



FINDINGS OF FACT
STAFF REPORT

Date: OPRD Coastal Land Use Coordinator: Tony Stein

OPRD File Number: BA-618-07 County: Tillamook

Project Location: West end of Lake Street, Nedonna Beach

Brief Project Description: Applicant: MFS Globenet, Inc. The project involves the installation of a subsurface fiber optic cable landing. The proposed submarine cable will run 17,000 kilometers from the East China Sea to Nedonna Beach (north of Manhattan Beach Wayside), north of Rockaway Beach, Oregon, where it will terminate at an existing on shore facility located on Lake Street. The armored fiber optic cable will be delivered by a cable-laying ship, and inserted into a Horizontally Directionally Drilled (HDD) conduit approximately 1,030 meters offshore. The conduit will be bored to obtain a depth of 17 to 23 meters below beach level. The fiber optic cable will then be pulled underneath the nearshore dune to an existing on-shore facility located 75 meters inland on Lake Street.

BACKGROUND

Three previous permits have been issued for fiber optic cable landings at this site (BA-415-98, BA-491-99 and BA-518-01). These cables are known as the Alaska Northstar, Southern Cross and Tycom Networks cables, respectively. Two of the previous installations were a trench burial of steel conduits under the beach to the approximate mean low water line, and grounding systems buried below the foredune. The Tycom Networks (BA-518-01) installation was also a horizontal directional bore installation similar to the proposed application and is the preferred method of fiber optic cable burial.

PIPELINES OR CONDUITS UNDER THE OCEAN SHORE: POLICY; OAR 736-020-0040

(1) Pursuant to ORS 390.610(4), it is the policy of the Department to prohibit the use of the ocean shore as a north-south utility, communication, transshipment or conveyance corridor. This prohibition applies to pipelines, conduits, cables, wires, towers, transmission, relay or booster stations and other continuous or intermittent facilities for moving material or services, or transmitting data, information, energy, or other commodity whether for private or public use or benefit.

The telecommunications cable and additional conduits will be crossing the beach in an east-west direction. This route will not result in the ocean shore being used as a north-south utility corridor.

PIPELINES OR CONDUITS UNDER THE OCEAN SHORE: JUST COMPENSATION; OAR 736-020-0040

(5) Prior to the issuance of any permit under these rules and regulations, the Department shall receive from the prospective permittee, payment of just compensation for the use of the ocean shore. The amount of just compensation shall be at the discretion of the Department. Factors the Department may consider in setting the amount of just compensation may include:

- (a) The length and width of the ocean shore occupied by the proposed pipeline, cable or conduit crossing;
- (b) Any surface manifestations of the pipeline, cable or conduit crossing on the ocean shore;
- (c) Potential impacts to unusual or scenic land forms;
- (d) Potential impacts to fish and wildlife and their habitats;
- (e) Potential impacts to recreation use or access to the ocean shore or to public recreation facilities adjacent to the ocean shore that may be affected by the pipeline, cable or conduit crossing;
- (f) The safety features and practices to be employed by the applicant during construction, through out the life of the facility, and in the event of a break, rupture, exposure or other hazardous circumstance;
- (g) Benefits that will accrue to the public from the proposed project such as sewer, gas, or electric service, phone or other communication service, or beach access mitigation;
- (h) Benefits that accrue to private individuals, companies, organizations or corporations from the proposed project; and
- (i) Administrative costs to the State of processing the application, issuing the permit, and monitoring the project for permit compliance.

In no case shall just compensation be less than the Department's administrative costs as calculated under the fee provisions in OAR 736-020-0004.

The permit fee for this project shall be \$10,000.00 for just compensation. This amount was determined by OPRD staff as just compensation based on the type of project and the considerations listed above. This is the same amount of compensation that was charged to three previous cable installations (BA-415-98, BA-491-99 and BA 518-01) located within the Nedonna Beach fiber optic cable corridor.

