




TRINITY COUNTY
COMMUNITY DEVELOPMENT SERVICES
PLANNING DEPARTMENT
P.O. BOX 2819, WEAVERVILLE, CALIFORNIA 96093
PHONE (530) 623-1351 ♦ FAX (530) 623-1353

MEMORANDUM

DATE: Friday, April 8, 2022

TO: Members of the Trinity County Planning Commission

FROM: Lisa Lozier, Interim Director Building & Planning 

SUBJECT: Agenda Item 3 – General Plan Consistency Determination for Easement Agreement Underground Broadband Infrastructure In/Around Cooper Bar Estates, Junction City (continued from the February 24 and March 10, 2022 meetings)

1. This item was continued to allow staff the opportunity to contact Mr. Randy Whitehead, Representative from Vero Fiber Networks L.L.C. to further discuss the requirement for a General Plan Consistency Determination in order to grant a utility easement for underground broadband Infrastructure.

Government Code (GC) Section 65402 discusses the restrictions on acquisition and disposal of real property for public purposes and the responsibility for planning agencies to determine the acquisition or disposal in conformance with the agency's general plan. After reviewing GC Section 65402, to "dispose" of real property is to sell it, whereas an easement is for a limited use and the underlying real property rights are not transferred. County Counsel conducted case law research and did not find anywhere where the definition of dispose was expanded to mean any interest in real property. Based on the preceding information, staff concludes a GP consistency determination by the Planning Commission is not required for an easement agreement for the underground infrastructure project.

Staff requests Agenda Item 3 be removed. A General Plan Consistency Determination for Easement Agreement Underground Broadband Infrastructure is not required.

2. A Memorandum has been provided by Mr. Whitehead to address questions and concerns expressed by the Commissioners and members of the public at the public hearing held on the March 10, 2022 for the Broadband Infrastructure project. The memorandum is attached for your review.



California Public Utility Certificate No.: 7351

MEMORANDUM

To: Lisa Lozier, Director, Trinity County Community Development Services
Planning Dept.

From: Randy Whitehead, Vero Fiber Networks, LLC

Date: April 5, 2022

RE: Digital 299 Project
Clarification Response to Certain Citizen and Commissioner Comments at the
March 10, 2022, Planning Commission Meeting

Dear Ms. Lozier:

In accordance with our most recent communications, thank you for the opportunity to respond and address the comments and concerns expressed by several citizens as well as a couple of the Planning Commissioners, at the March 10, 2022 Planning Commission meeting, with regard to the Digital 299 Broadband Project. As we previously discussed, it appears that some of the comments and concerns expressed were based on rumor or the miscommunication or misinterpretation of the facts. The objective of this Memorandum is to clarify these issues to ensure Trinity County officials as well as its citizens have accurate information.

Beginning on the following page, we have set forth the comments and questions, or the general context of what was stated during last month's meeting, followed by a brief clarification of the actual facts.

I look forward to speaking with you again within the next few days to follow-up on this Memorandum and to see if any further questions or concerns have come up since last month's meeting. Thank you again for all your time and hard work on this matter, we really appreciate your efforts as well as the efforts of all your colleagues.

Sincerely,

Randy Whitehead,
Right of Way Agent
Representing...
Vero Fiber Networks, L.L.C.

cc: David Colbeck, Director of Operations
Andrew Pence, Director of Transportation
Sean Cameron, County Counsel

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- **On more than one occasion during the March 10th Planning Commission meeting, it was mentioned that Vero Fiber Networks (“Vero”) is a Chinese company, or Chinese-owned company. Please be aware that;**
 - Vero has no affiliation with the Chinese government, or any Chinese company, or any Chinese citizens, and receives no funding or assistance of any kind from any Chinese sources or any other foreign sources.
 - Vero is 100% owned by American citizens.
 - Vero was founded in Boulder, Colorado, on or about October 13, 2017, by American citizens who are also telecom industry veterans, each of whom have an average of 30 years of individual experience each, in the development, construction and operation of fiber optic communications networks throughout North America.

