

ATTACHMENT D – STAFF REPORT

File Number:	PLASAR-17-06-0009
Applicant:	Zayo Group (James Crooker)
Owners:	Wasco County
Request:	Scenic Area Review to install approximately 8.7 miles of underground fiber-optic telecommunications line in the rights-of-way of Highway 206, Old Moody Road, Fifteenmile Road and Chenoweth Road. The request includes the placement of conduit to contain the fiber optic line and up to 36 underground vaults for maintenance.
Decision:	Approved with Conditions
Decision Date:	November 9, 2017
Appeal Deadline:	November 27, 2017
Location:	<p>There are three locations for the project:</p> <ol style="list-style-type: none">(1) <u>Eastern Section</u>: Beginning at the center of the Deschutes River Bridge on Highway 206 west to Old Moody Road; Old Moody Road west through Heritage Park Landing State Park to a point located approximately 1.2 miles north of the intersection of Old Moody Road/Fifteenmile Road;(2) <u>Central Section</u>: Beginning on Fifteenmile Road, approximately 0.3 mile west of the intersection of Fifteenmile/Lower Eightmile Roads and extending west for 1 mile; and(3) <u>Western Section</u>: Beginning at the western Urban Area of The Dalles, Oregon (near Irvine Street W) on W 10th Street, extending west along W 10th Street for approximately 1.5 miles. <p>The project area is located entirely within the right-of-way of Highway 206, Old Moody Road, Fifteenmile Road and Chenoweth Road.</p>
Zoning:	A-1(40) and A-1(160), Large Scale Agriculture, A-2(40), Small Scale Agriculture, R-R(1)/R-R(2)/R-R(10), Rural Residential, O-S, Open Space, and P-R, Public Recreation, in the General Management Area of the Columbia River Gorge National Scenic Area
Past Actions:	Two permits have been issued by the Wasco County Public Works Department (PWUTIL-17-04-0004 (install UG fiber optic line); PWUTIL-17-06-0008 (install fiber optic along Chenoweth Creek & Ketchum Road)). There are no past planning actions on file.

Procedure Type: Administrative

Prepared By: Dawn Baird, Associate Planner

I. APPLICABLE STANDARDS

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. Chapter 3 – Basic Provisions

Section 3.110, Expedited Review

Section 3.110.D.17, Uses Permitted Subject to Expedited Review – New Underground Utilities

Section 3.160.G., Property Development Standards

B. Chapter 11 – Fire Safety Standards

Section 11.110, Siting Standards

Section 11.120, Defensible Space

Section 11.130, Construction Standards for Dwellings and Structures

Section 11.140, Access Standards

Section 11.150, Fire Protection or On-Site Water Required

C. Chapter 14 – Scenic Area Review

Section 14.100, Provisions for all new development

Section 14.200, Key Viewing Areas

Section 14.300, Scenic Travel Corridors

Section 14.400, Landscape Settings

Section 14.500, Cultural Resources – GMA

Section 14.600, Natural Resources – GMA

Section 14.700, Recreation Resources - GMA

Section 14.800, Indian Tribal Treaty Rights and Consultation – GMA

I. BACKGROUND

A. Legal Parcel: The proposed development will not take place on any public or private property but will be entirely contained within public road right-of-way.

B. Site Description: The project involves installation of fiber optic lines/conduits/vaults in three separate areas, two located east of The Dalles and one located west of The Dalles. The Eastern Section begins at the eastern line of Wasco County, in the center of the Deschutes River Bridge at an elevation of approximately 85' Above Sea Level (ASL). This route travels west along Highway 206 (Celilo-Wasco Highway), a State highway, and travels through Heritage Landing State Park on old Moody Road (County road), then turns to the west and continues to the top of Old Moody Road, an elevation of

approximately 800' ASL. The project area continues west to a point approximately 4.8 miles west of the Deschutes River where Old Moody Road turns to the south and exits the National Scenic Area. Highway 206 and Old Moody Road located west of Heritage Landing State Park is paved for approximately 0.4 mile, then turns to gravel. The Central Section of the project area is located 0.5-1.5 mile east of The Dalles along Fifteenmile Road, a 2-lane paved road. The Western Section is located west of the City of The Dalles. It begins at the western edge of the Urban Growth Boundary on West Tenth Street and travels west to the National Scenic Area Boundary, just past McDonald Way. West Tenth Street turns into Chenowith Creek Road. West Tenth/Chenowith Creek Roads are paved County roads.

- C. Surrounding Land Use:** The project area travels primarily through farming areas (wheat, cattle, primarily east of The Dalles) and residential areas (west of The Dalles), however it also crosses a bridge and travels through Heritage Landing State park.
- D. Public Comment:** Notice of Administrative Action was mailed on July 6, 2017, to all owners of property within 200' of the subject parcel, the U.S. Forest Service - Columbia River Gorge National Scenic Area Office, Columbia River Gorge Commission, and other interested parties registered with Wasco County. This notice provided a 15-day pre-notice for public comment (July 21, 2017). Notice was also sent to the Oregon State Historic Preservation Office (SHPO), and the four Columbia River Treaty Tribe Indian tribal governments on July 6, 2017. The cultural resource reconnaissance survey was sent to SHPO and the tribes on July 6, 2017, and a 20-day comment period was given (July 26, 2017). Comments were received from the Confederated Tribes of Umatilla, and other public agencies:

(October 27, 2017) John Pouley, M.A., RPA, Assistant State Archaeologist, State Historic Preservation Office (SHPO)

Concur that the project will likely have no effect on any significant archaeological objects or sites, provided the recommendations in the report for avoidance are followed.

Staff Response: Cultural resources are addressed in Section 14.500.

(September 21, 2017) Holly Shea, Archaeologist, Cultural Resources Protection Program, Confederated Tribes of the Umatilla Indian Reservation

In order to ensure that no cultural resources are affected by the project, a cultural resource monitor must be present during project activities on Chenoweth Road.

Staff Response: Cultural resources are addressed in Section 14.500.

(September 20, 2017) Chris Donnermeyer, Heritage Resources Program Manager, Columbia River Gorge National Scenic Area, REVISED Cultural Resources Survey Determination

- A cultural resource reconnaissance survey has been completed and report in "Cultural Resource Survey of the Chenoweth Rod and 15 Mile Road Project Areas, Wasco County, Oregon" by Andrew Frierson, Alexander New, and David Harder from Plateau Archaeological Investigations, LLC (Plateau). Concurs with the

assessment of “No historic properties affected” with avoidance of archaeological site.

- Recommends conditions be placed in case historic or prehistoric cultural materials are discovered during development.

Staff Response: Cultural and historic resources are addressed in Section 14.500.

(July 17, 2017) Steven D. McCoy, Staff Attorney, Friends of the Columbia Gorge

Mr. McCoy cited various review criteria and application requirements and stated that conditions of approval must be recorded.

Staff Response: All applicable criteria and Friends of the Columbia Gorge concerns are addressed throughout this report.

(July 12, 2017) Laura A. Loop, PMP, Realty Specialist, U.S. Department of Energy, Bonneville Power Administration

No comments but requests the applicant submit a separate BPA Land Use Application for review, to help ensure public safety and reliable operation of BPA’s facilities. BPA does not support approval of the request until a BPA Land Use Application is submitted, reviewed and approved, with a subsequent Letter of Consent issued to the Applicant.

Staff Response: The BPA letter was forwarded to the applicant.

(July 6, 2017) Jeremy Thompson, Oregon Department of Fish & Wildlife

This project is within the already established road right-of-way. There will be no adverse effects to any wildlife or habitats from this project.

Staff Response: Natural resources are addressed in Section 14.600.

(July 6, 2017) Robin Dobson, U.S. Forest Service – NSA Office

No problem with this proposal as long as they remain within the road right-of-way as described.

Staff Response: Natural resources are addressed in Section 14.600.

(July 6, 2017) Sue Vrillakas, Oregon Biodiversity Center, Portland State University

No problem with this proposal as long as they remain within the road right-of-way as described.

Staff Response: Natural resources are addressed in Section 14.600.

II. FINDINGS:

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. Chapter 3 - Basic Provisions,

Section 3.110, Expedited Review

A. Uses Permitted Subject to Expedited Review

The following developments may be allowed on a legal parcel subject to the expedited development review process listed in Chapter 2, provided they comply with the resource protection and procedural guidelines listed below.

17. New underground utility facilities, except in Agriculture Special, located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no ditch for linear facilities would be more than 36 inches wide and no excavation for non-linear facilities would exceed 20 cubic yards.

FINDING: The request is for a Scenic Area Review to install approximately 8.7 miles of underground fiber-optic telecommunications line in the rights-of-way of Highway 206, Old Moody Road, Fifteenmile Road and Chenoweth Road. The applicant submitted a description of the project described below:

The fiber-optic line installation will include one 1.25" conduit containing fiber-optic cable and three empty 1.25" conduits to be used for future maintenance or supplementation. The proposed fiber-optic conduits will be installed on average 42" below the surface of existing road rights-of-way. The related infrastructure that is proposed is limited to a maximum of 36 vaults of two sizes (40 3/8" x 28 3/4" x 36", and 52 1/2" x 34 3/4" x 36"). Vault details are included in the application with the site plans. All work will occur within pre-disturbed road rights-of-way.

- *Deschutes River Bridge Crossing: The route will cross the Deschutes River in a 6" ballistic fiberglass conduit attached to the Deschutes River Bridge. The applicant has received permission from the Oregon Department of Transportation (ODOT) to attach the conduit.*
- *Chenoweth Creek Bridge Crossing: The route will cross below Chenoweth Creek in a 1.25" innerduct located a minimum of 10' below the scour depth of Chenoweth Creek. A fish passage permit from Chenoweth Creek work has been approved by the Oregon Department of Fish & Wildlife (ODFW).*

Though the use is allowed as an Expedited Review it is in an area with a high likelihood of cultural resources, therefore the request is subject to a full Scenic Area Review (Chapter 14).

