



DECISION MEMO
DIGITAL 299 BROADBAND PROJECT
U.S. FOREST SERVICE

T7N, R5E, SECTIONS 5,8,17,30; T6N, R4E, SECTION 15; T6N, R5E, SECTIONS
10,13,14,15,16, 24; T6N, R6E, SECTIONS 19, 20, 28, 29, 33, 34

LOWER TRINITY RANGER DISTRICT OF THE SIX RIVERS NATIONAL FOREST
HUMBOLDT AND TRINITY COUNTIES, CALIFORNIA

BACKGROUND

On February 26, 2021, the Forest Service received an application from Vero Fiber Networks for a 30-year permit term for 7.8 miles of continuous right-of-way (ROW) usage within a 10-foot-wide existing roadway corridor crossing lands administered by the Six Rivers National Forest. The permit will provide for installation of a primary fiber optic line ("backbone" or the "middle-mile" section) consisting of mostly new buried conduit with some aerial line. Construction will occur within a 25-foot-wide temporary construction corridor over a period of up to 36 months. Vero is registered as a Competitive Local Exchange Carrier (CLEC) under the California Public Utilities Commission (CPUC) and holds Certification of Public Convenience and Necessity (CPCN) number U7351C.

Vero Fiber Networks, LLC (Vero) requested authorization to install fiber optic cables generally following California State Route 299 through Shasta, Trinity, and Humboldt counties in Northern California, crossing federally managed public land, state-owned or controlled property, privately owned property, and tribal lands. The Digital 299 Broadband Project would help close the digital divide in the region by extending internet and mobile data coverage to underserved rural communities. The Digital 299 Broadband Project implementation would result in the installation of approximately 300 miles of fiber optic line mostly buried along the shoulder of existing roads. Aerial attachments on existing poles would branch from the main middle-mile "backbone" line to connect with communities along the planned route. At water crossings, conduit would be attached to bridges or bored under the waterway. No new roads would be constructed.

The Proposed Action 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 up to 36 months, beginning in the fourth quarter of 2022 or the first quarter of 2023. Phase 2 construction is expected to begin once middle-mile fiber optic cable is installed, and once last-mile providers and Vero finalize interconnection points and locations of service drops.

The Digital 299 Broadband Project crosses lands and waters managed by the Bureau of Land Management (BLM), National Park Service (NPS), U.S. Forest Service (USFS), U.S. Army Corps of Engineers (USACE), U.S. Bureau of Reclamation (USBR), Federal Highway Administration (FHWA), California Public Utilities Commission (CPUC), California Department of Transportation, California Department of Fish and Wildlife, State Lands Commission, State Water Resources Control Board, and Hoopa Reservation. These entities, including the Six Rivers National Forest (SRNF), are cooperating agencies or otherwise participated in the preparation of an Environmental Assessment / Initial Study Mitigated Negative Declaration (EA/ISMND).

DECISION

I have decided to authorize the Digital 299 Broadband Project providing for a 10-foot-wide ROW to install and maintain a fiber optic line on the lands of the Six Rivers National Forest within the State Highway 299 corridor for 6.9 miles, from just west of Burnt Ranch to just west of the East Fork Campground. A secondary line will be installed and maintained attached to the PG&E pole line for 0.9 miles, from Willow Creek to Hoopa parallel to State Highway 96.

Splice boxes and barrel vaults necessary to connect fiber lines and allow future access to the buried facilities will be installed approximately every 4,000 feet, buried within the right-of-way (ROW) boundaries.

No hazardous materials will be used during, after construction or for maintenance of the fiber line as a dry utility. No water drafting or new road construction is required for equipment or helicopter staging or access.

