

Special Award Conditions

Award Number: NT10BIX5570073

Amendment Number: 1

1) Compliance with Environmental Protocols and Measures

This BTOP Grant Special Award Condition establishes requirements applicable to implementation of the Bend Cable Communications, LLC (BendBroadband), BendBroadband Fiber Optic Cable Installation. The funding of the Grant is dependent on compliance with the provisions of this Special Award Condition.

Post-award environmental reviews of the Project included consultation with regulatory agencies related to the protection of biological and historic and cultural resources. These consultations identified specific protocols or environmental protection measures. These protocols or protective measures may be either required or recommended to be included in the implementation of the Project to minimize potential impacts to biological resources and effects on historic and cultural resources. The protocols and measures are listed below.

Note that this Special Award Condition does not distinguish requirements identified during the consultations from recommendations that were also provided. BendBroadband shall implement the identified protocols and measures without regard to this distinction and advise the Federal Project Officer (FPO) immediately if any issues arise related to the ability to comply fully with any requirement or recommendation listed below.

For each protocol or measure listed, BendBroadband shall include the following information in its periodic report to the FPO administering the grant:

- a. Specifically where and when the protocol has been used or a measure has been implemented during the reporting period, and
- b. Whether full compliance with the protocol or measure was achieved.

The FPO may, if they determine necessary, require additional information to ensure compliance with the protocol or measure. If, at any time, BendBroadband has questions or requires clarification regarding any of these protocols or measures, they shall notify the FPO, who will coordinate with the appropriate regulatory authority to provide the necessary information.

Historic and Cultural Resource Protection Protocols and Measures

BendBroadband consulted with the Oregon Parks and Recreation Department (State Historic Preservation Office [SHPO]). Through the Tower Construction Notification System (TCNS), NTIA also provided information on the Project to six Tribes. Project stipulations resulting from these consultations include:

1. BendBroadband will revise and submit the 106 Survey and Determination of Effect for Proposed BendBroadband Fiber Optic Network Deschutes, Jefferson, and Crook Counties, Oregon (Cultural Resource Report) to the OR SHPO for final review and approval by August 2011. Revisions to the report must include additional information concerning the

project description, completed background research for all project components, and any additional archaeological survey work related to the project laterals on private land that will be buried. BendBroadband letter dated June 16, 2011, SHPO approval dated June 17, 2011

2. BendBroadband is prohibited from beginning construction on BLM, USFS, or BOR lands until all appropriate archaeological and Utility ROW permits have been received, investigations completed, reports reviewed by the relevant agency, and OR SHPO concurrence received. BendBroadband letter dated June 16, 2011, SHPO approval dated June 17, 2011

3. BendBroadband will conduct archaeological surveys, which shall include a pedestrian survey and subsurface probes, in advance of ground disturbing work at the following locations:

- o Project Segment BSR1 (Site 35DS21)
- o Project Segment BSR2 (Site 35DS21)
- o Sun River Cabinet Location (Site 35DS21)
- o Lands managed by the BLM and USFS (as required by the applicable agency)

The report prepared for testing in Site 35DS12 must include completed site updates form (using the states online site form) and submitted to the OR SHPO for review and concurrence. BendBroadband letter dated June 16, 2011, SHPO approval dated June 17, 2011

4. If cultural resources are identified during testing as contributing to the potential significant of Site 35DS21 and results have been submitted to the OR SHPO for concurrence and concurrence has been received, Bend will make every effort to avoid such resources by:

- o Repositioning the HDD or ditching equipment to a paved surface or alternative location to avoid effects;
- o Rerouting the conduit around or under the cultural resource to avoid effects;
- o Using construction matting to reduce subsurface effects;
- o Using a smaller construction pad and protective fencing;
- o Identifying an alternative location; and/or
- o Abandoning the project route, pole, replacement/installation, or cabinet location.

