

Draft Compatibility Determination

Title

Compatibility Determination for Frontier Communications Utility Right-of-Way at Modoc National Wildlife Refuge

Refuge Use Category

Rights-of-way and Rights to Access

Refuge Use Type(s)

Right-of-way (utility)

Refuge

Modoc National Wildlife Refuge

Refuge Purpose(s) and Establishing and Acquisition Authority(ies)

Modoc National Wildlife Refuge (Refuge) was established in 1961. Legal authorities include the Migratory Bird Conservation Act of 1929 (16 U.S.C. 715d); Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4), as amended; and the Fish and Wildlife Act of 1956 (16 U.S.C. 742).

Modoc Refuge purposes include:

" ... for use as an inviolate sanctuary, or for any other management purpose, for migratory birds." 16 U.S.C. 715d (Migratory Bird Conservation Act of 1929)

" ... suitable for (1) incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species or threatened species ... " 16 U.S.C. 460k-1 (Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4), as amended)

" ... the Secretary ... may accept and use ... real ... property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors ... " 16 U.S.C. 460k-2 (Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4), as amended)

" ... for the development, advancement, management, conservation, and protection of fish and wildlife resources ... " 16 U.S.C. 742f(a)(4)

" ... for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude ... " 16 U.S.C. 742f(b)(1) (Fish and Wildlife Act of 1956)

National Wildlife Refuge System Mission

The mission of the National Wildlife Refuge System, otherwise known as Refuge System, is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans (Pub. L. 105-57; 111 Stat. 1252).

Description of Use

Is this an existing use?

No

What is the use?

The Refuge proposes to allow Frontier Communications to install a fiber optic conduit and cable system primarily underground, and a small portion installed aerially (Figure 1). This use would include the right to use and temporarily alter the landscape through construction, maintenance, and operation of a telecommunication line.

Is the use a priority public use?

No

Where would the use be conducted?

The Frontier Communications utility upgrade project is located along County Roads 56, 57 and 115 in Modoc County, CA. Frontier Communications aims to construct a broadband fiber-optic cable system that will connect with other existing and future alignments. The system would be primarily underground with a shorter segment installed aerially along County Road 56. A map of the overall project area affecting the Refuge can be found at the end of this doc in the Figures section.

When would the use be conducted?

Frontier Communications has requested the Refuge allow 90 days for construction on Refuge lands. This will allow time for installing conduit pipe, placing the fiber inside the conduit, splicing cables together, and site restoration. The target construction start date is

How would the use be conducted?

The project proposes installation of 13,308 feet of fiber optic cable both aerially placed on existing poles and buried on USFWS lands. The buried lines will be placed by means of plowing and horizontal directional drilling at a minimum of 30 inches below grade. A total of 8 pull boxes and 14 bore pits located inside USFWS lands are

proposed. Construction equipment will not be staged on USFWS lands.

Installation of the conduit would involve the use of heavy construction equipment including excavators, backhoe, vacuum trailer, conduit plows, directional boring drills, and truck and trailer for placing and splicing cable. Construction would consist of the following installation methods.

- Using a conduit plow that simultaneously excavates and places the conduit in a single motion. This method causes the least amount of ground disturbance but requires ground conditions to be relatively free of rocks or other obstructions. Given the underlying geology of the soils within the proposed right-of-way, much of the alignment would require this type of construction.
- Digging an 18" wide and 42" deep trench to place the conduit and backfilling with native material. Equipment used includes excavators and back hoes with rock break hammers or rock saws. This is used where the ground conditions are not conducive to the conduit plow.
- Installing the conduit using directional boring. This method is used when crossing sensitive landscape features such as streams and slide areas, as well as hard surface crossings such as paved roads. Directional boring requires some minor excavation and use of drilling mud at the entry and exit point of the bore. All boring activity will take place outside the prescribed buffers for specific sensitive features such as streams or cultural sites.

