

Categorical Exclusion (CX)
U.S. Department of the Interior
Bureau of Land Management (BLM)

A. Background

BLM Office: North Dakota Field Office

NEPA Number: DOI-BLM-MT-C030-2015-261-CX

Case File/Project No: NDM 99181

Proposed Action Title/Type: Camp Crook Road Fiber Optic Right-of-Way Amendment

Location/Legal Description

Fifth Principal Meridian, Bowman County, North Dakota

T. 130 N., R. 106 W.,
sec. 9, NW¹/₄NW¹/₄.

More particularly described as a strip of land within the above-described area, along the eastern side and within the boundary of the Camp Crook Road Right-of-Way (NDM 59798), a distance of approximately 245 feet in length, and 12.5 feet on either side of the center line, for a total width of 25 feet, containing approximately 0.14 acres, more or less.

Applicant: Consolidated Telcom (Agent: KLJ)

Description of the Proposed Action: On August 20, 2009, Consolidated Telcom received a right-of-way grant to construct, operate, and maintain some 4.5 miles of an underground fiber optic cable across public land managed by the BLM in Bowman County, primarily in the Big Gumbo area, being along the eastern side of Camp Crook Road. Construction on this facility has been delayed until the present time.

On April 21, 2015, Consolidated Telcom, acting through their agent, KLJ, submitted an application to the BLM NDFO for additional land segments to be included in the larger fiber optic infrastructure planned for Bowman County, known as the South Rhame Exchange Fiber-to-the-Home (FTTH) Project. The project includes 155 miles of underground fiber optic cables, including the 4.5 miles on BLM-managed land, authorized in 2009 under ROW Grant 99181, and some 1.71 miles of additional BLM-managed lands, in eight separate locations, not currently authorized under a ROW Grant. The application was to authorize the additional 1.71 miles on BLM-managed land for this project, and has been serialized as NDM 108221.

Included in the 1.71 miles of additional BLM-managed lands is a small strip omitted from the grant issued in 2009 under NDM 99181: a 245-foot long piece along the eastern side of Camp Crook Road, within the 150-foot wide road right-of-way (NDM 59798), in the extreme northwest corner of the NW¼NW¼ of Section 9, Township 130 North, Range 106 West, being located immediately south of the approved ROW NDM 99181 in Section 4, and north of the same ROW in Section 8. This segment was inadvertently omitted from the execution, but not the intent, of NDM 99181.

While the additional 1.71 miles of ROW, under NDM 108221, is still being analyzed and processed, the holder/applicant has begun construction on private lands and BLM-managed lands under NDM 99181, in an effort to install the majority of the fiber optic cable before the area descends into winter and the ground freezes. However, without the inclusion of the small strip of land in the northwest corner of Section 9, a major portion of this project cannot be completed. Due to Sage Grouse habitat restrictions, once the snow falls, construction would not be able to recommence until June 15, 2016.

Pending the finalization of the Environmental Assessment (DOI-BLM-MT-C030-2015-176-EA) being prepared for NDM 108821, which is delayed at least an additional 30 days due to procedural matters, the applicant has given written approval to remove this Section 9 from NDM 108221 and add it to NDM 99181 through an amendment. Construction would commence during the remainder of the 2015 season.

See Exhibits A, B, C, and E for a location map, area map, detail map, and the original right-of-way Grant, NDM 99181, respectively.

B. Land Use Plan Conformance

Land Use Plan Name: North Dakota RMP/EIS ROD

Date Approved/Amended: Approved 04/22/1988

The proposed action is in conformance with the applicable LUP, as amended. Specifically, Action LR-1.2 of the North Dakota Greater Sage-Grouse Approved RMP Amendment states “[Priority Habitat Management Areas (PHMA)] will be managed as ROW avoidance area for minor ROWs...” A ROW avoidance area is further defined as “an area identified through resource management planning to be avoided; it may be available for ROW location with special stipulations” (Page 5-15). The special stipulations applied to the proposed action include timing restrictions and placement of the ROW within the existing disturbance of another ROW (co-location) so as to avoid any new disturbance. This would be in conformance with the disturbance cap of 3% within the proposed project analysis area (Table 1-5 of the Approved RMP Amendment).

Additionally, Action SSS-1.1 states the BLM will apply the lek buffer-distances identified in the *US Geological Survey [USGS] Report Conservation Buffer Distance Estimates for Greater Sage-Grouse—A Review* (Open File Report 2014-1239) in accordance with Appendix B, *Applying Lek Buffer Distances When Approving Actions*. The USGS lek buffer-distance for linear rights-of-way is 3.1 miles (Appendix B, Page B-1).

