

Digital 299 Broadband Project

**U.S. Bureau of Land Management
Redding Field Office**

Decision Record

DOI-BLM-CA-N060-2022-0003-EA

Introduction

An Environmental Assessment/Initial Study Mitigated Negative Declaration (EA/ISMND) has been prepared by the Bureau of Land Management (BLM) Redding Field Office (RFO) and other agencies to analyze potential environmental impacts resulting from installation of new conduit and fiber optic cables to provide internet service to unserved or underserved communities in northern California.

Vero Fiber Networks, LLC (Vero) proposes to install approximately 300 miles (22.27 miles on BLM RFO managed public lands) of new conduit and fiber optic cables to provide internet service to unserved or underserved communities in northern California. The Proposed Project route will generally follow the California State Route 299 (SR 299) corridor through Trinity, Shasta, and Humboldt counties. Conduit will be installed within existing rights-of-way (ROWs) in pre-disturbed road shoulders. Conduit will be attached to bridges or bored under water crossings. Disturbance to intermittent or ephemeral waterways will only occur if they were not holding water at the time of construction. Additional “last-mile” connections to communities along the route will be attached to utility poles during a second phase of the Project. State and federal agencies have collaborated to leverage a joint EA/ISMND and associated technical studies to support their separate decisions and permits.

The overall Project will include the following features:

- construct a new approximately 170 mile backbone fiber route;
- place approximately 16 miles of fiber in existing utility conduits;
- attach aerial fiber to existing utility poles for last-mile distribution along the route; and
- install up to five prefabricated ILA buildings to support wireless systems.

Vero has applied to the BLM RFO for a right-of-way (ROW) grant under Title V, Section 501(a)(5) of the Federal Land Policy and Management (FLPMA) Act of 1976 (BLM ROW application serialized as CACA 58248). The ROW application is for installation, operation, maintenance, and termination of buried fiber-optic broadband line on public lands for a length of approximately 22.27 miles (117,590 feet) within Trinity and Shasta counties in northern California. A 25-foot-wide temporary ROW has been requested during construction for a period of three years; Approximately 67.5 acres of surface disturbance on BLM-administered public lands will result from construction activities. This disturbance will be temporary and will be reclaimed following construction completion. A long-term 10-foot-wide ROW has also been requested for a 30-year term, containing 27 acres.

The Proposed Project is divided into two phases: the middle-mile or backbone route (Phase 1) and the last-mile connections (Phase 2). The total duration of construction for Phase 1 is estimated at approximately 24 months, beginning in the winter of 2022 or spring of 2023. Phase 2 will begin in 2024. The last-mile connections will be built off the middle-mile route as needed once that route is completed. Proposed Project development will follow federal, state, and local guidelines for temporary traffic control in construction zones.

Implementation of the proposed project will help provide a broadband network in support of a statewide goal established by the California State Legislature of achieving 98 percent broadband coverage to meet public safety, healthcare, education, and economic development goals. The purpose of the proposed project will help achieve the state’s coverage goals in northern California to ensure the network reaches certain under-served communities and public institutions such as libraries, hospitals, and schools.

Decision

It is my decision to approve the proposed action and issue a FLPMA ROW grant, as described in the EA/ISMND and FONSI, number DOI-BLM-CA-N060-2022-0003-EA. Compliance with design features, resource protection

measures, best management practices, and avoidance and minimization measures identified in the EA/ISMND, specifically those listed within Appendix G – Resource Protection Measures, Section 3.4.5.1 and Table 3 of the EA/ISMND, is hereby required and is incorporated into this decision record as stipulations by reference.

Alternatives Considered but not Selected

The EA/ISMND considered two alternatives: a No Action Alternative and the Proposed Action. The No Action Alternative was considered but not selected. Implementation of this alternative would not result in the issuance of a ROW grant, allowing the installation and construction of any conduit, fiber optic cable, and associated structures. The increase in broadband connection will not be realized. Alternative segments for the proposed route were included in the proposed action in case engineering constraints required their use. Alternative technologies were discussed in section 2.3.1 of the EA/ISMND but dismissed from detailed analysis.