Chapter 10 – Fire Safety Standards is addressed in B.

Chapter 14 – Scenic Area Review is addressed in C.

B. Expedited Development Review Process

Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

*(***)*

2. Cultural

- a. *The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey. The cultural resources in Section 14.500 shall be used to determine if a reconnaissance and/or historic survey is required for a proposed development.*

FINDING: Though the use is allowed as an Expedited Review it is in an area with a high likelihood of cultural resources, therefore the request is subject to a full Scenic Area Review (Chapter 14).

Section 3.160, R-R, Rural Residential Zone

Section 3.160.G., Property Development Standards

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- 2. *General Setbacks - all structures other than approved signs and fences shall comply with the following general setback standards:*

Front Yard	25'
Side Yard	25'
Rear Yard	40'

- 3. *Agricultural Setbacks - In addition to the general setback standards listed in criterion 2 above, all new buildings to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use, shall comply with specific setback standards:*

FINDING: The proposed development will be located in the rights-of-way of existing public roads to provide a public regional communication network. Collocation of public services and utilities is a standard and accepted practice for public utility transmission lines, both above and below ground. Application of setback requirements to utility facilities located in the road right-of-ways would necessitate the acquisition of larger right-of-way widths for all public facilities, resulting in unnecessary loss of resource and agricultural lands and increased costs for utilities. Setback standards were not intended to apply to underground public utilities in the right-of-way of a public road and staff finds that Criteria 2. and 3. are not applicable to the request.

- 4. *Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.*

FINDING: With the exception of the bridge crossings across the Deschutes River and Chenoweth Creek, the road rights-of-way involved in this request are not located within an

identified floodplain. These bridges are identified as being within a FEMA designated flood zone, however the proposed fiber optic lines will be contained in an existing conduit and will not change flooding potential on these bridges. The request is deemed to be reasonably safe from flooding and is not subject to Section 3.240, Flood Hazard Overlay Zone. Staff finds that the request complies with Criterion 4.

5. *Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 - Scenic Area Review.*

FINDING: The proposed fiber optic conduits will be buried approximately 42” underground and all vaults will be even with the natural grade and will not be above ground therefore staff finds that the request complies with Criterion 5.

6. *Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.*

FINDING: The subject parcel is not located on a corner lot therefore Criterion 6. is not applicable to this request.

7. *Parking - Off street parking shall be provided in accordance with Chapter 4.*

FINDING: Chapter 4, Section 4.040, Off-Street Parking, applies to parcels of land and proposed uses. The current request will not occur on private or public “parcels” but within existing public road rights-of-way therefore Criterion 7. is not applicable to this request.

B. Chapter 11 – Fire Safety Standards

- Section 11.110, Siting Standards – Locating Structures for Good Defensibility*
- Section 11.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break*
- Section 11.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure*
- Section 11.140, Access Standards – Providing Safe Access to and Escape From Your Home*
- Section 11.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response)*

FINDING: The Fire Safety Standards, adopted by the Wasco County Court and effective February 5, 2007, require property owners to be aware of potential fire risks in areas outside of urban areas of Wasco County, and requires compliance with siting standards, fuel break requirements, construction standards, access standards, and on-site water storage requirements.

As part of a complete application, the applicant completed a Fire Safety Standard Self-Certification Form. By signing the self-certification form, the owners have acknowledged that they understand these standards and commit to achieve compliance with them within one year

of the date of approval and maintain them through the life of the development. This certification further commits all future property owners to this same requirement. A copy of this self-certification form is available for inspection at the Wasco County Planning Department under File PLASAR-17-06-0009. A **condition** of approval stating this is included in the Notice of Decision.

The project areas are within four road rights-of-way. Upon completion of the fiber optic conduits and vaults each road right-of-way will be restored to its previous state. Because the finished project will be located entirely underground it is considered to be fire resistant. To ensure the right-of-way is properly restored, the applicant shall obtain a Utility Permit from the Wasco County Public Works Department prior to any ground disturbance. A **condition** of approval stating this is included in the Notice of Decision.

The western and central portions of the project are located within the boundaries of Mid-Columbia Fire & Rescue. The eastern portion of the project area is located within the Columbia Rural Fire Protection Department, a volunteer organization.

Access to each of the three project areas is via Oregon State Highway or Wasco County Public Road.

Staff finds that the request complies with Chapter 11 – Fire Safety Standards.

C. Chapter 14 – Scenic Area Review

Section 14.100, Provisions For All New Development (GMA & SMA)

- A. All new development, except uses allowed through the expedited review process, shall be reviewed under the applicable sections of Key Viewing Areas, Scenic Travel Corridors, Landscape Settings, Natural Resources, Cultural Resources, and Recreation Resources.*

FINDING: The following applicable sections of Chapter 14 are addressed below: Section 14.200, Key Viewing Areas, Section 14.300, Scenic Travel Corridors, Section 14.400, Landscape Settings, Section 14.500, Cultural Resources – GMA, Section 14.600, Natural Resources – GMA, Section 14.700, Recreation Resources – GMA, and Section 14.800, Indian Tribal Treaty Rights and Consultation – GMA.

- B. New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.*

FINDING: The request is to place 8.7 miles of underground fiber optic cable/conduit and underground vaults within existing public road rights-of-way. No new buildings or roads are proposed. Temporary trenching within the right-of-way is necessary to bury the conduit and construct the vaults. The width of surface disturbance for the fiber optic cable/conduit will range from 6”-24”. Each of the proposed 36 (maximum) vaults will require approximately 0.7

cubic yards of excavation and will be no wider than 60.5" (5'5"). A total of 25.2 cubic yards of excavation will be required for the 36 vaults throughout the entire project area.

The applicant states that all excavated materials within the project area will be compacted on-site. There will be no net gain or loss of excavated soils.

There are no alternative sites for the new development that would better retain the existing topography and minimize grading activities to the maximum extent practicable. Staff finds that the proposed development will retain existing topography and minimize grading activities to the maximum extent practicable. Staff finds that the request complies with Criterion B.

- C. New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.*

FINDING: The request is to place underground fiber-optic cable/conduit and vaults along existing road rights-of-way. This is similar to other existing utilities such as telephone, television, natural gas and electrical lines therefore the new development is compatible with the general scale of existing nearby utilities. Staff finds that the request complies with Criterion C.

- D. Unless expressly exempted by other provisions, colors of all exterior surfaces of structures on sites not visible from Key Viewing Areas shall be earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.*

FINDING: The proposed placement of fiber optic cable/conduit and vaults will be underground with the exception of the vault covers and the Deschutes River Bridge. Vault covers will be gray with a matte finish. The covers will blend into the existing road surface and will not be seen from KVAs. A new black-colored conduit will be placed on the southern side of the Deschutes River Bridge. All visible colors will be earthtone colors that blend with the surrounding area. Colors are further discussed in Criterion I. Staff finds that the request complies with Criterion D.

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- F. Outdoor lighting shall be directed downward, sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River as well as preventing the lighting from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting. Shielding and hooding materials shall be composed of nonreflective opaque materials. There shall be no visual pollution due to the siting or brilliance, nor shall it constitute a hazard for traffic.*

FINDING: There is no proposed outdoor lighting in conjunction with the request. Underground utilities do not require outdoor lighting therefore Criterion F. is not applicable to this request. However, in the event outdoor lighting is needed for the installation of the fiber optic cable, a **condition** of approval is included in the Notice of Decision advising the applicant that outdoor lighting must be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and waterways. Shielding and hooding materials shall be composed of nonreflective, opaque materials. With the proposed **condition**, staff finds that the request complies with Criterion F.

G. All ground disturbance as a result of site development shall be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation, and replacement of such vegetation that does not survive.

FINDING: The majority of the development area is graveled and does include the disturbance of vegetation. A **condition** of approval is included in the Notice of Decision requiring restoration of all disturbed areas to their previous condition. All ground disturbance, including rights-of-way and vegetation disturbance, shall be restored within 30 days of completion of each section. With the proposed **condition** of approval, staff finds that the request complies with Criterion G.

H. Except as is necessary for site development or fire safety purposes, the existing tree cover screening the development area on the subject parcel from Key Viewing Areas and trees that provide a back drop on the subject parcel which help the development area achieve visual subordination, shall be retained. Additionally, unless allowed to be removed as part of the review use, all trees and vegetation within buffer zones for wetlands, streams, lakes, ponds and riparian areas shall be retained in their natural condition. Any of these trees or other trees required to be planted as a condition of approval that die for any reason shall be replaced by the current property owner or successors in interest no later than the next planting season (Oct-April) after their death with trees of the same species or from the list in the landscape setting for the property.

To ensure survival, new trees and replacement trees shall meet the following requirements

- 1. All trees shall be at least 4 feet tall at planting, well branched, and formed.*
- 2. Each tree shall be braced with 3 guy wires and protected from livestock and wildlife. The guy wires need to be removed after two winters.*
- 3. The trees must be irrigated until they are well established.*
- 4. Trees that die or are damaged shall be replaced with trees that meet the planting requirements above.*

FINDING: The project area is within public road rights-of-way and no trees are proposed to be removed. Staff finds that the request complies with Criterion H.

Section 14.200, Key Viewing Areas

The following is required for all development that occurs on parcels/lots topographically visible from Key Viewing Areas.