 - **On more than one occasion during the meeting it was mentioned that Vero Fiber Networks, installed, and owns and operates the sub-sea cable from Southeast Asia to a cable landing station in the Eureka-Arcata area. Please be aware that;**
 - Vero does not own, maintain, or operate the sub-sea cable, and has no financial interest in the cable whatsoever.
 - Vero did not install the sub-sea cable and had no involvement with the sub-sea cable’s construction. Vero will have no involvement in the ongoing operation of the subsea cable.
 - The Digital 299 fiber optic cable facility that will be installed between the Arcata/Eureka area and Redding/Cottonwood area, generally along and within the Highway 299 public right of way utility corridor, is not a physical extension of the sub-sea cable. The Digital 299 fiber optic cable facility is an entirely separate cable facility than the sub-sea cable.
 - The Digital 299 fiber optic cable facility will be connected to the subsea cable to enable its customers, and its customers’ customers including local telecommunications providers, to have direct and expedited access to communications providers’ networks in Southeast Asia.
 - In fact, this direct connection bodes well for the future area economics of the tri-county area, placing it on par with other areas of California that already have such direct, high-speed connectivity to the booming Southeast Asia economies. It will enable the tri-state area to bypass having its communications transmitted and routed through the central valley before it ever arrives at an existing cable landing station whether in the Los Angeles or the Portland area.

- **On one or more occasions during the meeting it was mentioned that Vero will install its fiber optic cable facility, then leave the area, thus leaving it up to local communication providers to connect their facilities to the Digital 299 system.**
 - Vero is not a utility construction contractor. It is a certificated public utility company, on par with the likes of AT&T and Verizon, authorized to provide facilities-based local exchange carrier services (local telephone service) and interexchange carrier services (long distance service) and other regulated and non-regulated telecommunications services. With this privilege granted by the state of California comes certain obligations to the people of California, thus it is not possible to build something and walk away from it at will. As a public utility it would need permission from the California Public Utilities Commission to terminate services and leave the state, and this is necessary to ensure continuity of services to ensure no one's communications are interrupted, including 911 emergency communications. Vero has no plans to leave, but rather considers itself a valued corporate citizen that will continue to invest in, and serve, California's growing communications needs.
 - Vero will own, operate, and maintain, the fiber optic cable communications facilities. As the owner and operator of the facilities, Vero will necessarily be the one that must connect all local telephone companies, Internet service providers, utilities companies, government agencies, educational institutions and others to its backbone cable facility. The facilities will not be left buried in the ground for others to access and connect/splice into the cable facility.
 - Vero is a middle-mile provider, which means it can be thought of as a carrier's carrier, or a telephone company's telephone company. Retail telephone companies such as AT&T, Verizon, and Frontier, that provide retail telephone service to end user consumers in their homes and businesses, frequently use other telecom's facilities to augment their own telephone networks when necessary from middle-mile facilities providers.
 - The Digital 299 system is a middle-mile backbone cable facility. Using an analogy to help describe the function of a middle-mile backbone cable facility, think of it as being similar to the Hetch Hetchy long haul transmission canal system that carries water from the Sierra Nevada mountain range down and over to the San Francisco Bay Area, this is considered a "middle-mile" transmission facility. Once water arrives in the Bay area, local distribution companies and agencies then pipe this water and distribute the water to individual customers throughout the Bay Area, this is considered "last-mile" distribution. No water can be distributed to any last mile household consumer in the local Bay Area, without the existence of the middle-mile system. Without the Vero middle-mile long haul transmission network system first existing, all last-mile distribution networks are "stranded", or partially stranded with subpar performance. This is largely the reason it has been reported many times that Internet access and communications services in the rural tri-county area aren't on par with large

metropolitan areas, your last mile Internet service providers are essentially partially “stranded” and unable to provide optimal high speed service. They need a big pipe in order to be rescued from being stranded, with vastly more capacity than is currently available in your area.

- **On one or more occasions during the meeting it was mentioned that Vero will be bringing in Horizontal Directional Drilling Machines from all over the Western United States to build this facility as quickly as possible, and the commenter expressed grave concern that these machines will leak petroleum products such as gasoline, diesel, and oil on the streets potentially leaking into the Trinity River and its tributaries.**
 - Vero only contracts with local, experienced, licensed, insured, bonded, and thoroughly vetted underground utility construction contractors. Vero will not be bringing in HDD machines from all over the Western United States.
 - Each day before each and every HDD machine is mobilized and sent to a construction site it is thoroughly inspected, for any fluid leaks of any kind, as well as for the existence of any noxious weeds or noxious weed seeds, among other contaminants, that could potentially harm the environment in and around a construction site. If a machine leaks or other problems are found, the HDD machine is red tagged, and cannot be used and will not be dispatched until the problems are properly corrected.
 - All such HDD machine activities are heavily regulated pursuant to a permit from the local government agency having jurisdiction, meaning that construction activities are monitored and inspected, and all activities must be done in complete conformance with the terms and conditions and special stipulations that are a condition of permit use. Violation of any permit terms can result in very costly penalties and remediation costs, and even revocation of the permit, thus creating a significant incentive for Vero and its underground utility construction companies to keep the equipment in proper working condition and operate it in strict compliance with the permit(s) and very strict environmental laws.