The BLM “may approve actions in PHMA that are within the applicable lek buffer distance identified above [3.1 miles] only if the BLM, with input from the state fish and wildlife agency, determines, based on best available science, landscape features, and other existing protections,

that a buffer distance other than the distance identified above [3.1 miles] offers the same or greater level of protection to GRSG [Greater Sage Grouse] and its habitat, including conservation of seasonal habitat outside of the analyzed buffer area” (Page B-2). Placement of the 245-foot fiber optic line within the existing disturbance of the road ROW would offer ‘the same or greater level of protection to GRSG and its habitat’ vs. placement outside the ROW on private lands through undisturbed habitat. The North Dakota Game and Fish Department concurred with this on October 13, 2015.

C: Compliance with NEPA:

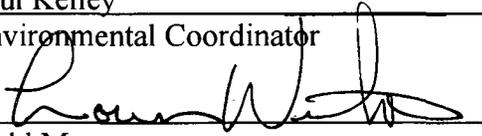
The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9E (12) for issuance of rights-of-way wholly within the boundaries of other compatibly developed rights-of-way.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and, as documented below, none of the extraordinary circumstances described in 516 DM2 apply.

Extraordinary Circumstances		
The project would:		
1. Have significant impacts on public health or safety.		
Yes	No X	Rationale: <i>The project would not have significant impacts on public health and safety as this is an existing Title V FLPMA ROW being amended to include an additional small corner piece of land originally omitted from the grant.</i> <i>SAJ 10/14/2015</i>
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		
Yes	No X	Rationale: <i>Impacts would not be significant as the proposed action is to amend an existing ROW under a Title V FLPMA ROW, and the action will be confined within an existing road ROW.</i> <i>SAJ 10/14/2015</i>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		
Yes	No X	Rationale: <i>No controversial environmental effects or unresolved conflicts.</i> <i>SAJ 10/14/2015</i>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		

Yes	No X	Rationale: <i>No highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.</i> SAJ 10/14/2015
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	No X	Rationale: <i>This action is not connected to another action that would require further environmental analysis nor will it set a precedent for future actions that would normally require environmental analysis.</i> SAJ 10/14/2015
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	No X	Rationale: <i>This action does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. See 40 CFR 1508.7.</i> SAJ 10/14/2015
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		
Yes	No X	Rationale: <i>A review of BLM and SHPO Cultural Resource Records databases indicates that no cultural resource sites have been previously recorded on public lands in the vicinity of this proposed action.</i> SAJ 10/14/2015 AEN 10/15/2015
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		
Yes	No X	Rationale: <i>T&E species habitat does not exist within these areas. Although this action would occur in a PHMA for the Greater Sage Grouse, no new disturbance would occur, as the action will be confined within the existing road ROW. If the BLM does not grant this ROW Amendment, the applicant could/will place the project on private land outside of the already disturbed road ROW and alter additional acreage that is native and undisturbed. The project will be subject to timing restrictions. The North Dakota Game and Fish Department has reviewed this proposed action and concurs with BLM's assessment that to minimize impacts of potentially native habitat, that the project should be allowed to proceed as proposed above.</i> SAJ 10/14/2015 TKZ 10/14/2015
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	No X	Rationale: <i>No laws are being violated by this action.</i> SAJ 10/14/2015

populations (Executive Order 12898).		
Yes	No X	Rationale: <i>Does not have a disproportionately high and adverse effect on low income or minority populations.</i> <i>SAJ 10/14/2015</i>
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes	No X	Rationale: <i>A review of BLM and SHPO Cultural Resource Records databases indicates that no cultural resource sites are known to exist or have been previously recorded on public lands in the vicinity of this proposed action and no known sacred sites of interest to Tribes are known to exist in the vicinity of this proposed action. As such, this action has little or no potential or ability to affect significant cultural properties or sacred sites of interest to Tribes. Previous consultations with Tribes indicate that issuance of small ROWs are actions that Tribes are generally not concerned with. Consequently, consultations with Tribes on these types of actions are generally not conducted and no cultural resource values of interest to Tribes would likely be impacted or affected by this undertaking. The proposed action would not limit access to public lands where it already exists nor would it allow new access where it does not presently exist. Consequently, there would be no impacts to the physical integrity of sites of traditional cultural concern.</i> <i>SAJ 10/14/2015</i> <i>AEN 10/15/2015</i>
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		
Yes	No X	Rationale: <i>The proposed action will not contribute to the introduction or spread of noxious weeds as an existing fiber optic ROW is being authorized under a Title V FLPMA, which is being installed within an existing road ROW. Further, under the authorization the applicant is responsible for weed control within the authorized area.</i> <i>SAJ 10/14/2015</i>

Paul Kelley
 Environmental Coordinator

 Field Manager

10/16/15
 Date