- A. *Each development and land use shall be visually subordinate to its setting in the GMA as seen from Key Viewing Areas. The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from Key Viewing Areas.*
 1. *Decisions shall include written findings addressing the factors influencing potential visual impact including but not limited to:*
 - a. *The number of Key Viewing Areas it is visible from;*
 - b. *The distance from the building site to the Key Viewing Areas it is visible from;*
 - c. *The linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads and the Columbia River);*
 - d. *The difference in elevation between the building site and Key Viewing Areas;*
 - e. *The nature and extent of topographic and vegetative back screening behind the building site as seen from Key Viewing Areas;*
 - f. *The amount of area of the building site exposed to Key Viewing Areas; and*
 - g. *The degree of existing vegetation providing screening.*
 2. *Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA as seen from key viewing areas, including but not limited to:*
 - a. *siting (location of development on the subject property, building orientation, and other elements);*
 - b. *design (color, reflectivity, size, shape, height, architectural and design details and other elements); and*
 - c. *new landscaping.*

FINDING: The project area consists of three sections: eastern, central and western. Each section is analyzed separately below.

The development sites are topographically visible from six Key Viewing Areas (KVAs): Rowena (Middleground), Highway 30 W (Foreground and Middleground), and Interstate 84 (Foreground and Middleground) in Oregon State; SR 142 (Middleground) and SR 14 (Middleground) in Washington State; and the Columbia River (Background).

Foreground is defined as being less than ½ mile from the subject parcel. Middleground is defined as ½-3 miles from the subject parcel. Background is defined as >3 miles from the subject parcel.

Section 14.200 is not applicable to portions of a KVA within an Urban Exempt Area (UA) identified by the Management Plan. The Urban Exempt Areas identified in this request are the city of The Dalles, Oregon, and the cities of Dallesport and Wishram, Washington.

Eastern Section (Old Moody Road/Highway 206): This portion of the development is visible from Interstate 84/Highway 30 W in Oregon (Foreground and Middleground) located approximately 330' to the north, State Route (SR) 14 in Washington (Middleground and Background) located approximately 1.9 miles to the north, and the Columbia River (Foreground and Middleground) located approximately 460' to the north. This portion of the project area is located at an elevation of approximately 80' above sea level (ASL) (Deschutes River Bridge, Highway 206, Heritage Landing State Park) and rises to approximately 760' as it travels along Old Moody Road to the west. Interstate 84 is located at an elevation of approximately 80'. S.R. 14 is located at an elevation ranging from 80-440' ASL north of the project area. The eastern section of the project area is approximately 5.7 linear miles long. Approximately 1 mile of the length of this section is not visible from KVAs based on topography. The primary factor in analyzing the visibility of the request is its underground location and the difference in elevation between the KVAs and the proposed development.

The land use designations (GMA, Large Scale Agriculture, Public Recreation and Open Space) and landscape setting (Grasslands and River Bottomlands) in the project area requires a scenic standard of visual subordination. Visual subordination is defined in Chapter 1 as "...the relative visibility of a structure...does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point. As opposed to structures which are fully screened, structures which are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings..."

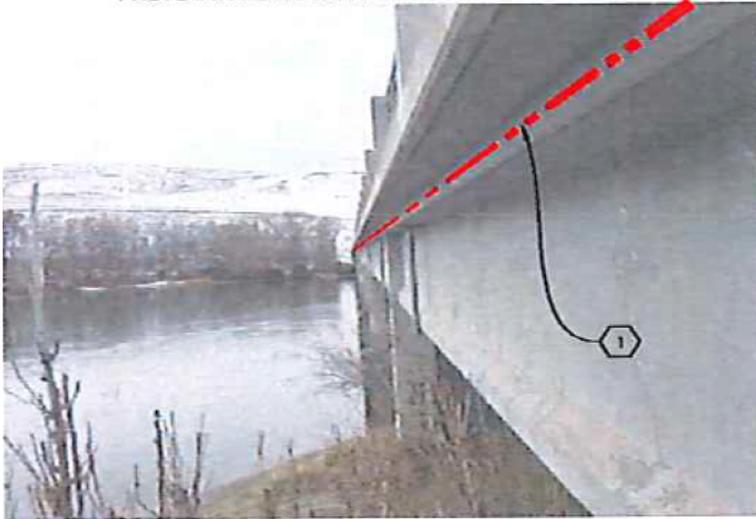
The eastern section of the fiber-optic project will be visually subordinate as seen from KVAs because the entire fiber-optic line and conduit will be located underground. In addition the vaults to support the fiber-optic line/conduit will be located underground with only its access panel at ground level. Based on the location of the project area, the eastern section of the request will be visually subordinate as seen from KVAs.

- **Chenoweth Creek Bridge:** The fiber optic line will cross underneath Chenoweth Creek in a 1.25" innerduct, located a minimum of 10' below the scour depth of Chenoweth Creek. The applicant received a Fish Passage Approval permit from the Oregon Department of Fish & Wildlife (ODFW). The approval was issued via e-mail on June 13, 2017, by Greg Apke, Statewide Fish Passage Program Leader, Oregon Department of Fish & Wildlife – Fish Division. The fiber optic cable will be installed using a directional boring technique that will result in a new fiber optic cable bored well below (10' vertical clearance minimum) the scour critical elevation of Chenoweth Creek.

- Deschutes River Bridge (see photo below): The fiber optic line will cross the Deschutes River in a 6" ballistic fiberglass conduit (black in color) attached to the Deschutes River Bridge on its southeastern side. The entire southern side of the bridge is not visible from any KVA therefore the new conduit will be visually subordinate as seen from KVAs.

Deschutes River Bridge

PHOTO #1: FACING WEST ON SOUTH EAST SIDE OF BRIDGE



Central Section (Fifteenmile Road): This portion of the development is visible from Interstate 84 in Oregon (Background) and Highway 30 West (Background) in Oregon and the Columbia River (Background). This portion of the project area is located at an elevation of approximately 360' above sea level (ASL). This section of the project area contains approximately 1.1 linear miles however approximately 0.4 mile of this linear distance is not visible from KVAs based on topography. I-84 and Highway 30 W are located at an elevation of approximately 80' and are visible from a distance of approximately 4.4 miles for approximately 2 linear miles. The river is located at an elevation of approximately 75' and is visible from a distance of approximately 2 miles for a linear distance of approximately 3 miles. The primary factor in analyzing the visibility of the request is its underground location and the difference in elevation between the KVAs and the proposed development and intervening city of The Dalles structural development.

The land use designations (Large Scale Agriculture and Residential) and landscape setting (Pastoral) in the project area requires a scenic standard of visual subordination. Visual subordination is defined in Chapter 1 as "...the relative visibility of a structure ...does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point. As opposed to structures which are fully screened, structures which are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings..."

The central section of the fiber-optic project will be visually subordinate as seen from KVAs because the entire fiber-optic line and conduit will be located underground. In addition the vaults to support the fiber-optic line/conduit will be located underground with only its access panel at ground level. Based on the location of the project area, the central section of the request will be visually subordinate as seen from KVAs.

Western Section (Chenoweth Road): This portion of the development is visible from I-84 (Background and Middleground) in Oregon, S.R. 14 (Background and Middleground) in Washington, and the Columbia River (Background). This portion of the project area is located at an elevation ranging from approximately 200'-480' above sea level (ASL) and contains approximately 1.6 linear miles. I-84 is located at an elevation of approximately 80' ASL and is visible from a distance of approximately 5.5 miles. Based on topography I-84 is visible for a linear distance of approximately 5 miles. The Columbia River is located at an elevation of approximately 75' ASL at a distance of approximately 5 miles and is visible for a linear distance of approximately 5 miles. S.R. 14 is located at elevations ranging from 120-600' ASL and visible from a distance of approximately 5.5 miles for 7 miles to the east of the City of Dallesport. Based on topography the entire length is visible from KVAs based on topography. The primary factor in analyzing the visibility of the request is its underground location, intervening topography (especially from S.R. 14) and City of The Dalles structural development.

- **Chenoweth Creek Bridge:** The fiber optic line will cross underneath Chenoweth Creek in a 1.25" innerduct, located a minimum of 10' below the scour depth of Chenoweth Creek. The applicant received a Fish Passage Approval permit from the Oregon Department of Fish & Wildlife (ODFW). The approval was issued via e-mail on June 13, 2017, by Greg Apke, Statewide Fish Passage Program Leader, Oregon Department of Fish & Wildlife – Fish Division. The fiber optic cable will be installed using a directional boring technique that will result in a new fiber optic cable bored well below (10' vertical clearance minimum) the scour critical elevation of Chenoweth Creek.

Chenoweth Creek Bridge



The land use designations (Large Scale Agriculture and Residential) and landscape setting (Oak Woodlands and Residential) in the project area requires a scenic standard of visual subordination. Visual subordination is defined in Chapter 1 as "...the relative visibility of a structure ...does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point. As opposed to structures which are fully screened, structures which are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings..."

The western section of the fiber-optic project will be visually subordinate as seen from KVAs because the entire fiber-optic line and conduit will be located underground. In addition the vaults to support the fiber-optic line/conduit will be located underground with only its access panel at ground level. Based on the location of the project area, the western section of the request will be visually subordinate as seen from KVAs.

Each project area will have construction equipment used for excavation and boring but will be temporary in nature. All excavation/boring equipment will be removed upon completion of the project and will have no long term impacts on scenic resources. A **condition** of approval is included in the Notice of Decision requiring all construction equipment to be removed from the project area upon completion of each section. This will ensure there is no long term storage of construction equipment.

Based on distance, intervening topography and structural developments, with the proposed **condition** of approval, the requested development will be visually subordinate as seen from all KVAs. Staff finds that the request complies with Criterion A.

B. New development shall be sited to achieve visual subordination from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, endemic and listed plants, sensitive wildlife sites or conflict with standards to protect cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable. (GMA Only)

FINDING: There are no buffers in the project areas for protection of wetlands, riparian corridors, endemic and listed plants, sensitive wildlife sites nor does the request conflict with standards to protect cultural resources. With **conditions** of approval throughout this report, the proposed development will be visually subordinate from all KVAs. Staff finds that the request complies with Criterion B.