The project will include installation of one 1.5-inch and two 1.25-inch buried conduits placed along the shoulder of existing roadways buried to a depth of about 42 inches, allowing 36 inches of cover. The network backbone will be primarily constructed via plowing and trenching conduit. All possible construction techniques to install the conduit are as follows:

- **Plowing.** Plowing involves a 2- to 3-inch wide blade that splits the ground to cut a narrow slit (4 to 6 inches wide) for the conduit to be inserted below ground. As the ground is cut, the conduit is installed at the desired depth by feeding it down a chute located on the back of the blade. As the tractor passes the insertion point, the ground is packed, restoring it to its original condition. This allows soil compaction to take place as the conduit is being installed as a seamless activity. Plowing creates minimal temporary disruption to the soil.
- **Trenching.** Locations inaccessible to plowing or characterized by excessive rockiness or fracture rock will be constructed using trenching machines, excavators, or backhoes. Soil disturbance from trenching is anticipated to be approximately 6 feet wide, depending on terrain type and accounting for side-cast material, and to a depth of up to 48 inches. The typical bucket size on a backhoe used for trenching will be 18 inches, up to a maximum of 24 inches.
- **Horizontal Directional Drilling.** Horizontal directional drilling is a steerable, trenchless method of installing underground conduits and cables along a prescribed bore path by using a surface drilling rig, making minimal impact only at the entrance and exit pits of the bore (bore pits would be a maximum of 10 feet wide by 10 feet long to allow for the entrance and exit of the bore). Once the drill reaches the terminus point, the conduit is attached to the drill and pulled in reverse through the bore hole without disturbing washes, roads, or other sensitive resources. No blasting will be required.

Construction techniques will be chosen based on project review and analysis; disturbance from construction, regardless of technique, will be within the boundaries of the ROW.

The last-mile segment of fiber optic line beginning in Willow Creek and ending in Hoopa will be aurally attached to existing utility poles. Only 0.9 miles of this will be across Forest Service lands. Road access will be by means of the existing pole line maintenance roads. No new ground disturbance will be required.

Project Design Features and Mitigation Measures

In order to minimize impacts to resources, the following project design features and mitigation measures are required in compliance with the Record of Decision for the Six Rivers National Forest Land and Resource Management Plan (LRMP; USDA 1995), including relevant standards and guidelines incorporated from the Record of Decision for the Northwest Forest Plan (USDA and USDI 1994), manual

and handbook direction and standard operating practices (applicable National Best Management Practices (BMPs)(USDA Forest Service 2012), and contract resource protection provisions:

Water, Aquatic and Riparian Resources

Riparian Reserves (RR)

- No equipment or vehicles will be permitted to operate where soils are saturated or within the wetted perimeter within the RRs¹, unless staged on existing roads and turnout areas, in adherence to all BMPs pertaining to containment and prevention of hazardous spills from reaching water bodies (for example, absorbent pads, drip pans and containment trays). Servicing of equipment will occur at existing staging areas located more than 25 feet from springs and wet areas. Drainage of existing staging areas will be directed and dispersed, so that rainfall flows away from streams and prevents direct delivery (AMM BIO-7).
- The use of existing staging areas located outside RR buffer may require surface shaping and drainage structures if needed to direct and disperse flow away from riparian reserves and prevent direct delivery to waterbodies. All heavy equipment operations require approved erosion control plans when working outside of the normal operating season (AMM BIO-7).
- Splice boxes and barrel vaults will be designed, constructed, and operated outside Riparian Reserves to eliminate adverse effects that retard or prevent attainment of objectives from the Aquatic Conservation Strategy (AMM BIO-7).
- Prior to construction, a qualified biologist will flag the boundaries of wetland resources delineated in the Preliminary Jurisdictional Delineation Report (Appendix F of the EA). Project infrastructure will be designed to avoid these resources, including coastal willow thickets. Where willow thickets and wetlands have been identified, construction of the alignment via the horizontal directional drilling (HDD) method is required. During construction, crews will stage construction outside of the flagged areas. Manholes, handholes, and boring pits will be placed outside the flagged areas, at least 50 feet from wetland boundaries (AMM BIO-5).
- Contractor vehicles, equipment, tools, boots, and clothing will be cleaned inside and out prior to mobilization of Project segments to limit the introduction on non-native species and pathogens (e.g., Port Orford cedar root fungus) on the Project corridor, including in areas potentially affected by recent wildfire. Cleaning will occur prior to mobilization of the Project and when a work crew will move between project segments (AMM BIO-9)
- Additional invasive species protection measures will apply on federal lands along Segment 7 between Berry Summit and the mouth of Willow Creek; along Segment 8 between Mayfair Street and Brannan Mountain Road; and along Segments 11 & 12 between South Fork and Hennessey Roads (AMM BIO-9). These additional measures include:
 - Exterior cleaning will consist of washing vehicles and equipment at an off-site location, with attention paid to the tracks, feet, and/or tires and on the undercarriage, with special emphasis on axles, frame, cross members, motor mounts, and on and underneath steps, running boards, and front bumper/brush guard assemblies. Vehicle cabs will be swept out, and refuse will be disposed of in waste receptacles to be disposed of at an approved off-site location. Hand tools and boots will be washed and clothing laundered. The Contractor will inspect vehicles, equipment, tools, boots, and clothing to ensure that they