Maintenance requirements are expected to be minimal. An underground system is inherently more reliable than an above ground system. Maintenance of the conduit would be required if there is unforeseeable damage from natural causes of vandalism.

Why is this use being proposed or reevaluated?

This project aims to significantly enhance internet connectivity in Modoc County and provide faster more reliable high-speed internet access than what is currently available in Modoc County. The company claims the development will benefit the local population by supporting economic growth, improving access to education and healthcare services through telecommunication, and fostering social connectivity.

Availability of Resources

An equitable charge for processing the ROW Permit is assessed by the U. S. Fish and Wildlife Service (Service). as explained in 50 CFR 29.18. If the right-of-way is to be granted, the holder agrees to reimburse the United States for reasonable costs incurred by the Service in monitoring construction, operation, maintenance and termination of facilities. Payment for use and occupancy of Service lands is also required as stated in 50 CFR 29.23. The proposed right-of-way is adjacent to County Roads 56, 57 and 115, on previously disturbed land. Maintenance of the fiber optic line would be the responsibility of Frontier Communications and would take place on

previously disturbed land. Frontier Communications will provide sufficient environmental and project information for the Service to prepare NEPA, NHPA, and processing the ROW permit. Charges involve cost recovery of staff time for processing the ROW permit, monitoring needed during and following construction and occupancy and use charges (50 CFR 29.18, 50 CFR 29.23). Consequently, the Refuge will incur only monitor administrative costs associated with granting the right-of-way and monitoring the use to ensure that it complies with right-of-way requirements and stipulations of this Compatibility Determination would occur as a minor task incidental to other work.

Anticipated Impacts of the Use

Potential impacts of a proposed use on the refuge's purpose(s) and the Refuge System mission

Modoc National Wildlife Refuge purposes are focused on management, conservation and protection of fish and wildlife resources, conservation of endangered or threatened species, and as inviolate sanctuary for migratory birds (Migratory Bird Conservation Act, Refuge Recreation Act, Fish and Wildlife Act). In 2009, the Service published a final Comprehensive Conservation Plan (CCP) that provides a description of the desired future conditions and long-range guidance to accomplish the purposes for which the Refuge was established (USFWS 2009).

Short-term impacts

Short term, temporary impacts for the up to 90-day utility installation duration include human presence, machinery noise, and a negligible amount of disturbance to vegetation and the surrounding habitat. In this case, a directional borer will be used, so no vegetation clearing is required except for minimal grass and shrub removal, if necessary. Although wildlife disturbance due to noise from construction is possible, it would be considered minimal due to the short duration of construction as well as the permitted work occurring parallel to an existing roadway. As this work is 10 feet from the adjacent existing road and driveway, some disturbance to wildlife and vegetation is already present. A Section 7 Endangered Species Act evaluation has been completed concurrent with the review of this compatibility determination. It has been determined that the work, if permitted, would result in no effect to the following federally listed and proposed for Federal listing species: Gray Wolf (*Canis lupus*) - endangered, California Condor (*Gymnogypus californianus*) - experimental population, Yellow-billed cuckoo (*Coccyzus americanus*) - threatened, Monarch Butterfly (*Danaus plexippus*) - proposed threatened, Suckley's Cuckoo Bumble Bee (*Bombus suckleyi*) - proposed endangered, Greene's Tuctoria (*Tuctoria greenei*) - endangered, and Slender Orcutt Grass (*Orcuttia tenuis*) - threatened. The work would be not likely to adversely affect the Northwestern Pond Turtle (*Actinemys*

marmorata). The work will be conducted with heavy equipment standard for installing fiber optic lines and other utilities. It is not anticipated that there will be any impacts to the soil structure beyond the temporary impacts at the time of installation. Additionally, no historic structures are present on or near the project area – the footprint of the right-of-way has been cleared by the State of California Historic Preservation Officer concurrent with the review of this compatibility determination; it has been determined that there will not be any effect to historic or cultural resources as a result of the issuance of the right-of-way permit or the work permitted.

