FINDINGS OF FACT
STAFF REPORT

Date:	01/07/08	OPRD Coastal Land Use Coordinator:	Calum Stevenson		
OPRD File Number:	BA-632-07	County:	Lane	Applicant: ACS Cable Systems, Inc	
Project Location:	Meares Street beach access at Heceta Beach in Florence, Oregon. Lane County Assessor' map T18S R12W Sec4				
Brief Project Description:	Proposal to install a fiber optic telecommunications cable crossing from Homer, AK to Florence, OR. The purpose of the proposed project is to contribute to the upgrading of telecommunications between Alaska and the Lower 48 states in response to increasing demand.				

ADMINISTRATIVE RULE STANDARDS AND RELEVANT FACTS

I. GENERAL STANDARDS, OAR 736-020-0010

Project Need – There shall be adequate justification for a project to occur on and alter the ocean shore area.

The proposed fiber optic cable is part of a global network being installed to meet the increasing demand for worldwide connectivity. It will contribute to the upgrading of telecommunications between Alaska and the lower 48 states and this demand is driven by the growth of the Internet and expansion of wireless and other bandwidth-intensive applications. By necessity, the cable must cross the ocean shore at the landing site.

Protection of Public Rights – Public ownership of or use easement rights on the ocean shore shall be adequately protected.

The proposed cable will be buried to a minimum depth of 25-30 feet below the beach and will not affect public rights of recreation or ownership.

Public Laws – The applicant shall comply with federal, state, and local laws and regulations affecting the project.

The Lane County Planning Department has certified that the project is in compliance with the Lane County Comprehensive Plan and Land -Use Code. The Department of State Lands (DSL) is currently reviewing a submitted fill/removal permit application for the seafloor and other possible wetland/waterway issues. A proprietary easement agreement will also be required from DSL and a condition of an OPRD alteration permit will the finalization of the agreement prior to installation of the cable on the ocean shore.

Alterations and Project Modifications – There are no reasonable alternatives to the proposed activity or project modifications that would better protect the public rights, reduce or eliminate the detrimental affects on the ocean shore, or avoid long-term cost to the public.
Heceta Beach in Florence was chosen as a cable landing facility due to its shoreline characteristics and its proximity to an existing right-of-way corridors. The offshore cable route was chosen with input from representatives of the ground fishing industry and according to ocean bottom profiles appears to be the best option.

Because this is a cable landing from sea to land, there is no alternative but to cross the ocean shore. This differs from a north-south route along the beach, where there may be viable upland options. The design and installation method proposed for the beach crossing is compatible with public uses, and should cause no problems to the public.

Public Costs – There are no reasonable special measures which might reduce or eliminate significant public costs. Prior to submission of the application, the applicant shall consider alternatives such as nonstructural solutions, provision for ultimate removal responsibility for structures when no longer needed, reclamation of excavation pits, mitigation of project damages to public interests, or a time limit on project life to allow for changes in public interest.
Public costs will be minimal, as the cable and conduits will be buried and will not infringe on public recreation. In this case the method of burial will be a directional bore, with no need for excavation or heavy equipment use on the beach. Costs of maintaining and repairing the cable will be the responsibility of the permit applicant and subsequent owners of the cable.

Compliance with LCDC Goals – The proposed project shall be evaluated against the applicable criteria included within Statewide Planning Goals administered by the Department of Land Conservation and Development.
Lane County has certified that the proposed project is compatible with the acknowledged local comprehensive plan and land use regulations. This certification meets the Department=s obligation to ensure compatibility with the Statewide Planning Goals.

II. SCENIC STANDARDS, OAR 736-020-0015

Projects on the ocean shore shall be designed to minimize damage to the scenic attraction of the ocean shore area.
***Natural Features – The project shall retain the scenic attraction of key natural features, for example, beaches, headlands cliffs, sea stacks, streams, tide pools, bedrock formations, fossil beds and ancient forest remains*.**
The proposed cable and conduits will be buried beneath the beach and will not be visible. The scenic attraction of the beach and dunes will therefore be retained.

Shoreline Vegetation – The project shall retain or restore existing vegetation on the ocean shore when vital to scenic values.
The cable installation will not affect any existing vegetation on the ocean shore.

View Obstruction – The project shall avoid or minimize obstruction of existing views of the ocean and beaches from adjacent properties.
The cable facilities will be installed underground, and will have no permanent impact on existing views of the ocean and beaches. A temporary obstruction will occur from the drill platform, but will be removed after completion of the project.