Decision Rationale

Based on the analysis documented in the EA/ISMND and reviewed by a BLM interdisciplinary team, I conclude that the approved action will not result in any unnecessary or undue degradation of BLM administered public lands. The approved action is in compliance with the 1993 Redding Resource Management Plan, as amended.

Consultation and Coordination

Listed Plant and Animal Species

The EA/ISMND analysis identified the potential presence of various special-status species, including 11 federally listed threatened and endangered species, within the Project area (see EA/ISMND Section 3.3). Informal Endangered Species Act (ESA) Section 7 consultation with US Fish and Wildlife Service (USFWS) and National Marine Fisheries Services (NMFS) was completed on the Project, resulting in concurrence letters from both agencies and an overall determination of “may affect, but is not likely to adversely affect” (NLAA) listed species.

Significant impacts to listed plants will be avoided or minimized by pre-construction vegetation surveys and special-status plant clearance surveys, along with measures described in the Restoration Plan, which will restore disturbed vegetation to near pre-disturbance levels, stabilize soils, and minimize the introduction or spread of invasive plants. As described in the EA/ISMND, adherence to post-construction monitoring of impacted waterways and vegetated areas must occur in accordance with the annual monitoring protocol until performance standards are achieved, or sooner if the BLM concurs that no further monitoring or corrective actions are necessary.

Nearly all the proposed routes will be located adjacent to existing roads in previously disturbed areas. Aerial installation will be on existing poles. Disturbed areas will be restored to near pre-project conditions as outlined in a Restoration Plan. Due to implementation of applicant-proposed design features and resource protection measures, anticipated impacts to endangered, threatened, or candidate species have been determined to be negligible and will not rise to a significant level.

Cultural

All necessary steps were taken by qualified staff specialists to identify, record, and evaluate effects on cultural properties. These steps comply with all standards and guidelines of the *State Protocol Agreement among the California State Director of the Bureau of Land Management and the California State Historic Preservation Officer and the Nevada State Historic Preservation Officer Regarding the Manner in Which the Bureau of Land Management Will Meet its Responsibilities Under the National Historic Preservation Act and the National Programmatic Agreement Among the BLM, the Advisory Council on Historic Preservation, And The National Conference of State Historic Preservation Officers*, herein referred to as the 2019 Protocol Agreement between BLM and the California State Historic Preservation Office. Based on design features and resource protection measures identified in the EA/ISMND, there will be no adverse impacts on eligible, potentially eligible, or listed NRHP sites, districts, or Traditional Cultural Properties. It was determined by agency

consensus that Whiskeytown National Recreation Area, National Park Service will submit individual agencies consultation materials to the SHPO on behalf of the BLM, USFS, and USACE. The BLM will be responsible for ensuring Vero is within compliance with the NHPA during construction across BLM-administered lands.

As discussed in the EA/ISMND, cultural resources were located within the project area through literature review, tribal consultation, and surveys. Resources include archaeological sites, historic buildings, structures, objects, sacred sites, and Traditional Cultural Properties. Site-specific cultural resource protection measures were identified to avoid impacts to each resource and are detailed in Chapter 3 of the EA/ISMND (Section 3.4.5.1) and Appendix G. Implementation of these measures will avoid impacts to historical and tribal cultural resources by ensuring construction related avoidance. Archaeological and tribal monitoring at sensitive locations will further ensure that no damage to sites will occur.

Public Involvement

Public scoping for the project was conducted in 2019. Scoping information was provided in newsletters, public meetings, newspaper articles, and on agency websites. A Scoping Summary Report is found in Appendix N of the EA/ISMND. The draft EA/ISMND was posted for public review in January 2022. Comments received on the EA/ISMND have been addressed and incorporated into the final document as appropriate. Public comments received on the draft EA/ISMND, and agency responses are found in Appendix O of the EA/ISMND. Electronic copies of the EA/ISMND along with any updated information are available on the BLM E-Planning site: <https://eplanning.blm.gov/eplanning-ui/project/2017155/510>. See the FONSI for public involvement details.