Long-term impacts

Due to the location of this project along an existing roadway and the small footprint of ground disturbing activity, it is unlikely there will be any long-term impacts to Refuge resources. Once fiber optic conduit is installed underground there will be very little maintenance that involves ground disturbing activities. Visitor use will also not be impacted in the long term, as the surface footprint around the bored utility line is expected to be maintained at preconstruction conditions. No historic structures or cultural resources were noted during clearance of the project site, so it has been determined that there is no potential to effect historic properties in the long-term. Any proposed future maintenance projects will be monitored closely and mitigated for by close coordination between the Refuge and the applicant. Additional mitigating measures have been put in place to minimize any long-term impacts as indicated in the stipulations below.

Public Review and Comment

The draft compatibility determination will be available for public review and comment for 14 days from June 26 to July 10, 2026. The public will be made aware of this opportunity to comment through the Refuge's social media and website. A hard copy of this document will be available at the Modoc National Wildlife Refuge Visitor Center at 5364 County Road 115, Alturas, CA 96101. Comments may be submitted via email to fw8planningcomments@fws.gov. Concerns expressed during the public comment period will be addressed in the final compatibility determination.

Determination

Is the use compatible?

Yes

Stipulations Necessary to Ensure Compatibility

1. The project will comply with all government environmental policies. The

project must comply with other Federal, State, and local permitting requirements and regulations relating to environmental and cultural resource protection. Terms and conditions of the right-of-way permit will allow for modification to ensure compatibility (603 FW 2.11 (H)(3)).

2. All fees/requirements of the application process must be satisfied.
3. Construction work areas shall be identified in advance, and these specific locations shall be shown on the construction plans. The proposed right-of-way is within the existing disturbed road prisms. Vegetation removal will be limited to minor clearing of grasses and shrubs, if necessary.
4. In-channel work is not allowed. Stream crossings will be complete by attaching the conduit to the Bridge or directional boring. If directional boring is used, the conduit will be placed at least 10-15 feet below the potential scour elevation to avoid any accidental breakthrough or frac-out of drilling mud during construction.
5. The Permit Holder's contractor is required to have a spill/stormwater pollution prevention plan which will include practices for storing, handling, and disposing of contaminated materials that may be used during the construction such as fuel and drilling mud. The spill/stormwater pollution prevention plan will be developed in consultation with the Service and will include best management practices to address accidental hydraulic fracturing of drilling muds during directional boring activities, as well as measures for contaminated cleanup.
6. The Permit Holder's contractor will follow any best management practices identified in permits issued.
7. The Permit Holder shall contact the Refuge 48 hours in advance of any maintenance activities involving heavy equipment within the right-of-way. This will allow the Refuge to ensure there are no conflicts with Refuge activities, public use programs or nesting migratory birds.

Justification

The right-of-way (utility) as described, is determined to be compatible. Based upon impacts described in the Comprehensive Conservation Plan (USFWS 2009), it is determined that allowing the use, the right-of-way (utility), at Modoc National Wildlife Refuge will not materially interfere with or detract from the purposes for which the refuge was established or the mission of the Refuge System. Based on available science and best professional judgement, the Service has determined that this use, in accordance with the stipulations provided here would not conflict with the national policy to maintain the biological diversity, integrity, and environmental

health of the lands within the Refuge System.

Signature of Determination

Refuge Manager Signature and Date

Signature of Concurrence

Assistant Regional Director Signature and Date

Mandatory Reevaluation Date

2035

Literature Cited/References

U.S. Fish and Wildlife Service. 2009. Final Comprehensive Conservation Plan and Environmental Assessment. U.S. Fish and Wildlife Service, Region 8.