Compatibility with Surroundings – The project shall blend in with the existing shoreline scenery (type of construction, color, etc.).
The cable and additional conduits will be completely hidden from view, and will not affect the scenery of the area.

III. RECREATION USE STANDARDS, OAR 736-020-0020

Recreation Use – The project shall not be a detriment to public recreation use opportunities within the ocean shore area except in those cases where it is determined necessary to protect sensitive biological resources such as state or federally listed species.
The cable and additional conduits will be hidden from view and buried to a minimum depth of 25-30 feet below the beach, so that there will be no impacts to traditional recreational uses on the beach.

Recreation Access – The project shall avoid blocking off or obstructing public access routes within the ocean shore area except in those cases where it is determined necessary to protect sensitive biological resources such as state or federally listed species.
A temporary obstruction to beach access will occur at the Meares Street county road easement location, but the access will remain open throughout the drilling operation. Another beach access is located approximately 200 yards north of Meares Street and will afford beach access to those visitors uncomfortable with accessing work areas. Once the project is complete, however, there will be no obstructions to beach access through the Meares Street road easement or to pedestrian/vehicle travel along the ocean shore.

IV. SAFETY STANDARDS, OAR 736-020-0030

Structural Safety – The project shall not be a safety hazard to the public due to inadequate structural foundations, lack of bank stability, or the use of weak materials subject to rapid ocean damage.
The conduit is extremely durable, and will be buried to a depth of at least 25 feet below beach level. The conduit specifications will be 5" outside diameter and a 3.75" inside diameter with a 1.25" pipe wall. The size and strength of the conduit will prevent future structural collapse of the pipe and the resultant movement of geological features.
Conduit specifications and depth of pipe will minimize ocean damage and prevent conduit from becoming exposed during storm events. If, due to unforeseen circumstances the cable becomes exposed, a condition of the permit approval will require that the owners of the cable re-install the cable to an adequate depth to eliminate any hazardous or detrimental condition.

Obstructional Hazards – the project shall minimize obstructions to pedestrians or vehicles going onto or along the ocean shore area.
Conduit specifications and depth of pipe will minimize ocean damage and prevent conduit from becoming exposed during storm events. If, due to unforeseen circumstances the cable becomes exposed, a condition of the permit approval will require that the owners of the cable re-install the cable to an adequate depth to eliminate any hazardous or detrimental condition.

Neighboring Properties – The project shall be designed to avoid or minimize ocean erosion or safety problems for neighboring properties.
The project will drill underneath a shoreline protection structure that may be impacted by the horizontal drilling. As indicated on the map attached to the January 14, 2008 response letter to Mr. Gary Brabham, the depth of drilling will be 26 feet on the eastern edge of any surface structures to 40 foot depth on the western edge. The toe of the shoreline protection structure is 15 foot below grade. The conduit will be laid 11' to 25' below the toe of the shoreline protection structures. According to the Army Corps of Engineer (ACOE) table for recommended minimum depth of cover for a drilling project under a levee those depths are more than sufficient to prevent any possible damage to surface structures. The drill cutting head will be 8" and the ACOE

engineered specification for minimum depth of cover is 6 foot for a conduit size of 8" to 14". Minimum drilling depths will be instituted in the conditions of the ocean shore permit. A geotechnical report for a test boring indicates very dense, fine sand with no indication of cobbles, gravel, or boulders and is conducive to safe HDD operations.

The placement of the manhole where the entry hole will start was moved farther east to ensure a proper drilling angle to achieve the necessary depth under the surface structures and to prevent possible structural damage.

Shoreline protection structures are also designed to be flexible and move with the various forces acting on it and have the ability to withstand a degree of settling without damaging the integrity of the structure.

Property Protection – Beachfront property protection projects shall be designed to accomplish a reasonable degree of increased safety for the on-shore property to be protected.
Project is not a shoreline protection structure.

V. NATURAL AND CULTURAL RESOURCE STANDARDS, OAR 736-020-0030

Projects on the ocean shore shall avoid or minimize damage to the following natural resources, habitat, or ocean shore conditions, and where applicable, shall not violate state standards:

Fish and wildlife resources including rare, threatened or endangered species and fish and wildlife habitats.
The project will be completed without any visible alterations to the beach environment. In its response to the permit application notice, U.S. Department of Fish and Wildlife had no comment. Received no other comments from agencies responsible for fish and wildlife issues. There was no indication that there would be any impact to wildlife habitat values.