If these measures cannot successfully avoid adverse effect, then BendBroadband will conduct additional investigations to formally determine the NRHP eligibility of the resource and assess effects. No ground disturbing activities will commence at the particular site until the SHPO concurs that either the affected portion of the site does not appear to contribute to the potential significance of the site 35DS21 or adverse effects are resolved through avoidance, effect minimization measures, or mitigation. BendBroadband letter dated June 16, 2011, SHPO approval dated June 17, 2011

5. If additional locations for pole replacements are identified, Bendbroadband must ensure a qualified archaeologist will:

- o Assess the locations for archaeological potential and soil integrity;
- o Determine whether the site should be tested for cultural deposits;

- o If applicable, consult with BLM, USFS, or BOR and concerning archaeological permits and appropriate field methods;
- o Undertake subsurface testing and report results of that testing to USFS, BLM, or BOR and following agency review submit the documentation to the SHPO; and
- o Make recommendations to avoid any identified cultural resources. If such measures cannot reliably avoid resources, BendBroadband will proceed as described above in condition # 5.

BendBroadband letter dated June 16, 2011, SHPO approval dated June 17, 2011

6. BendBroadband will notify and reinitiate consultation with the SHPO and applicable Federal agencies if project modifications have the potential to affect historic properties or require additional soil disturbance. BendBroadband letter dated June 16, 2011, SHPO approval dated June 17, 2011

7. BendBroadband will prepare and submit any cultural resources addendum reports simultaneously to (1) NTIA for review; (2) SHPO for review and concurrence; and (3) other relevant agencies or affected tribes, as necessary. BendBroadband letter dated June 16, 2011, SHPO approval dated June 17, 2011

8. BendBroadband will implement the Unanticipated Discovery Plan for Non-Federal Public, Private, and State Lands. SHPO approval letter dated June 17, 20 BendBroadband letter dated June 16, 2011, SHPO approval dated June 17, 201111

9. If any cultural material is discovered during construction, the NTIA, SHPO, and any federal land management agency affected will be notified immediately and all activities halted until a qualified archaeologist assesses the cultural remains. Construction will not resume until NTIA approves.

10. If any human skeletal remains or protected Native objects are uncovered during construction, construction in the vicinity will stop immediately, and appropriate authorities, including law enforcement agencies, NTIA and any affected land management agencies, the SHPO, and interested Tribes, will be informed. Construction will not resume until NTIA approves.

Additional Protection Protocols and Measures

1. BendBroadband will continue working with the Department of the Interior (DOI) Bureau of Land Management (BLM) and Bureau of Reclamation (BOR), and private irrigation districts on the ongoing permitting process. BendBroadband must obtain the necessary permits from the BOR and private irrigation districts before construction activities may begin within the North Unit Irrigation District canal network, Ochoco Irrigation District, and within the vicinity of other regulated waterways.
2. BendBroadband will provide the U.S. Department of Agriculture-Forest Service (USDA-FS) and BLM a copy of the Final EA and FONSI. BendBroadband will continue working with the USDA-FS and BLM on the ongoing permitting process for fiber installation activities on Federal land. BendBroadband must receive concurrence from the USDA-FS and BLM before construction activities may begin within the Deschutes National Forest (DNF), Crooked River National Grasslands (CRNG), and BLM Prineville District.

3. BendBroadband will continue working with the USDA-FS concerning protection of the bald eagle nest found on Federal land, and comply with required avoidance measures within this area. BendBroadband will also consult with the USDA-FS and BLM to minimize potential impacts to local wildlife and species of concern identified on Federal lands.
4. BendBroadband will submit separate cultural resource reports for the project segments on BLM and USDA-FS managed lands and will continue working with these two Federal agencies to comply with Section 106 of the National Historic Preservation Act (NHPA) (36 CFR 800), NAGPRA, and all associated requirements.
5. BendBroadband will obtain the required permits from the Oregon Parks and Recreation Department (OPRD) prior to construction within the Peter Skene Ogden State Park.
6. BendBroadband will stop construction and re-initiate consultation with the U.S. Army Corps of Engineers (USACE) if any wetlands could be impacted along the Project route.

Mitigation Measures identified in the Environmental Assessment as being required to avoid potential significant environmental impacts:

None