

WAOR 67292
2800 (ORW030)

October 4, 2012

CERTIFIED MAIL - Return Receipt No. _____

DECISION

William R. Kopp	:	
Northwest Open Access Network	:	
5802 Overlook Avenue NE	:	Right-of-Way Grant WAOR 67292
Tacoma, WA 98411	:	

Right-of-Way Grant WAOR 67292 Issued
Rental Determined
Monitoring Fee Determined

Enclosed is a copy of your right-of-way (ROW) grant, serial number WAOR 67292, which allows the use of public land to install, operate, maintain and terminate a buried fiber optic cable on public land in Lincoln County, WA. It was approved by the BLM on October 4, 2012.

The advance rent for the ROW was determined to be \$ 974.99 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 \$1,089.99. 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 documents
- 2 - Receipts 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 67292

NEPA Log Number: OR-135-2012-0017-CX

Proposed Action Title: Authorization of fiber optic cable installation and maintenance right-of-way (ROW) for Northwest Open Access Network (NoaNet) in Lincoln County.

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

T. 22 N., R. 35 E., sec. 30, lot 4, NE¹/₄SW¹/₄ and NW¹/₄SE¹/₄.

Description of Proposed Action:

NoaNet is requesting the approval of installation and maintaining fiber optic cable within Highway 28 right-of-way (ROW) near Lamont, Washington in Lincoln County. 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 was installed; construction began September 2011 and ended in February 2012. NoaNet believed they were within the highway ROW and therefore did not notify the BLM. The fiber optic installation within the highway ROW is for non-highway purposes and requires permitting. The fiber optic cable was installed by the directional boring method and runs adjacent to Highway 28 in Lincoln County at:

Willamette Meridian, T. 22 N., R. 35 E., sec. 30, lot 4, NE¹/₄SW¹/₄, and NW¹/₄SE¹/₄.

The right-of-way is approximately 4,079 feet long in total and 10 feet wide for a total of .94 acres. The term of the grant will be 30 years.

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"/>
(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"/>
(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"/>
(d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(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"/>
(f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

(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"/>
(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"/>
(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"/>
(j) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(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"/>
(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"/>

F: Signature

/s/ Linda Clark

August 16, 2012

(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.