¹ Riparian Reserves: Defined as 320 feet either side of the channel or the outer edge of the 100 year floodplain or from the edge of the active channel to the top of the inner gorge, which ever is greater.

are free of soil and debris capable of transporting non-native vegetation seeds, roots, or rhizomes. Seeds and plant parts that result from the cleaning will be collected and bagged for disposal at an approved off-site location. If noxious or invasive weeds are within the Construction Corridor, vehicles will be cleaned before moving on to areas that are weed free or any location affected by wildfire.

- Contractors will avoid or minimize all types of off-road travel that may result in the collection and dispersion of non-native vegetation by construction vehicles and equipment.
- Activity boundaries, including equipment staging and parking areas, shall avoid known noxious plant infestation. If unavoidable, prior to implementation of operations where invasive plants are present, invasive plant-infestations shall be bladed away from equipment and access routes before operations start. Removed invasive plants or shrubs should be located on the edge of the clearing out of the way of operations to avoid retrieval on equipment. Equipment/machinery shall be cleaned prior to leaving the infested area to operate in another non-contiguous area. Activity boundaries shall avoid areas recently burned by wildfire to the extent possible.
- Prior to construction occurring at staging areas and where ground disturbing activities will take place on USFS and NPS lands, a botanist will consult invasive plant spatial data (i.e., NRIS, CALIPC/Calfora invasive plant layers, and available federal agency data), survey for invasive plants, document invasive species present and prescribe site-specific measures.
- Rock, sand, or any material used for soil erosion control shall originate from a certified weed-free source if available. Rock source shall be inspected by staff trained in invasive plant identification. Permittee shall provide documentation that material is weed free. (see <https://www.cal-ipc.org/solutions/prevention/weedfreeforage/> and <https://www.cal-ipc.org/solutions/prevention/weedfreegravel/> for more information about weed-free erosion control and aggregate sources).

Fisheries

To minimize effects on aquatic species, the following design features will be implemented²:

- Coordinate with SRNF fisheries biologists to restrict sidecasting and ground disturbance to minimize potential for offsite sediment input into stream channels.
- Avoid disruption of natural hydrologic flow paths, including diversion of streamflow and interception of surface and subsurface flow.
- Implement Forest Service BMPs outside of fish bearing.
- Conduct operations at water source developments in such a manner and timing as to avoid and minimize adverse effects to aquatic species and habitat from sedimentation.
- Splice boxes and barrel vaults will be designed, constructed, and operated outside Riparian Reserves to eliminate adverse effects that retard or prevent attainment of objectives from the Aquatic Conservation Strategy.

² See additional measures in AMM BIO-14 in Appendix G of the EA/ISMND

Heritage

It is anticipated that no historic properties will be affected by this project, as clearance conditions for inadvertent discoveries shall be followed in such instances:

- The *Hlel-din Preservation Plan*, which was approved by the SRNF, Caltrans Districts 1 and 2, the Hoopa Valley Tribe, and the Tsnungwe Council will be followed during implementation in the Hlel-din area. The plan is appended to the Cultural Resource Inventory Report.
- Cultural monitors shall be present during implementation to avoid any damages to known sites.
- In the event that cultural resources are discovered during implementation, all work in the area shall cease and the Forest Heritage Program Manager shall be notified immediately.
- Should inadvertent effects to or unanticipated discoveries of human remains be made on Region 5 lands, the County Coroner [California Health and Safety Code 7050.5(b)] shall be notified immediately. If the remains are determined to be Native American or if Native American (Indian) cultural items pursuant to NAGPRA are uncovered, the provisions of NAGPRA and its regulations at 43 CFR 10 and ARPA at 43 CFR 7 shall be followed on federal lands [Stipulation 7.9 (a)].

