

WAOR 67018
2800 (ORW030)

December 13, 2012

CERTIFIED MAIL - Return Receipt No. _____

DECISION

Public Utility District No. 1 of Benton County :
P.O. Box 6270 : Right-of-Way Grant WAOR 67018
Kennewick, WA 99336 :

Right-of-Way Grant WAOR 67018 Issued
Rental Determined
Monitoring Fee Determined

I have reviewed the documentation for this proposal (DOI-BLM-OR-135-2012-004), and have determined that authorizing a right-of-way for this use would be categorically excluded from NEPA. Under authority of Title V of the Federal Land Policy and Management Act of 1976, a right-of-way grant will be issued to Public Utilities District No. 1 of Benton County approving the authorization of an aerial fiber optic cable on existing electrical transmission poles. The fiber optic cable granted herein is 10 feet wide, 6,626 feet long and contains 1.5 acres.

Enclosed is a copy of your executed right-of-way (ROW) grant, serial number WAOR 67018, which allows the authorized use of a right to install, operate, maintain and terminate an aerial fiber optic cable on public land in Benton County, WA. It was approved by the BLM on December 13, 2012.

The advance rent for the ROW was determined to be \$ 2,844.07 for the entire period of the grant to December 31, 2041. The monitoring fee for the ROW was determined to be Category 1, resulting in a fee of \$115 for a total amount of \$2,959.07. Both of these amounts have been received and a receipt is enclosed.

The issuance of this right-of-way grant may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of proof of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a 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.

If you have any questions about this decision or the enclosed right-of-way grant, please contact Heidi Lee Honner, Realty Specialist at (509) 536-1216.

Sincerely,

/S/ Linda Clark

Linda Clark
Field Manager
Border Field Office

3 Enclosures:

- 1 - Right-of-way grant, Map and Stipulations
- 2 - Receipt for the monitoring fee and rent payments
- 3 - Form 1842-1

Categorical Exclusion Documentation

Department of the Interior
Bureau of Land Management, Spokane District
1103 North Fancher Road
Spokane Valley, WA 99212

A. Background

BLM Office: Border Field Office

Lease/Serial/Case File No.: WAOR 67018

NEPA Log Number: OR-135-2012-004-CX

Proposed Action Title: Authorization of fiber optic cable installation, operation and maintenance right-of-way (ROW) for Benton County PUD No. 1 in Benton County.

Location of Proposed Action: Benton County, Washington, Willamette Meridian at:

T. 5 N., R. 28 E., sec. 2, lots 1 and 2, T. 5 N., R. 28 E., sec. 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$,
T. 5 N., R. 29 E., sec. 4, S $\frac{1}{2}$ SW $\frac{1}{4}$, and T. 6 N., R. 30 E., sec. 28, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

Description of Proposed Action: An application was received from Benton County PUD No. 1 requesting a right-of-way to install, operate and maintain an aerial fiber optic cable on utility poles along the Columbia River near McNary Dam, Washington. This request is part of the NoaNet Broadband Technology Opportunities Program (BTOP) which brings broadband technology across Washington State to primarily rural areas.

The fiber optic cable will be strung on the transmission line poles in four separate areas in Benton County. The ROW is approximately 6,626 feet long in total and 10 feet wide for a total of 1.5 acres. No new rights will be issued or new ground disturbance approved as a result of this administrative action. The term of the grant will be 30 years.

The proposed action is to authorize a right-of-way grant of fiber optic cable installation, operation and maintenance for Benton County PUD No.1 with the stipulation for ferruginous hawk nests and/or activity, which will state "Avoid helicopter and utility truck use from March 1 through May 31 unless current-year surveys show no nesting ferruginous hawks within 250 meters (820 feet) of the work area. If there are active ferruginous hawk nests found on the transmission line, the holder shall notify the BLM and refrain from removing active nests until the young have fledged."

Additionally, to prevent the spread of noxious weeds the following stipulation will be required. "Any vehicles and equipment entering or exiting the right-of-way will be required to wash off any mud, dirt, seeds or plant materials to eliminate the possibility of transporting noxious weeds, including yellow starthistle, diffuse knapweed, and Russian thistle along the right-of-way".

B. Land Use Plan Conformance

Land Use Plan Name: Spokane Resource Management Plan

Date Approved/Amended: Approved 1987/Amended 1992

Option 1 (conforms with LUP): The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): Keep public lands open for exploration/development of mineral resources, rights-of-way, access, and other public purposes with consideration to mitigate designated resource concerns (BLM 1987, p. 12).