Figure(s)

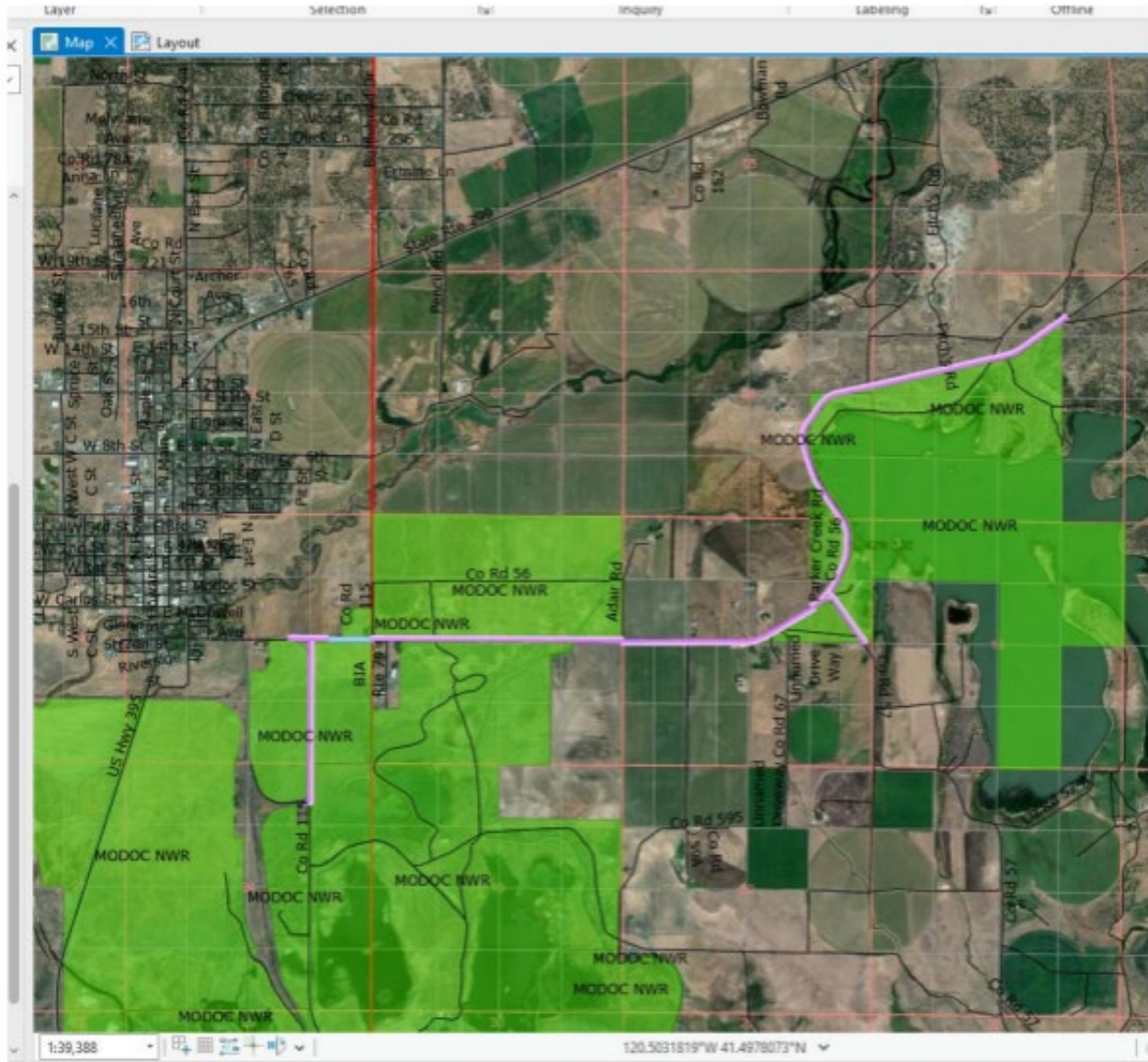


Figure 1: Map of entire stretch of Frontier Fiber Optic Conduit installation project crossing the Modoc National Wildlife Refuge boundary. The pink line is underground infrastructure. The blue line is overhead infrastructure fixed to existing power poles.