Improvements

- Forest Service and Caltrans signs are to be protected when installing the fiber optic line in the State Highway right-of-way.

Invasive Plants

Invasive Species

In compliance with Forest Service Manual Direction (2081.03) for any ground-disturbing action, control measures shall be undertaken prior and during project implementation³ to reduce the risk of invasive plant species introduction and spread including:

- Actions conducted or authorized by written permit by the Forest Service operating on and outside the road prism will require cleaning of all heavy equipment (tractor, skidders, graders, etc.), prior to entering National Forest System Lands.
- Avoid using or staging equipment where there is a risk of contact with invasive plants if feasible. If unavoidable, prior to implementation of operations where invasive plants are present, blade invasive plant-infestations away from equipment and access routes before operations start. Invasive plants or shrubs removed should be located on the edge of the clearing out of the way of operations to avoid retrieval on equipment.
- Where feasible, apply progression of work which prioritizes ROW segments and staging equipment where settings are relatively “invasive-plant free” before operating where invasive plant cover is high.

Soils

The project meets Veg-2 BMPs through adherence to quantitative standards and guides set in the Six Rivers Land Management Plan. The project specifically meets Veg-2 BMPs by limiting percent area of soil disturbance by using existing pre-disturbed staging areas and setting conditions and requirements for applying ground cover and erosion structures.

³ See AMM BIO-9, Invasive Species Prevention, in Appendix G of the EA/ISMND.

Equipment shall not be operated when ground conditions are such that an immediate threat of damage to National Forest resources will occur (such as potential excessive soil displacement). Operations will be suspended by delegated Forest Service personnel if monitoring reveals an immediate threat of damage to National Forest resources.

Wildlife

The project will not degrade or remove potential threatened, endangered, and sensitive species habitats.

- Noise-generating activities that occur within or adjacent to suitable northern spotted owl nesting/roosting (N/R) habitat has the potential to disturb nesting owls. To avoid disturbance, limited operating periods will be imposed within 0.25 miles of active activity centers (ACs) from February 1 through July 31. A limited operating period (LOP) of February 1 to July 9 will be imposed on loud noise-generating actions within 500 feet of suitable northern spotted owl N/R habitat at work areas adjacent to SR 299 (which has high ambient noise levels) or within 0.25 miles of unsurveyed but suitable N/R habitat at work areas not adjacent to SR 299. Specifically, when the LOP is in effect in the aforementioned areas, no work activities will take place that generate sound levels 20 or more decibels above ambient sound levels or that generate maximum sound levels (ambient sound level plus activity-generated sound level) above 90 decibels (excluding vehicle back-up alarms). LOPs may be lifted in project areas with high ambient noise (e.g., adjacent to high-use roads, campgrounds, etc.) or in areas where occupancy is unlikely after review and concurrence by the Level 1 Team. See AMM BIO-11, Northern Spotted Owl, in Appendix G of the EA/ISMND

This action is categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA) per *36 CFR 220.6(d), Category 12*; Issuance of a new authorization or amendment of an existing authorization for special uses that occur on existing roads or trails, in existing facilities, in existing recreation sites, or in areas where such activities are allowed. (*42 U.S.C. 4321*). I find that there are no extraordinary circumstances that will warrant further analysis and documentation in an EA or EIS. I considered information disclosed in the *Final Environmental Assessment/Initial Study Mitigated Negative Declaration (EA/ISMND)* for the Digital 299 Broadband Project, including all appendices and supporting documentation, incorporated by reference into this decision document (*40 CFR 1502.21*). I took into account resource conditions identified in agency procedures that should be considered in determining whether extraordinary circumstances might exist:

- **Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species** – In accordance with Section 7(c) of the Endangered Species Act, Biological Assessments have been completed for threatened, endangered, and proposed (TEP) species known or suspected to occur within the project area. In accordance with Forest Service Manual 2670, Biological Evaluations have been completed for all Forest Service Sensitive Species. Potential effects of this decision on TEP and sensitive species have been analyzed and documented in Biological Assessments/Evaluations for fish, wildlife, and botany.