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 that is being installed to meet the increasing demand for worldwide connectivity. 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. After installation has been completed and the site has been restored, there will be no visible alterations to the ocean shore.

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 well 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 City Planner for the City of Rockaway Beach has certified that the project is in compliance with the local comprehensive plan and zoning ordinance. (See Compliance with LCDC Goals, below.)

The Division of State Lands and Army Corps of Engineers are currently reviewing a joint permit for the seafloor installation. An easement agreement from the State Land Board for the cable route is also currently pending. A condition of approval will require that the joint permit is approved and easement agreement be finalized 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.

Nedonna Beach was chosen as a cable landing facility due to its shoreline characteristics and its proximity to an existing railroad right-of-way corridor that provides direct access to the Portland metro area. The offshore cable route was chosen with input from representatives of the ground fishing industry.

Because this is a cable landing from sea to the 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 conduit will be buried and will not infringe on public recreation. In this case, the method of burial will be a horizontal 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.

For this permit, the City of Rockaway Beach has certified that the proposed project is compatible with the acknowledged local comprehensive plan and land use regulations. Although the site is outside of the city limits, the City of Rockaway Beach is responsible for certifying local plan compliance within its urban growth boundary, as per an agreement with Tillamook County. The City certification meets the Department's obligation to ensure compatibility with the Statewide Planning Goals.

SCENIC Standards Evaluated, 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 fiber optic cable will be installed underground, and will have no impact on existing views of the ocean and beaches.

Compatibility with Surroundings – The project shall blend in with the existing shoreline scenery (type of construction, color, etc.).

The fiber optic cable will be completely hidden from view, and will not affect the scenery of the area.

RECREATION USE STANDARDS EVALUATED, 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 of federally listed species.

The cable will be hidden from view and buried below the beach. Following installation, 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 of federally listed species.

The directional drilling will take place within the right of way at Lake Street, well landward of the ocean shore. This could result in temporary obstructions along this right of way, however, once the project is completed, there will be no obstructions to beach access.

SAFETY STANDARDS EVALUATED, OAR 736-020-0030

The project shall be designed to avoid or minimize safety hazards to the public and shoreline properties. The following safety standards shall be applied, where applicable, to each application for an ocean shore permit.

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 cable itself is extremely durable, and will be buried to a depth of 17 to 23 meters below beach level. The depth of the installation and the setback distance of the manhole facility appears to be adequate to avoid the most severe erosion possible at this site. 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.

Across the entire width of the ocean shore, the project is limited to a subsurface installation, therefore there will be no obstructions to beach access or to pedestrian or vehicle travel along the ocean shore. Lake Street is used as a pedestrian access to the beach and is occasionally used as beach access for emergency vehicles. The upland drilling operation will be located east and away from the access and should not affect its use.

Neighboring Properties – The project shall be designed to avoid or minimize ocean erosion or safety problems for neighboring properties.

The cable and conduits will be located under the beach and along the right-of-way of Lake Street. There are no associated safety hazards to the public and surrounding property owners from this buried infrastructure.

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.

This is not a beachfront property protection project.

APPLICABLE NATURAL AND CULTURAL RESOURCE STANDARDS EVALUATED, 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.

Once the project is completed and the site is restored, there will be no visible alterations to the beach environment. There is 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 will review fishing and navigation issues for the installation of the cable on the seafloor. The project will have no effect on navigation interests within the ocean shore area, between the line of extreme low tide and the vegetation line.

Historic, cultural and archeological sites.

No historic, cultural, and archeological sites have been identified within the project area.

Natural areas (vegetation or aquatic features).

The method of boring the conduit 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 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 the 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.

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 and individuals on OPRD's ocean shore mailing list. No comments were received in opposition to the permit request.

STAFF FINDINGS

1. There is a need for the fiber optic cable to cross the ocean shore. By its nature, a cable landing must cross the shoreline when connecting from the sea to land. 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 installed from 17 to 23 meters below the beach level. 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.

Land Use Coordinator