OR

(Option 2: not explicitly provided for in the LUP) The proposed action is in conformance with the applicable LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (*objectives, terms, and conditions*):

C. Compliance with NEPA:

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with

516 DM 11.9.E (12): Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.

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 43 CFR 46.215 apply, as shown in the following table:

CX EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION The proposed categorical exclusion action will:	YES	NO
(a) Have significant impacts on public health or safety.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
There are no impacts on public health or safety.		
(b) 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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The fiber optic cable will be aerial with little ground disturbance; there will be little to no disturbance to on natural or cultural resources.		
(c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].	<input type="checkbox"/>	<input checked="" type="checkbox"/>
There are no highly controversial environmental effects identified or unresolved conflicts.		
(d) Have highly uncertain and potentially significant environmental effects	<input type="checkbox"/>	<input checked="" type="checkbox"/>

or involve unique or unknown environmental risks.		
Because the cable is an aerial line, there are no uncertain and potentially significant environmental effects or risks involved.		
(e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
This type of action is a typical right-of-way and therefore would not set a precedent for future action.		
(f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Hanging an aerial cable does not have a relationship to other actions insignificant or cumulatively significant environmental effects.		
(g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
A cultural inventory has determined that this right-of-way will not fall within areas that listed, or eligible for listing on the National Register of Historic Places.		
(h) 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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
No federally listed species or critical habitat is present within the right-of-way area.		
(i) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
All applicable laws (NEPA, FLPMA, NHPA, ESA) are being followed in processing this right-of-way.		
(j) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The implementation of this right-of-way will not effect low income or minority populations in anyway.		
(k) 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).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
There will be no access limitations to any populations.		
(l) 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).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Implementation of the aerial fiber optic cable will involve very little ground disturbance. Stipulations have been added to address known species and the control of spreading this and any other weeds or invasive species.		

F: Signature

/S/ Mark Hatchel, Acting for 11/9/12
Linda Clark

(Authorizing Official Signature)

(Date)

Name: Linda Clark

Title: Field Manager, Border Field Office

G. Contact Person

For additional information concerning this CX review, contact Heidi Lee Honner, Realty Specialist, (509) 536-1216, HHonner@BLM.GOV.

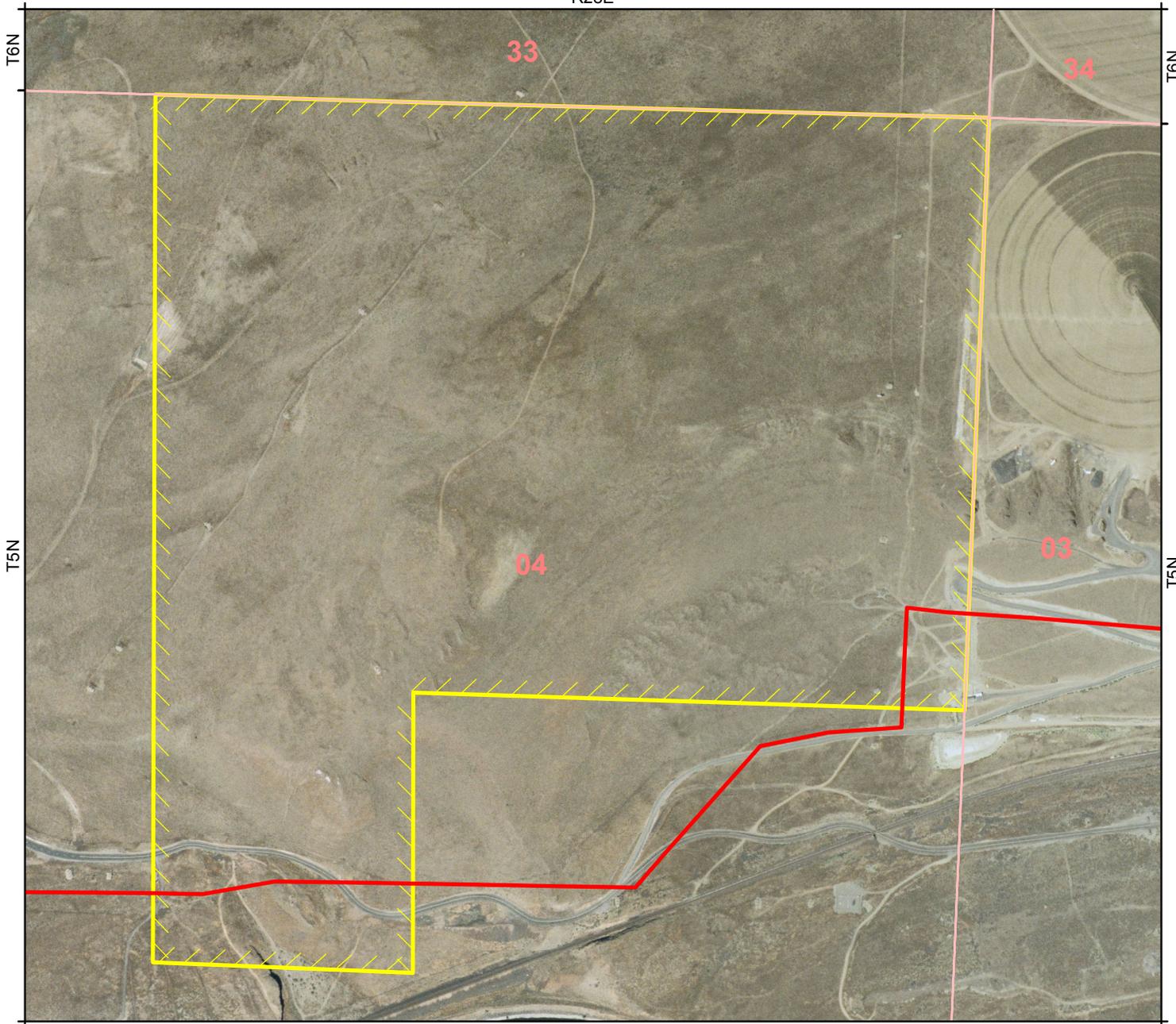
Note: A separate decision document must be prepared for the action covered by the CX.