C. New development shall be sited to achieve visual subordination utilizing existing topography, and/or existing vegetation as needed in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas.

FINDING: All of the proposed development is located in the General Management Area and is required to meet a scenic standard of “visually subordinate.” The requested fiber optic cable will be placed underground with the exception of vault covers which will be level with the existing road grade. The vault covers are approximately 2’ x 3’ (6 square feet). As discussed in Section 14.200.A. the majority of affected KVAs are located 5-10 miles from the project area. At this distance the vault covers cannot be distinguished from the road surface. On Highway 206 the vault covers may be visible but will blend with the roadway/shoulder surface and will achieve visual subordination. Staff finds that the request complies with Criterion C.

- D. Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.*

FINDING: The project will place underground lines/conduit/vaults underground. Trenches will be dug to place the lines and will be filled in and returned to its natural state (gravel). No cut banks or fill slopes will be created therefore no cuts or fills will be visible from KVAs. Staff finds that the request complies with Criterion D.

- E. The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. A variance in the General Management Area may be granted according to Chapter 6 if application of the guidelines would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height and site to comply with the criteria have been made.*

FINDING: The proposed development site is located entirely underground therefore it will remain below the skyline of a bluff, cliff or ridge as seen from this KVA. Staff finds that the request complies with Criterion E.

- G. Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized according to Chapter 6 of this Ordinance. In the SMA the setbacks described above shall be 200 feet.*

FINDING: At its closest point the proposed eastern project area is located 200' from the Columbia River except as it crosses the Deschutes River where the new fiber optic line/conduit will be attached to the southern side of the Deschutes River Bridge. The proposed central project area is located 0.70 mile from the Columbia River. The proposed western portion of the project area is located 1.4 mile from the Columbia. Staff finds that the request complies with Criterion G.

- H. New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. Variances to this guideline may be authorized according to Chapter 6 of this Ordinance if its application would render a property unbuildable. In determining the slope, the average percent slope of the proposed building site shall be utilized.*

FINDING: No new buildings are proposed therefore staff finds that the request complies with Criterion H.

- I. Unless expressly exempted by other provisions in this chapter, colors of all exterior surfaces of structures visible from Key Viewing Areas shall be dark earth-tones found*

at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.

FINDING: The request is to install approximately 8.7 miles of fiber optic line/conduit and up to 36 underground vaults in three separate locations in the NSA. All work will be placed underground with the exception of the vault covers and bridges. The covers will be at ground level. The project areas are visible from KVAs. Staff spoke with the applicant regarding the color of the vault panels (covers). The panels are available in a limited number of colors, none which meet the definition of dark earth-tone colors. The applicant chose a gray panel cover because it is nearly the same color as the road shoulder's gravel surface. This color will blend into the surrounding landscape and will maintain visual subordination. A **condition** of approval is included in the Notice of Decision requiring the use of gray panel covers for all of the vaults.

The new fiber optic line will be placed within an existing conduit on the Deschutes River Bridge and Chenowith Bridge and will not be visible from KVAs.

With the proposed **condition** of approval, staff finds that the request complies with Criterion I.

J. The exterior of buildings in the GMA and structures in the SMA on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. The Scenic Resources Implementation Handbook will include a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this criterion, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the Implementation Handbook (once they are created). Continuous surfaces of glass unscreened from Key Viewing Areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.

FINDING: With the exception of the vault panels and bridges, all materials used in the project will be buried underground. The new fiber optic line will be placed within an existing conduit on the Deschutes River Bridge and Chenowith Bridge and will not be reflective as seen from KVAs. The vaults will be placed underground with the exception of the vault panels which will be placed at ground level on the shoulder of the road. The vault panels proposed to be used in this request are made of HDPE composite plastic with a 20,000 pound load rating. They meet all Oregon (and Portland) anti-slip safety requirements. The applicant states: *"Our goal would be to slightly cover the handholes so that they are not visible. We will GPS each and have accuracy within 0.5 feet."* This type of plastic, if exposed, will oxidize within one year and will not be reflective from KVAs.

Staff finds that the request complies with Criterion J.

K. The following criteria shall apply to new landscaping used to screen development from Key Viewing Areas:

1. *New landscaping (including new earth berms) shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development visually subordinate in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.*

2. *If new landscaping is required to make a proposed development visually subordinate in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this criterion shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of construction.*

FINDING: The proposed development will occur entirely within previously disturbed road rights-of-way. There is no room in the rights-of-way to add vegetation to help achieve visual subordination from any KVA. A previous **condition** of approval in Section 14.100.G. requires the applicant to restore disturbed areas to their previous **condition**. All proposed development is located underground and will not be visible from KVAs therefore no new vegetation is required to be planted to achieve visual subordination. Staff finds that the request complies with Criterion K.

- L. *Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.*

FINDING: The project areas are topographically visible from six KVAs (Rowena, Highway 30 W, I-84, SR 142, SR 14 and the Columbia River). The proposed fiber optic line will be placed in a conduit and buried underground within existing disturbed road rights-of-way and will have no visual impact from KVAs. The two bridge crossings involve the placement of new fiber optic line into an existing conduit. There will be no way to visually detect the placement of the line in the enclosed conduit. The only visible portion of the project may be the vault panels/covers. The applicant states that they would like to cover the panels and access them through GPS (accuracy within 0.5'). The panels are proposed to be located at or below existing grade. They will be similar in color to the gravel (gray) and will not be visible from KVAs primarily located 2-3 miles away. A few vaults will be located approximately 330' south of I-84 and Highway 30W but they will not be visible from these areas due to traffic barriers and difference in KVA and project area elevations. Due to their low profile, as proposed there will be no visual effect from the placement of the proposed fiber optic lines/conduit/vaults. Staff finds that the request complies with Criterion L.

Section 14.300, Scenic Travel Corridors

The Historic Columbia River Highway (Highway 30) and Interstate 84 (I-84) are designated as Scenic Travel Corridors, and development along a Scenic Travel Corridor must be set back at least 100' from the edge of pavement of the Scenic Travel Corridor roadway.

(***)

B. The Historic Columbia River Highway and Interstate 84 are designated as Scenic Travel Corridors. Development along these corridors shall be subject to the following standards:

1. For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Scenic Travel Corridor roadway.
2. All new buildings and alterations to existing buildings shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to Chapter 6. All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.

FINDING: The proposed development does not include the construction of any new building. Development includes installation of underground fiber optic lines/conduit and vaults within existing road rights-of-way. This includes the right-of-way of Highway 30 W. Proposed setbacks from identified Scenic Travel Corridors are as follows:

Required Setback	Required Setback Interstate 84 – 100'	Required Setback Highway 30 W – 100'	Consistent?
Eastern Section	3300+	3300+	Yes
Central Section	3300+	3300+	Yes
Western Section	400'	N/A	Yes

Staff finds that the request complies with Section 14.300 because no new buildings are proposed and there will be no alteration to existing buildings.

Section 14.400, Landscape Settings (GMA & SMA)

Landscape settings are the combination of land uses, landforms and vegetation patterns which distinguish an area in appearance and character from other portions of the National Scenic Area.

A. Pastoral Landscape Setting - GMA Only

1. *Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.*
2. *In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination for new development and expansion of existing development:*
 - a. *Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.*
 - b. *At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, bigleaf maple, and black locust (primarily in the eastern Gorge).*
 - c. *At least one-quarter of any trees planted for screening shall be coniferous for winter screening.*

FINDING: The central section of the project areas is located in the Pastoral Landscape Setting. Because the project is the installation of fiber-optic cable/conduit and accompanying vaults, and not the construction of a building, it is not possible to cluster it with other buildings. The proposed development will occur entirely within previously disturbed road rights-of-way. There is no room in the right-of-way to add vegetation to help achieve visual subordination from any KVA. A previous **condition** of approval in Section 14.100.G. requires the applicant to restore disturbed areas to their previous condition. All proposed development is located underground and will not be visible from KVAs therefore no new vegetation is required to be planted to achieve visual subordination. The request complies with Criterion A.

C. Oak-Pine Woodland Landscape Setting - GMA Only

1. *Structure height shall remain below the tree canopy level in wooded portions of this setting.*
2. *In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination for new development and expansion of existing development.*
 - a. *At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include: Oregon white oak, ponderosa pine, Douglas fir.*
 - b. *At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

For treeless portions or portions with scattered tree cover:

- c. Structures shall be sited on portions of the property which provide maximum screening from Key Viewing Areas utilizing existing topographic features.*
- d. Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.*
- e. Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.*

FINDING: A portion of the Western Section of the project area is located in the Oak Woodlands Landscape Setting.

Because the project is the installation of fiber-optic cable/conduit and accompanying vaults and will be located underground, it will be below the tree canopy. The proposed development will occur entirely within previously disturbed road rights-of-way. There is no room in the right-of-way to add vegetation to help achieve visual subordination from any KVA. A previous **condition** of approval in Section 14.100.G. requires the applicant to restore disturbed areas to their previous condition. All proposed development is located underground and will not be visible from KVAs therefore no new vegetation is required to be planted to achieve visual subordination. Staff finds that the request complies with Criterion C.

D. Grassland Landscape Setting - GMA Only

- 1. Accessory structures, outbuildings and accessways shall be clustered together as much as possible. Exceptions to this criterion, where necessary for farming operations, are permitted.*
- 2. In portions of this setting visible from Key Viewing Areas, the following standard shall be employed to achieve visual subordination standards for new development and expansion of existing development:*
 - a. Structures shall be sited on portions of the property which provide maximum screening from Key Viewing Areas utilizing existing topographic features.*
 - b. Lower structures which emphasize horizontal lines and blend with this sweeping landscape shall be encouraged rather than very tall structures.*

- c. *Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where utilized, screening vegetation shall either tie in with near-by riparian vegetation in seasonal drainages or emulate windrows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include: Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.*

FINDING: A portion of the Eastern and Western Sections of the project area are located within the Grasslands Landscape Setting. Because the project is the installation of underground fiber-optic cable/conduit and accompanying vaults, it will not be necessary to plant landscaping to achieve visual subordination from KVAs. In addition there is no room in the right-of-way to add vegetation to help achieve visual subordination from any KVA. A previous **condition** of approval in Section 14.100.G. requires the applicant to restore disturbed areas to their previous condition. All proposed development is located underground and will not be visible from KVAs therefore no new vegetation is required to be planted to achieve visual subordination. Staff finds that the request complies with Criterion D.