Land Use Plan Consistency

Based on information in the EA/ISMND, the project record, and recommendations from BLM specialists, I conclude that this decision is consistent with Resource Conditions Objectives established for the Trinity Management Area and the Shasta Management Area of the 1993 Redding Resource Management Plan and Record of Decision, as amended; the Endangered Species Act; the Native American Religious Freedom Act; other cultural resource management laws and regulations; Executive Order 12898 regarding Environmental Justice; and Executive Order 13212 regarding potential adverse impacts to energy development, production, supply and/or distribution.

I agree that all necessary steps were taken by a qualified staff specialist(s) to identify, record, and evaluate effects on cultural properties if present. These steps comply with all standards and guidelines of the 2019 Protocol Agreement between BLM and the California State Historic Preservation Officer. Based on design features identified in this environmental analysis, there will be no adverse impacts to eligible, potentially eligible, or listed National Register of Historic Places site(s), district(s), or Traditional Cultural Properties.

I certify that all necessary steps complied with the provisions of the 1994 Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents within the Range of the Northern Spotted Owl and Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species within the Range of the Northern Spotted Owl (ROD). I further affirm that the wetland/riparian analysis conformed to the Aquatic Conservation Strategy as required by section B-10 of the ROD. See Attachment 1 for further discussion of Survey and Manage species.

Authority

This project is approved for implementation upon receipt of a ROW grant and issuance decision, signed by the Authorized Officer, in accordance with Title 43 CFR 2805.13. You may appeal the ROW issuance decision under Title 43 CFR §2801.10; however, all BLM decisions under this part (§2801.10) will remain in effect, pending appeal unless the Secretary of the Interior rules otherwise. You may petition for a stay of a BLM decision under this part (§2801.10) with the Office of Hearings and Appeals, Department of the Interior.

Administrative Remedies

Administrative remedies may be available to those who believe they will be adversely affected by this decision. Appeals may be made to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of Interior, Board of Land Appeals (Board) in strict compliance with the regulations in 43 CFR Part 4. Notices of appeal must be filed in this office within 30 days after publication of this decision. If a notice of appeal does not include a statement of reasons, such statement must be filed with this office and the Board within 30 days after the notice of appeal is filed. The notice of appeal and any statement of reasons, written arguments, or briefs must also be served upon the Regional Solicitor, Pacific Southwest Region, U.S. Department of Interior, 2800 Cottage Way, E-1712, Sacramento, CA 95825.

If you wish to file a request (petition) for a suspension (stay) of the effectiveness of this decision during the time your appeal is being reviewed by the Interior Board of Land Appeal, the request must accompany your notice of appeal. If you request a suspension, you have the burden of proof to show sufficient justification why the suspension should be granted based on the following standards, except as otherwise provided by law or other pertinent regulations (43 CFR 4.21):

Standards for Obtaining a Stay

- (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 a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the Authorized Officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken on the Regional Solicitor, Pacific Southwest Region, U.S. Department of Interior, 2800 Cottage Way, E-1712, Sacramento, CA 95825, no later than 15 days after filing the document with the Authorized Officer.

Jennifer Mata
Field Manager
Redding Field Office

Date

Attachment 1: Projects that Comply With the 2001 Survey and Manage Record of Decision and Plan Amendment with Subsequent ASRs except for the Red Tree Vole or the Pechman Exemptions:

A. Projects that Comply With the 2001 Survey and Manage Record of Decision and Plan Amendment with Subsequent ASRs except for the Red Tree Vole.

The Digital 299 Fiber Optic ROW project is consistent with the 2001 Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines, as incorporated into the Redding Resource Management Plan.

This project utilizes the December 2003 species list. This list incorporates species changes and removals made as a result of the 2001, 2002, and 2003 Annual Species Reviews with the exception of the Red Tree Vole. For the red tree vole, the Ninth Circuit Court of Appeals in *KSWC et al. v. Boody et al.*, 468 F3d 549 (9th Cir. 2006) vacated the category change and removal of the red tree vole in the mesic zone, and returned the red tree vole to its status as existed in the 2001 ROD S&Gs, which makes the species Category C throughout its range. Details of the project surveys are described below:

Upon review of the survey criteria, it has been determined that the project occurs in the range of S&M species, consistent with the last valid Record of Decision as stated above but the project does not contain suitable habitat on BLM lands. Therefore, the project does not meet required survey criteria.