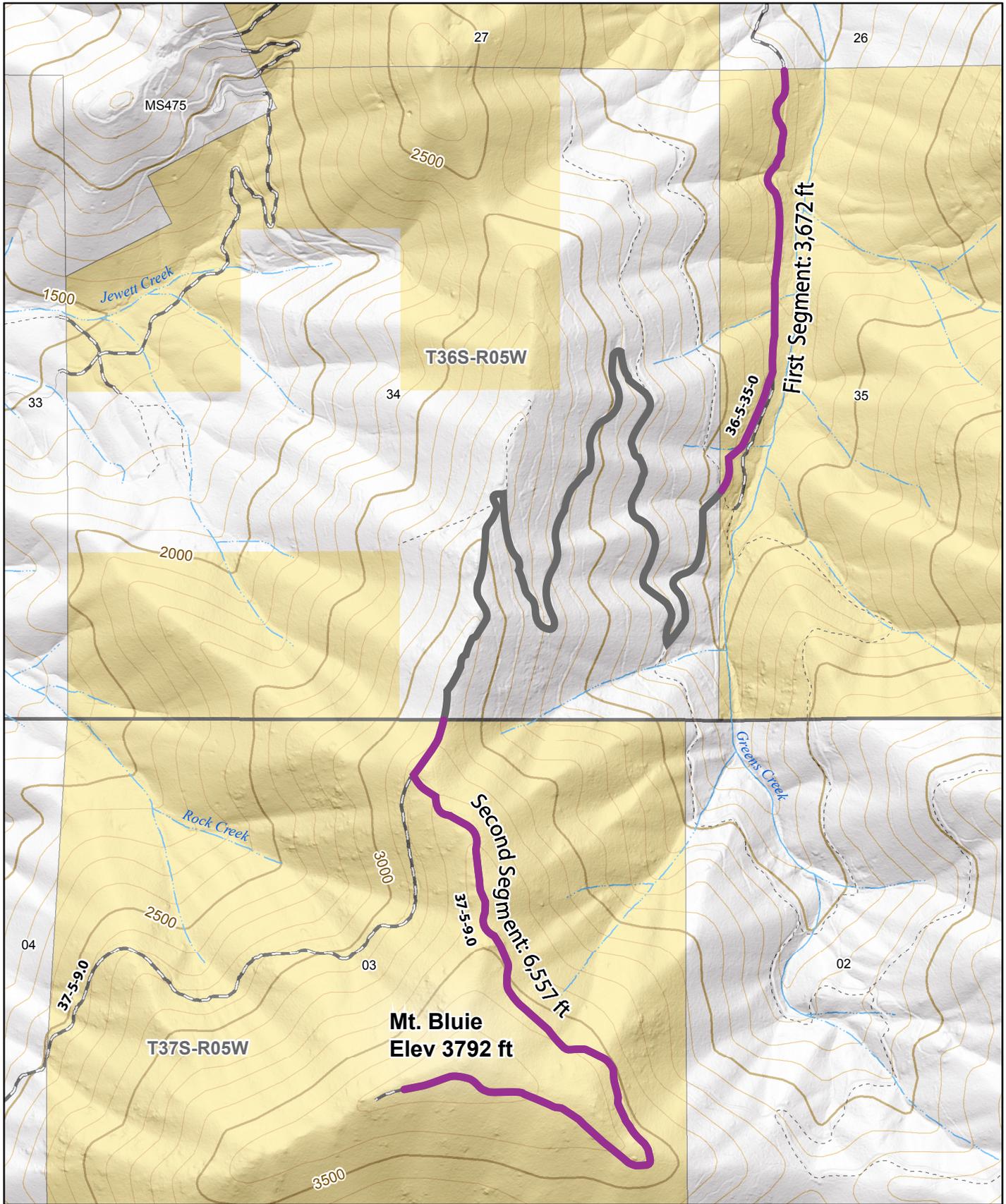


Allen Bollschweiler,
Field Manager
Grants Pass Field Office

5/21/15

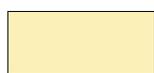
Date

Hunter Communications Buried Fiber Optic Cable OR 068187



No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources and may be updated without notification.

0 0.25 0.5 Miles

-  BLM
-  Private
-  Fiberoptic work to be done on BLM land
-  Fiberoptic work to be done on private land

Port Orford Cedar Risk Key Analysis for Fiber Optics ROW OR 068187

(Risk Key is from Alternative 2 of the FSEIS for Management of Port Orford Cedar in Southwest Oregon, and the Record of Decision)

QUESTION		36-5-35	37-5-3
1a.	Are there uninfected POC within, near ¹ , or downstream of the activity area whose ecological, Tribal, or product use or function measurably contributes to meeting land and resource management plan objectives?	N	N
1b.	Are there uninfected POC within, near ¹ , or downstream of the activity area that, were they to become infected, would likely spread infections to trees whose ecological, Tribal, or product use or function measurably contributes to meeting land and resource management plan objectives?	N	N
1c.	Is the activity area within an uninfested 7 th field watershed ² as defined in Alternative 6	N	N
		<i>If the answer to all three questions, 1a, 1b, and 1c, is no, then risk is low and no POC management practices would be required.</i>	
		<i>If the answer to any of the three questions is yes, continue.</i>	
2.	Will the proposed project introduce appreciable additional risk ³ of infection to these uninfected POC?		
		<i>If no, then risk is low and no POC management practices are required.</i>	
		**Management Practices by Road/Road System	
<i>If yes, apply management practices from the list below [within FSEIS] to reduce the risk to the point it is no longer appreciable, or meet the disease control objectives by other means, such as redesigning the project so that uninfected POC are no longer near or downstream of the activity area. If the risk cannot be reduced to the point it is no longer appreciable through practicable and cost-effective treatments or design changes, the project may proceed if the analysis supports a finding that the value or need for the proposed activity outweighs the additional risk to POC created by the project.</i>		36-5-35 road	37-5-9 road

1 - In questions 1a and 1b, "near" generally means within 25 to 50 feet downslope or 25 feet upslope from management activity areas, access roads, or haul routs; farther for drainage features; 100 to 200 feet in streams.

2 - Uninfested 7th field watersheds are listed on Table A12-2 [of FSEIS] as those with at least 100 acres of POC stands, are at least 50% federal ownership, and are free of PL except within the lowermost 2 acres of the drainage.

3 - Appreciable additional risk does not mean "any risk." It means that a reasonable person would recognize risk, additional to existing uncontrollable risk, to believe mitigation is warranted and would make a cost-effective or important difference (see Risk Key Definitions and Examples for further discussion.)

*Activities within these sections should incorporate management activities regardless of POC occurrence within the individual stand due to access routes containing POC

**Management practices: 1) project scheduling, 2) utilize uninfested water, 3) unit scheduling, 4) access, 5) public information, 6) fuels management, 7) incorporate POC objectives inot prescribed fire plans, 8) routing recreation us, 9) road management measures, 10) resistant POC planting, 11) washing project equipment, 12) logging systems, 13) spacing objectives for POC thinning, 14) non-POC special forest products, 15) summer rain events, 16) roadside sanitation, and 17) site-specific POC management