



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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March 18, 2013

NOPA CAC070-13-002
8500 CA-170.41 (P)

Dear Interested Public:

The Bureau of Land Management (BLM) is required to inform affected or interested publics about any proposed action, specific emergencies, or unauthorized activity occurring within BLM managed Wilderness or Wilderness Study Areas. Enclosed is a Notice of Proposed Action with information about the BLM's intent to restore wilderness characteristics in the Fish Slough and Casa Diablo Wilderness Study Areas, adjacent to the Casa Diablo Road on the Volcanic Tableland, California.

If you have any questions concerning this proposed action please contact Kirstin Heins, Outdoor Recreation Planner/Wilderness, at (760) 872-5034 or via email at kheins@blm.gov or Larry Primosc, Reality Specialist, at (760) 872-5031 or via email at lprimosc@blm.gov.

Sincerely,

/s/ Bernadette Lovato

Bernadette Lovato
Field Manager
Bishop Field Office

cc: Bob Wick
enc: NOPA for Digital 395 Restoration

NOTICE OF PROPOSED ACTION (NOPA) CAC070-13-002

State: California

County: Inyo and Mono Counties

Field Office: Bureau of Land Management
Bishop Field Office
351 Pacu Lane, Suite 100
Bishop CA 93514

Wilderness Study Area(s): Fish Slough (CA-010-080)
Casa Diablo (CA-010-082)

Proposed Action: Restore WSA trespass impacts

Background

The California Broadband Cooperative, Inc. (CBC) was authorized to install fiber optic conduit and other associated facilities along the Casa Diablo road as part of the Digital 395 project. The road is considered to be a RS 2477 right-of-way, portions of which are held and maintained by Inyo and Mono County.

The Casa Diablo road borders three Wilderness Study Areas (WSAs) managed by the Bureau of Land Management (BLM): the Fish Slough WSA (CA-010-080), the Volcanic Tablelands WSA (CA-010-081) and the Casa Diablo WSA (CA-010-082). The edge of the right-of way and the boundary of the WSAs is the edge of the disturbance of that road that existed at the passage of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*) (FLPMA).

The BLM cannot authorize the placement of permanent facilities or ground disturbing activities in WSAs. This policy is articulated in BLM Manual 6330—Management of BLM Wilderness Study Areas and was developed to meet the “non-impairment” mandate included in Section 603(c) of FLPMA. Placement of the Digital 395 project facilities cannot be authorized in WSAs because they are considered permanent and installing them necessitates ground disturbance.

The Digital 395 project trespassed outside of the road right-of-way and into the Fish Slough and Casa Diablo WSAs on the northeast side of the Casa Diablo Road. The BLM halted construction work in the area on December 11, 2012 to determine the extent of the violation. A Notice of Trespass was issued to CBC on January 14, 2013.

Multiple field exams were conducted by the BLM between December 2012 and February 2013. On February 14, 2013, an extensive field exam was conducted concentrating on 1.4 miles of the southern portion of Casa Diablo road. The following are the results of the exams and are split between the southern 1.4 miles and northern 9.7 miles of Casa Diablo Road.

It was determined that surface disturbance occurred and portions of conduit were placed within the Fish Slough WSA for approximately 1.4 miles (southern segment of road). Construction disturbance and placement of unearthed boulders were within the WSA for the full length. Installed conduit was placed within the WSA for about 250 feet. Because construction work had been halted, a 5,100 foot long section of conduit and one vault were never placed within the southern portion of the 1.4 mile section. Within this 5,100 foot long section, trenching with exposed fractured rock had taken place within the WSA.

For the northern 9.7 miles of the Casa Diablo road, unearthed boulders were placed in the Fish Slough and Casa Diablo WSAs. Two fiber optic signs were located within the Fish Slough WSA.

The BLM's policy is to immediately restore the impacts caused by any unauthorized action to the condition that existed prior to the impact. The persons responsible for the impacts are responsible for the cost of restoration and the BLM may remove structures that impair wilderness characteristics. (BLM Manual 6330 1.6.3)

In addition, during fiber optic conduit installation, a historic wagon trail was impacted where the trail criss-crosses the Casa Diablo road at three intersections. This trail was not identified in the pre-construction cultural inventory and was only identified after construction activities had impacted the intersections.