G. Residential Landscape Setting - GMA Only

1. *In portions of this setting visible from Key Viewing Areas and not exempt from visual subordination standards (see J below), the following standards shall be employed to achieve visual subordination for new development:*
 - a. *Structures' exteriors shall be non-reflective unless fully screened from Key Viewing Areas with existing vegetation and/or topography.*
 - b. *At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.*
 - c. *At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

FINDING: A portion of the Western Section of the project area is located in the Residential Landscape Setting. The proposal is for the underground installation of fiber-optic cable/conduit and accompanying vaults. The only portion of the project that will be visible above ground is the access panel(s) for the vault(s). The top of each access panels will be even with the road surface. The proposed development will occur entirely within previously disturbed road rights-of-way. There is no room in the right-of-way to add vegetation to help achieve visual subordination from any KVA. A previous condition of approval in Section 14.100.G. requires that the applicant restores disturbed areas to their previous condition. All proposed development is located underground and will not be visible from KVAs therefore no new vegetation is required to be planted to achieve visual subordination. Staff finds that the request complies with Criterion G.

H. *River Bottomlands Landscape Setting - GMA Only*

1. *In portions of this setting visible from Key Viewing Areas, the following standards shall be employed to achieve visual subordination for new development and expansion of existing development:*
 - a. *At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such native species include: black cottonwood, bigleaf maple, red alder, Oregon white ash, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.*
 - b. *At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.*

FINDING: A portion of the Eastern Section of the project area is located in the River Bottomlands Landscape Setting. The proposal is for the underground installation of fiber-optic cable/conduit and accompanying vaults. The only portion of the project that will be visible above ground is the access panel(s) for the vault(s). The top of each access panels will be even with the road surface. The proposed development will occur entirely within previously disturbed road rights-of-way. Upon completion of the project the right-of-way will be restored to its previous condition. There is no room in the right-of-way to add vegetation to help achieve visual subordination from any KVA. A previous **condition** of approval in Section 14.100.G. that requires that the applicant restores disturbed areas to their previous condition. All proposed development is located underground and will not be visible from KVAs therefore no new vegetation is required to be planted to achieve visual subordination. Staff finds that the request complies with Criterion H.

Section 14.500, Cultural Resources – GMA

The purpose of this section is to protect and enhance cultural resources, and ensure that proposed development does not have an adverse effect on significant cultural resources.

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B. *Applicability of the Cultural Resource Reconnaissance and Historic Survey Requirements*

1. *The reconnaissance survey standards of C, Cultural Resource Reconnaissance and Historic Survey, apply until a cultural resource survey of the General Management Areas is complete.*
 - a. *A reconnaissance survey shall be required for all proposed uses, except those listed in Section 14.500.B.1.*

FINDING: The request for fiber optic line/conduit/vault installation is not listed as an exempt use therefore a reconnaissance survey is required. Staff finds that the request complies with Criterion a.

2. *A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or compromise features of the surrounding area that are important in defining the historic or architectural character of the buildings or structures that are 50 years old or older.*

FINDING: The request is for a Scenic Area Review to install approximately 8.7 miles of underground fiber-optic telecommunications line in the rights-of-way of Highway 206, Old Moody Road, Fifteenmile Road and Chenoweth Road. The request includes the placement of conduit to contain the fiber optic line and up to 36 underground vaults for maintenance. There are no existing structures involved in this request, therefore Criterion 2. is not applicable to this request.

3. *The Gorge Commission will conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area.*

d. For this Ordinance, large-scale uses include development involving:

- (6) communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances; and*

FINDING: The request is for the installation of underground fiber-optic telecommunications lines in the General Management Area. These lines will provide communications (internet) and the request is considered to be a large scale project. The applicants paid for the reconnaissance survey, and staff finds that the request complies with Criterion 3.

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5. *All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part*

61 and Guidelines for evaluating and Documenting Traditional Cultural Properties (Parker and King, no date).

FINDING: The cultural resource reconnaissance survey submitted by the applicant, was prepared by Andrew G. Frierson, Alexander J.S. New, and David A. Harder, Plateau Archaeological Investigations, LLC who are professionals qualified to investigate cultural resources. Staff finds that the request complies with Criterion 5.

Practicable Alternative Test

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following...

FINDING: The project includes the placement of conduit to contain the fiber optic line and up to 36 underground vaults for maintenance. The cultural resource reconnaissance survey has received concurrence from Chris Donnermeyer, Heritage Program Manager, USFS – NSA Office, and John Pouley, M.A., RPA, Assistant State Archaeologist, State Historic Preservation Office. As documented in the report, the project will avoid all cultural resources, therefore the applicant is not required to meet the Practicable Alternative Test. Staff finds that the request complies with the Practicable Alternative Test.

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C. Cultural Resource Reconnaissance and Historic Surveys

1. Gorge Commission/Tribal Government Notice

a. In addition to other public notice requirements that may exist, the County shall notify the Indian tribal governments when:

(1) a reconnaissance survey is required; or

(2) cultural resources that are prehistoric or otherwise associated with Native Americans exist in the project area.

b. Notices sent to Indian tribal governments shall include a site plan as stipulated in Section 14.040.

c. Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit written comments to the County Planning Office.

FINDING: Pre-notice of the request was sent to SHPO and the Indian tribal governments on July 6, 2017. The U.S. Forest Service cultural resource reconnaissance survey was sent to SHPO and the Indian tribal governments on July 20, 2017. Holly Shea, Archaeologist, Cultural Resources Protection Program, Confederated Tribes of the Umatilla Indian Reservation responded to the first pre-notice on July 18, 2017. She had specific concerns with the site plan and the cultural resource testing process. Her comments were passed on to the U.S. Forest Service

archaeologist who was working with the privately-retained archaeologist. Staff finds that the request complies with Criterion (1).

2. *Consultation and Ethnographic Research*

a. *When written comments are submitted to the County Planning Office in a timely manner, the project applicant shall offer to meet with the interested persons within 10 calendar days.*

(1) *The 10 day consultation period may be extended upon agreement between the project applicant and the interested persons.*

(2) *Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.*

(3) *All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.*

FINDING: Comments were submitted from the Confederated Tribes of the Umatilla Reservation on July 18th requesting a cultural monitor be present for construction of the western section of the project area. These comments were forwarded to the Forest Service to ensure the comments were implemented into the cultural review process. There was no request for a 10-day consultation period. A **condition** of approval is included in the Notice of Decision requiring a cultural resource monitor to be on-site during any ground disturbing activities on the western section (Chenoweth Road) of the project. Staff finds that with the proposed **condition** of approval, the request complies with Criterion a.

b. *A project applicant who is proposing a large-scale use or development shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research.*

(1) *All requests must include a description of the cultural resources that may be affected by the proposed use and identify of knowledgeable informants.*

(2) *Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.*

(3) *All written comments, consultation meeting minutes and ethnographic research shall be incorporated into the reconnaissance*

or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

FINDING: The request is for a large-scale use. No written request was submitted by interested persons for interviews and other forms of ethnographic research. Staff finds that the request complies with Criterion b.

3. Notice of Survey Results

a. The County shall submit a copy of all cultural resource survey reports to the State Historic Preservation Office and the Indian tribal governments.

(1) Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(2) The State Historic Preservation Office and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the County Planning Office.

(3) The County shall record and address all written comments in its development review order.

FINDING: A cultural resource reconnaissance survey was submitted to the Planning Department on September 1, 2017. It was sent to SHPO and the four Indian tribal governments on September 5, 2017. As of the expiration of the 30-day comment period, comment had been received. This comment was from the Confederated Tribes of the Umatilla Indian Reservation: requesting that a cultural resource monitor be present during project activities on the Chenoweth Road portion of the project. A previous condition of approval was included requiring the applicant to have an on-site cultural resource monitor present during all ground disturbing activities. With the previous condition of approval, staff finds that the request complies with Criterion (3).

4. Conclusion of the Cultural Resource Protection Process

a. The County Planning Office will make a final decision on whether the proposed use would be consistent with the cultural resource goals, policies, guidelines, and standards.

FINDING: The request includes the placement of conduit to contain the fiber optic line and up to 36 underground vaults for maintenance. Three sections of conduit are proposed in the National Scenic Area: Highway 206/Old Moody Road, Fifteenmile Road, and Chenoweth Road. The applicants propose to co-locate the portion of the project at Heritage Landing (Old Moody Road) with already approved lines (Windwave) so there will be no impact to cultural resources in this location. The cultural resource reconnaissance survey submitted by the applicant for Fifteenmile Road did not identify any cultural resources. The Chenoweth Road portion of the

project identified cultural resources but will avoid the site by moving the project to the opposite side of the road. As proposed, staff finds that the proposed fiber optic installation will be consistent with the cultural resource goals, policies, guidelines, and standards, because the project will result in no impacts to cultural resources. Staff finds that the request complies with Criterion a.

- b. *If the final decision contradicts the comments submitted by the State Historic Preservation Office, the County must justify how it reached an opposing conclusion.*

FINDING: The State Historic Preservation Office concurred with the cultural resource reconnaissance survey submitted by the applicant, prepared by Plateau Archaeological Investigations, LLC. The final decision is based on this report and concurrence. Staff finds that the final County decision does not contradict comments submitted by the State Historic Preservation Office, therefore staff finds that the request complies with Criterion b.