Estuarine values and navigation interests.
The project will not be located in an estuary. The Oregon Division of State Lands and the Corps of Engineers have reviewed fishing and navigation issues for the installation of the cable on the seafloor. The project will have no affect on fishing or navigation interests within the ocean shore area, which extends between the line of extreme low tide and the vegetation line.

Historic, cultural and archeological sites.
The part of the project that will be located under the OPRD managed ocean shore will have a drilling depth between 20'-40' below the surface and will not affect historical, cultural or archaeological sites within that jurisdiction. It has been recommended by the State Historic Preservation Office in their comments that cultural sites are known to be located in the surrounding area and that an archaeological survey be completed for areas around the beach manhole and shore-end landing. Location of historic shipwrecks along the proposed off-shore cable route is also recommended. Since no surface work will occur on the ocean shores no archaeological impacts will be encountered for this process.

Natural areas (vegetation or aquatic features).
The method of boring the conduits below the ocean shore will prevent any disturbance of natural areas or vegetation. Some disturbance will take place at the upland drilling site, which is outside of the ocean shore boundaries.

Air and water quality of the ocean shore area.
All work within the ocean shore will be subsurface and will cause no impacts to the air and water quality of the ocean shore area.

Areas of geologic interest, fossil beds, ancient forest remnants.
The area is comprised of sand dune backed shoreline, and none of these features will be affected by the cable installation.

When necessary to protect native plant communities or fish and wildlife habitat on the subject or adjacent properties, only native, non-invasive, plant species shall be used for revegetation.
The installation of the conduits and cable will not affect vegetation on the ocean shore. In addition, this is an urban area, and is not in proximity to native plant communities or protected fish and wildlife habitat.

VI. PUBLIC COMMENT

Notice of the proposed project was posted at the site for 30 days in accordance with ORS 390.650. Individual notification and a copy of the application were mailed to government agencies, adjacent property owners and individuals on OPRD's ocean shore mailing list.
Six written comments were received. Four comments were general statements from other state and federal agencies with recommendations for permit conditions. One was a request for information from the Confederated Tribes of Grand Ronde and one was a private property owner adjacent to the project location. They were concerned with destabilization of their shoreline protection structure.

VII. Findings Summary

The following checklist summarizes whether the application satisfies the general, scenic, recreation, safety and natural and cultural resource standards as defined in OAR 736-020-0010 through 736-020-0030:

Standard	Yes	No	Standard	Yes	No
Project Need	☒	☐	Structural Safety	☒	☐
Protection of Public Rights	☒	☐	Obstructional Hazards	☒	☐
Public Laws	☒	☐	Neighboring Properties	☒	☐
Alteration and Project Modifications	☒	☐	Property Protection	☒	☐
Public Costs	☒	☐	Fish and Wildlife Resources	☒	☐
Compliance with LCDC Goals	☒	☐	Estuarine Values and Navigation Interests	☒	☐
Natural Features	☒	☐	Historic, Cultural and Archeological Sites	☒	☐
Shoreline Vegetation	☒	☐	Natural Areas	☒	☐
View Obstruction	☒	☐	Air and Water Quality of the ocean shore	☒	☐
Compatibility with Surroundings	☒	☐	Areas of Geologic Interest	☒	☐
Recreation Use	☒	☐	Use of Native Plant Species when Necessary	☒	☐
Recreation Access	☒	☐		☒	☐

VIII. STAFF RECOMMENDATION:

1. There is a need for the proposed cable and conduits to cross the ocean shore. The facility will allow the physical landing of the telecommunications cable, as well as one future cable. The cable installation will provide needed infrastructure to meet the increased demands for global connectivity.

2. The proposed cable landing facility complies with the policy of OAR 736-020-0040 which prohibits the use of the ocean shore as a north-south utility corridor.

3. The cable and associated conduits will be bored to a depth of at least 25 feet below the beach level. No excavation will take place on the ocean shore; therefore there will be no adverse impacts to recreation, natural resource, or scenic values. Permit conditions will require maintenance of the facility and reburial if an unforeseen event causes any of the facility to be exposed in the future.

Based on an analysis of the facts and in consideration of the standards evaluated under OAR-736-020-0005 through OAR 736-020-0030, I recommend the following action:

☐ Approval

☒ Approval with conditions

☐ Denial

Coastal Land Use Coordinator Calum Stevenson