Under the Plan of Development impacts to unknown cultural features, in this case, a historic wagon trail, would be handled as an "Inadvertent Discovery." The National Telecommunications and Information Agency (NTIA), the lead agency for the fiber optic project, is responsible for dealing with inadvertent discovery issues. The NTIA is currently working on resolution of the impact to the wagon trail. Analysis and Resolution of this impact will not be discussed in this document.

Purpose and Need for the Proposed Action

The purpose of the project is to restore wilderness characteristics to the Fish Slough and Casa Diablo Wilderness Study Areas that occurred during the Digital 395 project.

The project is needed because during construction of the Digital 395 project along Casa Diablo road, work was conducted outside the authorized ROW which resulted in ground disturbance and the location of facilities within the WSAs. This is a violation of the non-impairment standard and the BLM must address this violation per BLM Manual 6330 1.6.3. The BLM will make a Decision regarding the location and method of WSA restoration.

Proposed Action

The proposed action is the restoration of two WSAs: the Fish Slough WSA (CA-010-080) and the Casa Diablo WSA (CA-010-082) along their boundaries adjacent to the northeast side of Casa Diablo road. This area would cover about 11.1 miles of WSA boundary. The restoration would be needed due to construction impacts from the Digital 395 fiber optic conduit

installation.

The proposed action does not cover or address the rehabilitation of the fiber optic conduit installation that is not in WSA boundaries. This activity would be completed per the fiber optic right-of-way grant and associated Plan of Operation and any mitigation or design features identified in those documents.

The proposed action is described using two segments of the Casa Diablo road and associated surface disturbance that took place within the WSAs. The first segment is the southern portion of the road and covers 1.4 miles. The other segment, the northern portion of the road, covers 9.7 miles. The split between these segments is generally where the Sad Boulders turnoff is located on Casa Diablo road. The proposed WSA restoration would be coordinated with CBC construction and rehabilitation personnel in order to achieve a successful restoration of the WSA disturbance.

For the southern 1.4 miles of the Casa Diablo road impact, which are within the Fish Slough WSA, there are several portions of this segment with specific descriptions and restoration methods.

The most southern portion of the WSA boundary encompasses 5,100 feet. In this area, no fiber optic conduit was installed but a trench was created using a bulldozer and ripper shank. The trench is located in near-surface bedrock composed of solidified volcanic ash known as Bishop Tuff. Trench construction resulted in large fractured rocks which in some places protrude above ground surface. It has been determined that the WSA boundary was located about 6-7 feet from the traveled roadway (past blading disturbance). The constructed trench is 7-8 feet from roadway edge and is within the WSA. This area also had surface disturbance resulting from bulldozer activity and unearthed boulders were placed in the WSA.

A new trench alignment, which would be 4 feet towards the roadway, would be constructed using a rock saw. The saw would cut a 3-4 foot deep by 4'-6" wide channel in the bedrock. This channel would be outside the WSA boundary, within the road ROW and within the fiber optic line ROW. A burial vault would be placed between the new channel and roadway edge. The rock saw would eliminate the bedrock fracturing that took place during the ripping operation.

The old trench would be rehabbed by running a bulldozer over the fractured rock area, thereby crushing and compacting the rocks into the trench. Berms that were created during the ripping operation would be pulled back into the disturbed area using a backhoe. Native soil or decomposed granite would then be spread over the disturbed area, bringing the soil surface to existing grade. Native soil could be extracted from large bladed berms on the southwest side of the road which is not within a WSA. Soil surface would be seeded with native vegetation, smoothed, and then tilled or harrowed for a semi-rough surface. Unearthed rocks or boulders would be removed from the WSA and transported offsite to a suitable location.

The remaining portion of the 1.4 mile segment has a ripped trench with conduit installed, and except for a 250 foot long segment, is outside the WSA boundary. The trench and conduit are

about 7-8 feet from the roadway edge. This segment portion has surface disturbance from bulldozer trench activities and unearthed boulders in the WSA.