- c. *The cultural resource protection process may conclude when one of the following conditions exist:*

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- (2) *A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.*

FINDING: A reconnaissance survey for the portion of the project located in the National Scenic Area on Fifteenmile Road demonstrated that cultural resources do not exist in the project area, and no concerns were voided by any interested person within 20 calendar days of the mailing of the reconnaissance survey. Staff finds that the Fifteenmile Road portion of the project complies with Criterion (2).

- (3) *The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area.*

FINDING: Cultural resources were identified in the Chenoweth Creek Road portion of the project. The applicant has agreed to install the fiber optic line on the opposite side of the road to avoid archaeological resources and traditional cultural resources. With the proposed avoidance of the cultural resources, staff finds that the request complies with Criterion (3).

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G. Discovery During Construction:

1. Halt Construction: All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
2. Notification: The project applicant shall notify the County Planning Office and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.
3. Survey and Evaluation: The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Office (see, ORS 358.905 to 358.955).

FINDING: If cultural resources are found during construction, all construction within 100' of the discovered cultural resource shall cease and the resource shall remain as found; further disturbance is prohibited. In addition, the owner shall notify the Wasco County Planning Department, Gorge Commission and four Indian tribal governments within 24 hours of discovery. **Conditions** of approval are included in the Notice of Decision requiring compliance with these requirements. With these **conditions**, staff finds that the request complies with Criterion G.

H. Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

FINDING: If human remains (human skeletal remains, bones, or teeth, with or without attendant burial artifacts) are discovered during construction, all survey, excavation and construction activities shall cease, and the human remains shall not be further disturbed. The owner shall immediately notify local law enforcement officials, the County Planning Office, the Gorge Commission, and the four Indian tribal governments. **Conditions** of approval are included requiring the owner to comply with the requirements in H. With the proposed **conditions** the request complies with Criterion H.

Section 14.600, Natural Resources – GMA

A. *Wetlands*

1. *Purpose*

- a. *Achieve no overall net loss of wetlands acreage and functions.*
- b. *Increase the quantity and quality of wetlands.*

FINDING: The purpose of this section is to ensure there is no overall net loss of wetlands acreage and functions, and to increase the quantity and quality of wetlands. The National Wetland Inventory (NWI) was consulted to identify potential wetlands within or adjacent to the project area and are shown on the applicant's site plan. Because the project will be located within previously disturbed rights-of-way, there will be no impacts to wetlands and the project will achieve no overall net loss of wetland acreage and functions. The applicant proposes the use of straw bales and fencing as needed for erosion control during construction. A condition of approval is included in the Notice of Decision requiring that the applicant provides erosion control as needed during construction to ensure there are no impacts to wetlands. With the proposed condition of approval, staff finds that the request complies with Criterion A.

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3. Wetlands Buffer Zones

- a. *The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.*
- b. *The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.*
 - (1) *A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent.*
 - (2) *A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.*
 - (3) *A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.*
 - (4) *A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.*
- c. *Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required.*

- (1) *Forest communities:* 75 feet
- (2) *Shrub communities:* 100 feet
- (3) *Herbaceous communities:* 150 feet

FINDING: Each project area is located near one or more wetlands. Old Moody Road is located within the buffer zone of the Deschutes River in the eastern section. It is characterized by a shrub community and requires a 100' buffer area. In the central project area, Fifteenmile Creek is identified as a wetland. This wetland is characterized as an herbaceous community and requires a 150 foot buffer. Fifteenmile Creek is located a minimum of 150 feet from the central project area. The western segment of the project is located within the buffer zone of Chenoweth and Badger Creeks. Chenoweth Creek is identified as a shrub community while Badger Creek is identified as an herbaceous community.

Compliance with wetland buffer zone criteria is addressed in the following sections. The proposed project is located entirely within previously disturbed rights-of-way therefore there will be no impacts to the wetland buffers and associated communities. Staff finds that the request complies with Criteria a. – c.

- d. Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition.*

FINDING: Disturbance associated with the proposed project will not extend beyond the areas of previous disturbance caused by the original roadway construction and other utility installation work. Disturbed areas will be returned to their pre-construction condition upon completion of the project. Straw bales and fencing will be employed as needed to prevent erosion and any potential impacts to wetlands. A **condition** of approval is included in the Notice of Decision requiring straw bales and fencing to be used (as necessary) to prevent erosion and any potential impacts to wetlands and to maintain a no-disturbance buffer around wetlands. With the proposed **condition** of approval, staff finds that the request complies with Criterion d.

- e. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.*

FINDING: There is little to no vegetation in existing rights-of-way and no planting of native species is proposed. Following installation of the fiber optic cable/conduit/vaults, all land impacted by construction will be returned to its pre-construction condition. Any buffer land disturbed during construction of the underpass of Chenoweth Creek will be returned to its pre-construction condition. A **condition** of approval stating this is included in the Notice of Decision. With the proposed **condition**, staff finds that the request complies with Criterion e.

(***)

6. *Other Uses and Activities Located in Wetlands or Wetland Buffer Zones.*

Except for uses permitted without review in Section 3.100 and 3.180(B) (Open Space) and Modifications to Serviceable Structures and Placement of Minor Water-Dependent and Water-Related Structures in Wetlands as specified in (4) above, other uses authorized by the applicable zoning designation may be allowed in wetlands and wetland buffer zones subject to (7) below, Site Plans, the remaining applicable sections of this Chapter and the following criteria:

- a. *The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by E, Practicable Alternative Test.*

FINDING: The proposed project is not a water-dependent use and the selected route is the most practicable alternative. The Practicable Alternative Test is addressed in E. below where the request is found to have no practicable alternative to the proposed route. Staff finds that the request complies with Criterion a.

- b. *The proposed use is in the public interest as determined by F., Public Interest Test.*

FINDING: The proposed project is a component of a larger fiber-optic line that will connect The Dalles to existing network providers. The purpose of the project is to improve the capacity of high-speed data communications services in the Columbia River Gorge and Oregon and is in the public interest. The Public Interest Test is addressed below in F. where it is found to be in the public interest. Staff finds that the request complies with Criterion b.

- c. *Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.*

FINDING: The project areas are located entirely within existing gravel road rights-of-way. There are no impacts to wetland functions or any impact to the existing contour of the area, vegetation, fish and wildlife resources and hydrology. Staff finds that the request complies with Criterion c.

- d. *Groundwater and surface-water quality will not be degraded by the proposed use.*

FINDING: Straw bales and fencing will be employed as needed to protect surface and groundwater quality from soil erosion. Construction will occur on or adjacent to permeable gravel roadways, shoulders and ditch systems, and will employ natural filtration techniques. The proposed placement of fiber optic cable/conduit/vaults will not result in the release of

any substance into the ground or groundwater. Staff finds that the request complies with Criterion d.

- e. Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.*

FINDING: The proposed project is not water-dependent and there is no practicable alternative for its location. Roadways exist within existing buffer areas. Because the development will be placed entirely within existing, previously disturbed road rights-of-way there will be no impact to existing wetland buffer zone areas and staff finds that the request complies with Criterion e.

- f. The proposed use complies with all applicable federal, state, and local laws.*

FINDING: The project is consistent with all applicable federal, state and local laws, and with applicable NSA-LUDO criteria as demonstrated throughout this report. A **condition** of approval is included in the Notice of Decision requiring the applicant to obtain all applicable federal, state and local permits. With the proposed **condition** of approval, staff finds that the request complies with Criterion f.

- g. Areas that are disturbed during construction of the proposed use will be rehabilitated to the maximum extent practicable.*

FINDING: With a previous **condition** of approval (Section 14.100) requiring revegetation restoration of all disturbed areas to their previous condition, staff finds that the request complies with Criterion g.

- h. Unavoidable impacts to wetlands will be offset through the deliberate restoration, creation, or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts. Wetlands restoration, creation, and enhancement shall be in accordance with Subsection (8) below, Wetlands Compensation Plans.*

FINDING: Because the project area is within existing disturbed gravel road rights-of-way there will be no impacts to wetland therefore there is no requirement for wetland restoration, creation or enhancement. Staff finds that the request complies with Criterion h.

7. Site Plans

In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include: a site plan

map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail; the exact boundary of the wetland and the wetlands buffer zone; and a description of actions that would alter or destroy the wetland.

FINDING: The applicant submitted a site plan illustrating the proposed fiber optic route, adjacent wetlands and wetland buffer zones at a scale of 1"=100'. The project will not alter or destroy any wetland or surface water. Staff finds that the request complies with Criterion 7.

B. Streams, Ponds, Lakes, and Riparian Areas

The purpose of this section is to protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas, and to enhance aquatic and riparian areas.

2. Stream, Pond, and Lake Buffer Zones

a. Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer widths shall be required:

(1) Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet.

(2) Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet.

(3) Ponds and lakes:

(a) The pond or lake buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(b) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected pond or lake. Vegetation communities are classified as forest, shrub, or herbaceous.

(i) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover

of at least 40 percent and shrubs must form a canopy cover of at least 40 percent.

(ii) A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(iii) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(iv) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

(c) Buffer zones shall be measured outward from a pond or lake boundary on a horizontal scale that is perpendicular to the pond or lake boundary. The following buffer zone widths shall be required.

(i) Forest communities: 75 feet

(ii) Shrub communities: 100 feet

(iii) Herbaceous communities: 150 feet

(d) When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

b. Determining the exact location of the ordinary highwater-mark or normal pool elevation shall be the responsibility of the project applicant. The County may verify the accuracy of, and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the project applicant, the County shall, at the project applicant's expense, obtain professional services to render a final delineation.

c. Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

FINDING: The project areas are located within the 100 foot buffer zone of several year-round streams, including the Deschutes River and Chenoweth Creek, and is within 50' of several intermittent streams and ponds. Proposed buffers cannot be met in all portions of the project therefore the Public Interest Test and the Practicable Alternative Test are addressed below in E. and F.