Exhibit A - Map 1

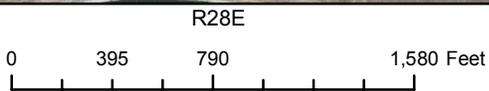
WAOR 67018 Benton County PUD (NoaNet BTOP)

Fiber Optic Right-of-Way at T. 5 N., R. 28 E., sec. 4

R28E



November 09, 2012



Scale 1:9,000

Willamette Meridian, Benton County, Washington
 T. 5 N., R. 28 E., sec. 4, SE1/4NE1/4 & NE1/4SW1/4.
 Approximately 1,628 feet long by 10 feet wide
 Aerial Fiber Optic Cable Installation



USDI – Bureau of Land Management
 Spokane District Office
 1103 N. Fancher Rd.
 Spokane Valley, WA 99212
 (509) 536-1200

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.



Legend

- Aerial FO Cable
- BLM Lands



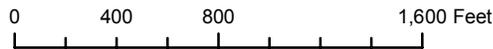
Exhibit A - Map 2
WAOR 67018 Benton County PUD (NoaNet BTOP)
Fiber Optic Right-of-Way at T. 5 N., R. 28 E., sec. 2

R28E



November 09, 2012

R28E



Scale 1:9,000

Willamette Meridian, Benton County, Washington
 T. 5 N., R. 28 E., sec. 2, lots 1 and 2.
 Approximately 1,524 feet long by 10 feet wide
 Aerial Fiber Optic Cable Installation



USDI – Bureau of Land Management
 Spokane District Office
 1103 N. Fancher Rd.
 Spokane Valley, WA 99212
 (509) 536-1200

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.



Legend

- Aerial FO Cable
- BLM Lands

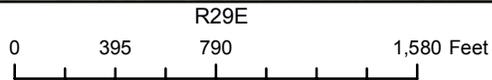


Exhibit A - Map 3
WAOR 67018 Benton County PUD (NoaNet BTOP)
Fiber Optic Right-of-Way at T. 5 N., R. 29 E., sec. 4

R29E



November 09, 2012



Scale 1:9,000

Willamette Meridian, Benton County, Washington
 T. 5 N., R. 29 E., sec. 4, S1/2SW1/4.
 Approximately 2,725 feet long by 10 feet wide
 Aerial Fiber Optic Cable Installation



USDI – Bureau of Land Management
 Spokane District Office
 1103 N. Fancher Rd.
 Spokane Valley, WA 99212
 (509) 536-1200

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.



Legend

- Aerial FO Cable
- BLM Lands

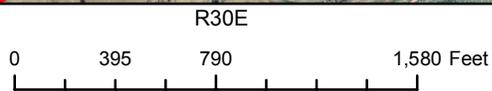


Exhibit A - Map 4
WAOR 67018 Benton County PUD (NoaNet BTOP)
Fiber Optic Right-of-Way at T. 6 N., R. 30 E., sec. 28

R30E



November 09, 2012



Scale 1:9,000

Willamette Meridian, Benton County, Washington
 T. 6 N., R. 30 E., sec. 28, NE1/4SE1/4.
 Approximately 749 feet long by 10 feet wide
 Aerial Fiber Optic Cable Installation



USDI – Bureau of Land Management
 Spokane District Office
 1103 N. Fancher Rd.
 Spokane Valley, WA 99212
 (509) 536-1200

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.



Legend

- Aerial FO Cable
- BLM Lands