Berms that were created during the ripping operation would be pulled back into the disturbed area using a backhoe. Native soil or decomposed granite would then be spread over the disturbed area, bringing the soil surface to existing grade. Native soil could be extracted from large bladed berms on the southwest side of the road which is not within a WSA. Soil surface would be seeded with native vegetation, smoothed, and then tilled or harrowed for a semi-rough surface. Unearthed rocks or boulders would be removed from the WSA and transported offsite to a suitable location.

In the 250 foot segment that has installed conduit within the WSA, a new trench alignment, which would be 4 feet towards the roadway, would be constructed using a rock saw. The saw would cut a 3-4 foot deep by 4"-6" wide channel in the bedrock. This channel would be outside the WSA boundary, within the road ROW, and within the fiber optic line ROW. The rock saw would eliminate the bedrock fracturing that took place during the ripping operation.

The old trench would be rehabbed by running a bulldozer over the fractured rock area, thereby crushing and compacting the rocks into the trench. The conduit would not be removed from the old trench and would be abandoned in place. Conduit removal was determined to be unreasonable and would result in more surface disturbance than was already present. Native soil or decomposed granite would then be spread over the disturbed area, bringing the soil surface to existing grade. Soil surface would be seeded with native vegetation, smoothed, and then tilled or harrowed for a semi-rough surface.

After rehab, WSA boundary signs would be placed along the established boundary approximately 1 foot past the installed conduit. Sign placement and location would be decided by the BLM.

For the northern 9.7 miles of Casa Diablo, unearthed rocks or boulders would be removed from the WSA and transported offsite to a suitable location. Berms that were created during the ripping operation would be pulled back into the disturbed area using a backhoe. Two fiber optic location signs would be removed from the WSA. After rehab, WSA boundary signs would be placed along the established boundary. Sign placement and location would be decided by the BLM.

Other Alternatives

Two alternatives were considered but rejected: South Side Fiber Realignment and the No Action Alternative.

Under the South Side Alternative, the fiber optic line would be placed on the south side of Casa Diablo road between the 180 degree road bend and the Sad Boulders turnoff on the road. This is, essentially, the southern 1.4 miles of the road on public land. The current alignment would be abandoned and any conduit in place would be left in the ground. Rehab would take place as per the ROW grant and POD and as described in the above proposed action alternative.

This alternative would create additional impacts on the west side of the road, and also impact the historic wagon trail in three additional locations. Conduit placement could be accomplished by rock saw to minimize the surface disturbance but there still would be some disturbance as a result of the large equipment. Rock saw use would also cost more for implementation. The new alignment would cross the Casa Diablo road in two locations at each end. These road cuts would not be in the county's interest as the line would now be in the travelled roadway and subject to future road maintenance activities. This alternative was rejected due to the above issues and it was decided that rather than create new additional disturbance, it would be better to resolve the problems for the current location.

The other alternative rejected was the No Action alternative. Although a "no action" alternative must be analyzed for an environmental impact statement (EIS), CEQ guidance does not require such analysis for an EA. Under this alternative, no action would take place to remedy the conduit already in place and within the WSA. The fiber optic line disturbance would be rehabbed and the conduit not installed would be placed nearer the road as proposed in the proposed action. BLM Policy does not allow for permanent facilities to be located within WSAs and therefore this is against policy and could not be considered.

Public Comments

We welcome any comments, questions or alternatives you may have regarding the proposed action and/or the associated environmental review. The public scoping period is open; to be considered in the analysis **scoping comments should be received by April 1, 2013**. Please send written comments to the address below, or by email to kheins@blm.gov.

Bureau of Land Management
Bishop Field Office
Attn: Kirstin Heins
351 Pacu Lane, Suite 100
Bishop, CA 93514

Once completed, the EA will be posted on the BLM internet site for public review and comment for at <http://www.blm.gov/ca/st/en/fo/bishop.html>. If you are unable to access the internet and would like a hardcopy of the EA, please contact our office.

Thank you for your interest in the proposed action on the WSAs administered by the Bishop Field Office. Please contact Kirstin Heins at (760) 872-5034, or kheins@blm.gov, should you have any questions, comments, or concerns regarding this letter or the upcoming environmental review

Sincerely,

/s/ Bernadette Lovato
Bernadette Lovato
Field Manager
Bishop Field Office