(***)

5. Other Uses and Activities Located in Aquatic and Riparian Areas

Except for uses permitted without review in 3.100 and 3.180(B) (Open Space) and modifications to serviceable structures and placement of minor water-dependent and water-related structures in aquatic and riparian areas as specified in (3) above, other uses authorized by the applicable zoning designation may be allowed in aquatic and riparian areas subject to (6) below, Site Plans, the remaining applicable sections of this Chapter, and the following criteria:

- a. *The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by E below, Practicable Alternative Test of this section.*

FINDING: The proposed project is not water-dependent but has no practicable alternative. The Practicable Alternative Test is located below in E.

- b. *The proposed use is in the public interest as determined by F below, Public Interest Test of this section.*

FINDING: The proposed use is in the public's interest because it will increase the availability of reliable internet and communication services in Wasco County and the surrounding area. The Public Interest Test is addressed below in F.

- c. *Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake and/or buffer zone.*

FINDING: Construction will be completed within or adjoining the gravel roadway, shoulders or ditches within the rights-of-way of Chenoweth Road, Fifteenmile Road, Old Moody Road, and Highway 206. Erosion control methods will be employed during construction and the fiber-optic line will be covered with the same materials that were removed for installation. No new impervious surface will result from the project. A fish passage permit for the Chenoweth Creek work has been approved by the Oregon Department of Fish & Wildlife (ODFW) (#PA-04-0022). Staff finds that the request complies with Criterion (c).

As a starting point, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:

- (1) *Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. Work in streams, ponds, and lakes shall be conducted during the periods specified in "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources"*

(Oregon Department of Fish and Wildlife 2000) unless otherwise coordinated with and approved by the Oregon Department of Fish and Wildlife.

FINDING: The proposed project is partially located within the buffer zones of several waterbodies, however no in-water work is proposed. The applicant obtained the required ODFW fish passage permit (#PA-04-0022) approval for Chenoweth Creek which includes specific operation provisions to protect fish species and habitat. Further coordination with ODFW will be conducted as required to ensure the protection of fish and wildlife during project construction. There will be no in-water work and the project will avoid wildlife disturbance. The fiber-optic line will be installed under the travel way of the Deschutes River Bridge within a 6" fiberglass conduit. The route will run below Chenoweth Creek and Chenoweth Creek Bridge in a 1.25" innerduct located a minimum of 10' below the scour depth. The disturbed surface on either side of Chenoweth Creek Bridge will be repaired per County standards. A previous **condition** of approval requires restoration of the project areas to their former state upon completion of the project. Staff finds that the request complies with Criterion (1).

(2) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.

FINDING: A **condition** of approval is included in the Notice of Decision requiring all natural vegetation to be retained to the greatest extent practicable. With the proposed **condition** of approval, staff finds that the request complies with Criterion (2).

(3) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

FINDING: No additional impervious surface is proposed with this project therefore no impacts to stormwater are anticipated. The existing rock and gravel used to construct the original roadways will be retained on site and will promote natural drainage and infiltration. Staff finds that the request complies with Criterion (3).

(4) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

FINDING: The fiber-optic line will be installed under the travel way of the Deschutes River Bridge, and in an innerduct beneath Chenoweth Creek. The purpose of the project is to increase the availability of reliable services by increasing the communications bandwidth. The project will serve multiple purposes and properties and has been designed to minimize impacts to natural resources. Staff finds that the request complies with Criterion (4).

(5) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their

banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.

FINDING: No new culverts or bridges are proposed in association with the project and no impacts to stream channels are anticipated. The project will utilize the existing Deschutes River Bridge for water crossing at the Deschutes River, and will pass underneath Chenoweth Creek via innerduct. Staff finds that the request complies with Criterion (5).

(6) Temporary and permanent control measures shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

FINDING: A previous **condition** of approval required the use of sediment barriers (straw bales and fencing) to prevent any soil erosion or sedimentation during project construction. Upon completion of construction the ground will be returned to its natural state, gravel road right-of-way. No permanent control measures are necessary to prevent erosion and sedimentation. With the proposed **condition** of approval, staff finds that the request complies with Criterion (6).

d. Groundwater and surface-water quality will not be degraded by the proposed use.

FINDING: The proposed project will involve grading and fill as identified in the application. The project will be located within existing road rights-of-way at a shallow depth therefore there will be no impacts to groundwater or surface water. No new impervious surface is proposed with this project therefore there will be no impacts to groundwater or surface water through stormwater runoff. The applicant will use temporary erosion controls on site throughout the construction process to protect water resources. The existing roadways will be retained and their surfaces will promote natural drainage and groundwater infiltration. There will be no impacts to water quality as a result of this project therefore staff finds that the request complies with Criterion d.

e. Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

FINDING: The project is not water-dependent and will be located within some water resource buffer zones. However the proposed route is the most practicable and will have the least impact on water resources. The entire project will be located within pre-disturbed rights-of-way and there will be no impacts to stream, pond, or lake buffer zones. The Practicable Alternative Test is addressed below in E. Staff finds that the request complies with Criterion e.

f. The use complies with all applicable federal, state, and local laws.

FINDING: The project is consistent with all applicable federal, state and local laws, and with applicable NSA-LUDO criteria as demonstrated throughout this report. A previous **condition** of approval was included in the Notice of Decision requiring that the applicant obtains all applicable federal, state and local permits. With the previous **condition** of approval, staff finds that the request complies with Criterion f.

- g. Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.*

FINDING: Because the project area is within existing disturbed gravel road rights-of-way there will be no impacts to aquatic and riparian areas therefore there is no requirement for rehabilitation and or enhancement. Staff finds that the request complies with Criterion g.

6. Site Plans

In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include: a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail; the exact boundary of the ordinary high water-mark or normal pool elevation and the prescribed buffer zone; and a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

FINDING: The applicant submitted a site plan illustrating the proposed fiber optic route, adjacent streams, ponds and riparian areas at a scale of 1"=100'. The project will not create new encroachment on streams, ponds and riparian areas nor alter or destroy them in any way. Staff finds that the request complies with Criterion 6.

C. Wildlife Habitat

FINDING: The purpose of this section is to ensure that new uses do not adversely affect sensitive wildlife areas and sites. Staff contacted Jeremy Thompson, Oregon Department of Fish & Wildlife regarding the proposal. On July 6, 2017, Mr. Thompson submitted comments stating, "As this project is within the already established road right of way, there will be no adverse effects to any wildlife or habitats from this project". Staff finds that the request complies with Section 14.600.C.

D. Rare Plants

FINDING: The purpose of this section is to ensure that new uses do not adversely affect plant species that are endemic to the Columbia River Gorge and vicinity, listed as endangered or threatened pursuant to federal or state endangered species acts, or listed as endangered or threatened on list (1) or (2) by ORBIC. According to Oregon Biodiversity Information Center (ORBIC), there are 61 element occurrence records are noted within a 2-mile radius of the project. ORBIC information does not state whether or not the requested development will adversely affect rare plants however staff concludes that due to its placement within disturbed

road right-of-way identified plant species will not be adversely affected. The Forest Service – NSA Office concurs with ORBIC. Staff finds that the request complies with Section 14.600.C.

E. Practicable Alternative Test

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

- 1. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, streams, ponds, lakes, riparian areas, wildlife, or plant areas and sites; and*

FINDING: The request is to place fiber optic lines/conduit/vaults underground within the rights-of-way of existing public roadways. The chosen route is the best route because the lines will be laid within existing previously disturbed gravel areas. Other locations would go through private land and would disturb previously undisturbed land. Other locations would require the disturbance of lands with steep slopes or closer to existing resources and would result in more adverse effects on natural resources. Staff finds that the request complies with Criterion 1.

- 2. The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, streams, ponds, lakes, riparian areas, wildlife or plant areas and sites.; and*

FINDING: Alternative routes via roadways located north or south of the proposed route would increase the overall length of the project, resulting in an unfeasible project due to increased expense. Due to the nature of the project being underground development in previously disturbed gravel areas adjacent to public roads, there will be no adverse effects to natural resources and staff finds that the request complies with Criterion 2.

- 3. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a management plan amendment to demonstrate that practicable alternatives do not exist.*

FINDING: Alternative locations were considered by the applicant however other sites would require ground disturbance in previously undisturbed areas on private property, would require lengthening the route that makes it financially unfeasible or would require extensive ground disturbance. The proposed location was considered to be the best alternative due to the fact

that it is located within previously disturbed County road rights-of-way and be restored to its natural state in a way that has no impacts on natural resources. Staff finds that the request complies with Criterion 3.

F. Public Interest Test

The following factors shall be considered when determining if a proposed use is in the public interest:

- 1. The extent of public need for the proposed use.*

FINDING: The purpose of the proposed project is to improve the capacity of high speed data communication services in the Columbia River Gorge and Oregon as a whole, and this improvement is necessary to satisfy this public need in the public interest. Staff finds that the request complies with Criterion 1.

- 2. The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.*

FINDING: No detrimental impacts have been identified from the proposed project because it will be located within existing public road right-of-way. Conditions have been implemented throughout this report to ensure no detrimental impacts will occur to natural resources. The project will deliver a permanent benefit through improved high speed data connections and communications. Staff finds that the request complies with Criterion 2.

- 3. The functions and size of the wetland, stream, pond, lake, or riparian area that may be affected.*

FINDING: The project is within the buffer zone of several streams, ponds and the Deschutes River. The project area is located entirely within existing public road rights-of-way. Conditions have been required throughout Chapter 14 to ensure no wetland, stream, pond or riparian area could be affected by the request. Compliance with these conditions will not impact any natural resource. Staff finds that the request complies with Criterion 3.