Wildlife: This project may affect but is not likely to adversely affect the northern spotted owl (NSO) due to noise disturbance. A limited operating period (LOP) may be applied to prevent disturbance during the NSO breeding season within 500 feet of suitable NSO nesting/roosting habitat along SR 299 and within 0.25 miles of suitable nesting/roosting habitat for work areas not along SR 299. The US Fish and Wildlife Service concurred with these determinations.

The project may impact individuals but is not likely to result in a trend toward Federal listing or loss of viability of the Pacific fisher due to minor modification, limited to 70 acres of foraging habitat, to maintain current habitat function in all treated areas. Therefore, this project

will have no impact on any other Forest Service Sensitive species.

Fish: This project is limited in scope and does not retard or prevent the attainment of the ACS objectives and does not affect any TEP fish or their habitats in localized tributaries or downstream.

Taking all analysis into consideration, at the ESA action area scale, it is the determination of the fisheries biologist that operations will have No Effect on NC steelhead trout or its designated CH. The project will have No Effect on Forest Service sensitive aquatic species. The National Marine Fisheries Service concurred with these determinations.

Plants: Surveys for Sensitive vascular and non-vascular species were conducted in potential habitat for Sensitive species in April, May, and June 2019, and again in the spring and early summer of 2021 and 2022. Surveys focused upon settings within the respective units that supported mature forest—typically mid-mature to late-mature, with or without previous harvest. As a result of the surveys, no Sensitive species were detected.

- **Flood plains, wetlands, or municipal watersheds** – There are no flood plains or wetlands within the project area. The project through the Six Rivers is within the Trinity River watershed. The main portion of the project through the Six Rivers is within the State Highway 299 corridor. The line will be plowed, trenched and or drilled in the shoulder of the highway. Where the highway crosses riparian ways by means of a bridge, the fiber optic cable will be attached to the bridge where possible. The branch of the fiber optic line going from Willow Creek to Hoopa will be attached to existing utility poles. There will be no new ground disturbance created in constructing the aerial portion of the line. The construction process will abide by Forest Best Management Practices during this installation. Therefore, I find my decision complies with the Clean Water Act, Porter-Cologne Water Quality Control Act, applicable water quality control plans, and the Regional Board waiver (Order No. R1-2015-0021).
- **Congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas** – There are no congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas within the project area. Therefore, my decision will have no effect on these resources.
- **Inventoried roadless areas or potential wilderness areas** – There are no inventoried roadless areas or potential wilderness areas within the project area. Therefore, my decision will have no effect on these resources.
- **Research natural areas** – There are no research natural areas within the project area. Therefore, my decision will have no effect on these resources.
- **American Indians and Alaska Native religious or cultural sites** – No religious or cultural sites are known to be present within the project area. In 2018, cultural resources surveys were completed. On August 31, 2018, tribal consultation was initiated by Six Rivers National Forest with the federally recognized and non-federally recognized tribes. No concerns have arisen in relation to this project.
- **Archaeological sites, or historic properties or areas** – A Cultural Resources Inventory Report was prepared utilizing the *Programmatic Agreement Among the USDA Forest Service, Pacific Southwest Region (Region 5), California State Historic Preservation Officer, Nevada State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Processes for Compliance with Section 106 of the National Historic Preservation Act for Management of Historic Properties by the National Forests of the Pacific Southwest Region*

(2013). On October 5, 2022, the California State Historic Preservation Officer (SHPO) concurred with the Six Rivers' finding that there will be no adverse effect to archaeological sites, historic properties or areas from implementing this project.

PUBLIC INVOLVEMENT

On April 15, 2019, the Six Rivers National Forest mailed tribal letters to initiate government to government communications with the federally recognized Tsungwe and Hoopa tribes. A cultural resource protection plan was developed as a result of consultation and shall be followed during implementation of the project.

On July 15, 2019, a Scoping notice letter was mailed to interested parties and the proposal was published on the Schedule of Proposed Actions on the website for the Six Rivers National Forest (SRNF), indicating the proposal for lands administered by the SRNF would be categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA) per 36 CFR 220.

Public and agency scoping occurred for Digital 299 in summer 2019, including four public meetings and mailings on the overall multi-agency/multi-forest proposal. Comments were collected for a period of over 30 days and were considered and incorporated in the EA/ISMND. Project update notices were mailed to the public in December 2021, a public notice was published in the *Redding Record Searchlight*, and the draft EA/ISMND was circulated for public review in January 2022. The draft EA/ISMND was posted on the CPUC, STNF, and BLM websites, and was submitted to the State Clearinghouse for publication on CEQAnet. Additionally, physical copies of the EA/ISMND were made available for public review at four community centers along the route. Comments were again collected for a period of over 30 days and were considered and incorporated into the final NEPA/CEQA document, incorporated by reference for the SRNF, as information that was reasonably available to the public.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

This decision is consistent with the goals, objectives, and management direction of the 1995 SRNF LRMP and Record of Decision (ROD).

The Federal Land Policy and Management Act of October 21, 1976, the National Environmental Policy Act of 1970, and the National Forest management Act of 1976, combined give the Forest Service the authority and responsibility for protection of resources and management of National Forest System lands. This action is in accordance with NEPA Implementation Regulations, 40 CFR 1501.2.

Aquatic Conservation Strategy: The action was designed to meet and implement the Aquatic Conservation Strategy (ACS) by maintaining water quality and protecting Riparian Reserve vegetation with the application of best management practices to minimize erosion and potential for sedimentation.

Endangered Species: Informal Section 7 consultation has been completed with the US Fish and Wildlife Service and the National Marine Fisheries Service, and concurrence letters have been received from both agencies on an overall determination of not likely to adversely affect (NLAA) listed species.

Clean Water Act. The project will be conducted in accordance with requirements of the Clean Water Act, Porter-Cologne Water Quality Control Act, applicable water quality control plans, and the North Coast Regional Water Quality Control Board waiver of waste discharge requirements. A waiver application will be filed after the decision is signed.

Clean Air Act. The project will be conducted in accordance with the Clean Air Act, the conformity provisions of the Clean Air Act, California's Title 17 (Smoke Management Guidelines for Agricultural

and Prescribed Burning), and local air pollution control district regulations. The amount of emissions from heavy equipment is predicted to be short term, minor and easily dispersed.

Tribal Government Consultation. The Federal government has trust responsibilities to Federally Recognized Tribes. Formal governmental consultation took place with local Tribes to identify their interests, concerns, and issues. The requirements set forth by Section 106 of the National Historic Preservation Act of 1966, as amended, have been met by following the stipulations included in the 2013 Programmatic Agreement among the USDA Forest Service, Pacific Southwest Region (Region 5), California State Historic Preservation Officer, Nevada State Historic Preservation Officer, and The Advisory Council on Historic Preservation Regarding the Processes for Compliance with Section 106 of the National Historic Preservation Act for Management of Historic Properties by the National Forests of the Pacific Southwest Region. No effect to historic properties is anticipated.

ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES

The Forest Service no longer offers notice, comment or appeal opportunities pursuant to 36 CFR 215 for categorically excluded projects.

IMPLEMENTATION DATE

Operations would commence in late 2022 or early 2023.

In the absence of a lead NEPA agency, the Six Rivers National Forest staff are formalizing agency roles and responsibilities on the project.

CONTACT

For additional information concerning this decision, contact: For more information, please contact George Frey at (707) 441-3631 or george.frey@usda.gov.

Kari Otto
Acting Forest Supervisor
Six Rivers National Forest

Date

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