- 4. The economic value of the proposed use to the general area.*

FINDING: The project will bring sustained economic value to Wasco County through temporary construction work and permanently expanded access to telecommunications services, which will benefit area businesses, residents and institutions. Staff finds that the request complies with Criterion 4.

- 5. The ecological value of the wetland, stream, pond, lake, or riparian area and probable effect on public health and safety, fish, plants, and wildlife.*

FINDING: Wetlands, streams, ponds and riparian areas are important to maintain in a natural state to maintain public health and safety as well as to protect natural resources. Maintenance

of buffer zones helps filter water and maintain delicate ecosystems which helps protect public health. All proposed work will occur within previously disturbed gravel rights-of-way of public roads. Work areas will be restored to their prior condition upon completion of the project. As proposed there will be no impact on the ecological value of existing wetlands, streams, ponds or riparian areas. Staff finds that the request complies with Criterion 5.

Section 14.700, Recreation Resources – GMA

The purpose of this section is to protect and enhance recreation resources consistent with Indian treaty rights, and to protect scenic, natural, cultural and recreation resources when providing new recreation opportunities.

FINDING: The proposal has three sections.

Eastern Section: This section of the project area lies within the right-of-way of Old Moody Road and goes through Heritage Landing State Park on the western shore of the Deschutes River. This state park provides a boat launch and restroom facilities. The proposed fiber optic cable installation will occur within the right-of-way and will have no impact on recreational resources due to its location. No new recreation resources are proposed as part of this request.

Central Section: This portion of the project area is located over 0.6 mile from the closest recreational site, the Columbia River. Due to distance the proposed project will have no impact on recreation resources. No new recreation resources are proposed as part of this request.

Western Section: This portion of the project area is located over 1.3 mile from the closest recreational site, the Columbia River/Taylor Lake. Due to distance the proposed project will have no impact on recreation resources. No new recreation resources are proposed as part of this request.

The request will protect recreation resources consistent with treaty rights, and no new recreation resources are proposed. Staff finds that the request complies with Section 14.700.

Section 14.800, Indian Tribal Treaty Rights and Consultation - GMA

The purpose of this section is to ensure that the Scenic Area Act, the Management Plan, and these implementing ordinances do not affect or modify any treaty or other rights of any Indian tribe. It requires notification to the four tribal governments when new uses are proposed.

FINDING: Section 14.800 provides protection of Indian Tribal Treaty Rights from new development in the National Scenic Area. Section 14.800.B.3. lists additional notice materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments. The subject property has no access to the Columbia River, but pursuant to other noticing requirements, notice of the cultural resource reconnaissance survey was mailed or e-mailed to the four tribal governments on September 5, 2017, and a 30-day comment period was provided. No comments were received during the comment period.

Section 14.800.C. lists guidelines for tribal government consultation when those governments submit substantive written comments. No comments were received. Given this information, the proposed development is consistent with Section 14.800.C.

Section 14.800.D. states that the treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

The eastern project area provides access to the Deschutes River. The project is located entirely underground and is within an existing road right-of-way. The other two project areas do not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Section 14.800.D. Staff finds that the request complies with Section 14.800.

ATTACHMENT E – OUTDOOR LIGHTING STANDARDS

Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND SKY & TELESCOPE.

What is good lighting?

Good outdoor lights improve visibility, safety, and a sense of security, while minimizing energy use, operating costs, and ugly, dazzling glare.

Why should we be concerned?

Many outdoor lights are poorly designed or improperly aimed. Such lights are costly, wasteful, and distractingly glary. They harm the nighttime environment and neighbors' property values. Light directed uselessly above the horizon creates murky skyglow — the "light pollution" that washes out our view of the stars.

Glare Here's the basic rule of thumb: If you can see the bright bulb from a distance, it's a bad light. With a good light, you see lit ground instead of the dazzling bulb. "Glare" is light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers.

Light Trespass Poor outdoor lighting shines onto neighbors' properties and into bedroom windows, reducing privacy, hindering sleep, and giving the area an unattractive, trashy look.

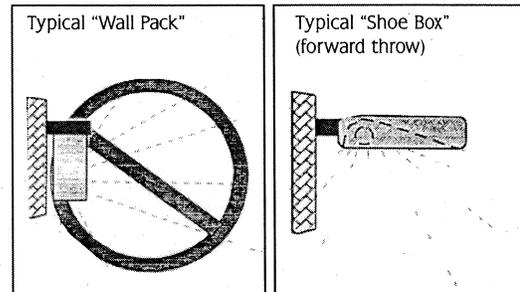
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. Each year we waste more than a billion dollars in the United States needlessly lighting the night sky.

Excess Lighting Some homes and businesses are flooded with much stronger light than is necessary for safety or security.

How do I switch to good lighting?

- 1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate

Some Good and Bad Light Fixtures

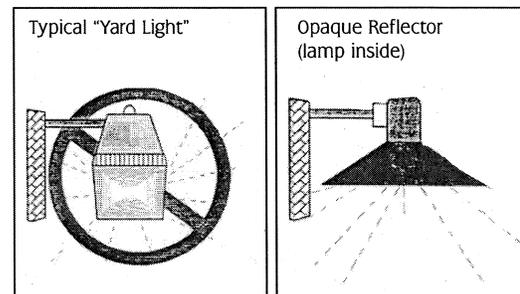


BAD

Waste light goes up and sideways

GOOD

Directs all light down

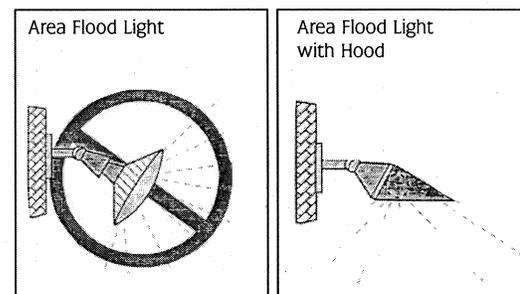


BAD

Waste light goes up and sideways

GOOD

Directs all light down



BAD

Waste light goes up and sideways

GOOD

Directs all light down

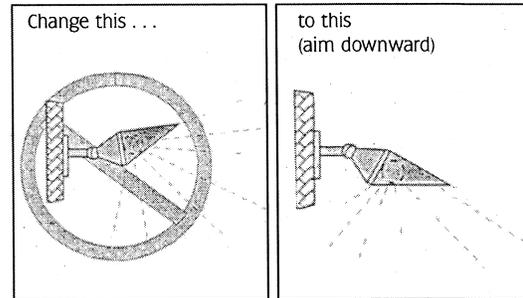
areas 100 times more brightly than the full Moon! More importantly, by choosing properly shielded lights, you can meet your needs without bothering neighbors or polluting the sky.

- 2** Aim lights down. Choose "full-cutoff shielded" fixtures that keep light from going uselessly up or sideways. Full-cutoff fixtures produce minimum glare. They create a pleasant-looking environment. They increase safety because you see illuminated people, cars, and terrain, not dazzling bulbs.
- 3** Install fixtures carefully to maximize their effectiveness on the targeted area and minimize their impact elsewhere. Proper aiming of fixtures is crucial. Most are aimed too high. Try to install them at night, when you can see where all the rays actually go. Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as well as a wasteful light does with a high-wattage bulb.
- 4** If color discrimination is not important, choose energy-efficient fixtures utilizing yellowish high-pressure sodium (HPS) bulbs. If "white" light is needed, fixtures using compact fluorescent or metal-halide (MH) bulbs are more energy-efficient than those using incandescent, halogen, or mercury-vapor bulbs.
- 5** Where feasible, put lights on timers to turn them off each night after they are no longer needed. Put home security lights on a motion-detector switch, which turns them on only when someone enters the area; this provides a great deterrent effect!

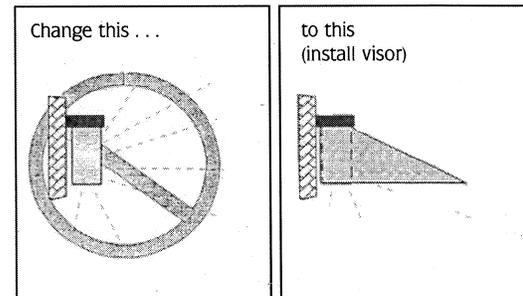
Replace bad lights with good lights.

You'll save energy and money. You'll be a good neighbor. And you'll help preserve our view of the stars.

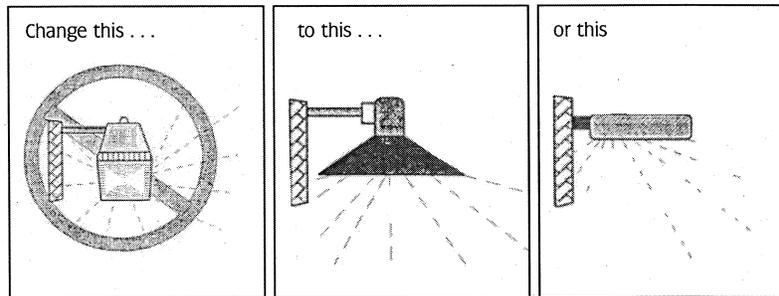
What You Can Do To Modify Existing Fixtures



FLOOD LIGHT



WALL PACK



YARD LIGHT OPAQUE REFLECTOR SHOE BOX

Presented by the **New England Light Pollution Advisory Group (NELPAG)** (<http://cfa-www.harvard.edu/cfa/ps/nelpag.html>) and **Sky & Telescope** (<http://SkyandTelescope.com/>).

NELPAG and *Sky & Telescope* support the International Dark-Sky Association (IDA) (<http://www.darksky.org/>).

We urge all individuals and groups interested in the problems of light pollution and obtrusive lighting to support the IDA and subscribe to its newsletter. IDA membership costs \$30 per year; send your check to IDA, 3225 N. First Avenue, Tucson, AZ 85719, U.S.A.



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