- **On one or more occasions during the meeting it was mentioned that since Vero is building this communications freeway from Southeast Asia, as a condition of approval, an offramp should be built in Trinity County.**
 - Vero will be building what was referred to in the March 10th meeting as, “offramps”, or splice points, where local government agencies, schools, libraries, local Internet service providers, local public utility districts, retail telephone companies, and the like will be able to connect to the backbone cable facility.

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- Pursuant to federal and state law, a local or state government agency, including Caltrans, is prohibited from mandating or forcing telecom utilities to provide free services and/or equipment, as condition of permit approval for use of the public rights of way. Regardless, we always voluntarily work with local governments to address their needs and the needs of the citizens, businesses, and other organizations the governments represent.
 - With respect to the limited easement rights that Vero has requested from Trinity County, Vero has previously submitted an offer to purchase these easement rights, based on fair market value compensation payable to the County's general fund in accordance with the requirements of County code and state law. Said code or its administrative regulations and rules require the subject parcel to be appraised by an independent certified appraiser, thus the amount offered may change subsequent to the appraisal. Vero has never expected, or asked, Trinity County to do anything for free at the expense of the County and its taxpayers. The easement rights that Vero is requesting will cost Trinity County \$ 0.00 because, as part of Vero's purchase offer, it also included amounts to cover the costs of County personnel time for tasks such as engineering review, legal fees, and administrative/clerical costs. If the County were a business, Vero's offer would provide the County with 100% pure profit with no costs, for the use of a very narrow strip of the subsurface of fee simple land owned and maintained by the County at County's cost that otherwise generates no revenue for the County, and thus our purchase request will enable the County to monetize its land parcel and off-set certain of its costs of ownership which otherwise would not be the case had we not requested to purchase the easement.
 - **On one occasion it was mentioned that Vero was going to be drilling under the river from Arcata to Redding and suggested there is no reason we can't use the ample highway right of way available. Please be aware that;**
 - The vast majority of the cable facility is being constructed on Highway 299 public right of way pursuant to permits being issued by Caltrans. There is no longitudinal drilling to place the cable under, and parallel with, the Trinity River.
 - The cable facility will necessarily have to cross the Trinity River, at a perpendicular angle only, and at a subfluvial depth of approximately 15 feet below the bottom of the river or as otherwise mandated by government agencies having jurisdiction, in Cooper's Bar Estates Subdivision. The reason for this requirement is that it has been required by Caltrans. There are areas in the Cooper's Bar area where there is insufficient public right of way to safely place the Facility and where geologic conditions such as solid granite preclude installation of the cable. These impassable areas, aside from being a physical impossibility, present extreme danger to construction workers and maintenance technicians, as well as government agency inspectors to work in such areas for

both the initial installation and any subsequent or future maintenance and inspection activities.

- **On one occasion it was mentioned that a person was unable to find any information on the Internet about the Digital 299 project when he Googled it. Please be aware that;**
 - The entire project and its environmental documentation, prepared in conformity with the California Environmental Quality Act as well as the National Environmental Policy Act, are readily available for anyone to read, and has been online for several months. It can be found at the following web sites, among others:
 - California Environmental Quality Act Network of the Governor's Office of Planning and Research,
 - CEQANET: <https://ceqanet.opr.ca.gov/2022010017>
 - California Public Utilities Commission,
 - CPUC: <https://ia.cpuc.ca.gov/environment/info/transcon/>
 - U.S. Bureau of Land Management (DOI-BLM-CA-N060-2022-0003-EA),
 - BLM: <https://eplanning.blm.gov/eplanning-ui/project/2017155/510>

The above Questions/Comments, and Answers/Explanations, constitutes the extent of the questions and comments we heard at the March 10, 2022 Trinity County Planning Commission meeting. We welcome other, additional questions and comments from any sources and are happy to address any subject matter of concern.

Below, we address a few more items that are of great interest to the general public.

For those citizens concerned about environmental issues, as they rightly should be concerned, and as Vero shares that concern, below is a list of the numerous state and federal government agencies that Vero has provided its Environmental Assessment Documentation to for their review and comment.

- **Listed below, are some, but not necessarily all, California Government Agencies that have been provided, and have reviewed, the Digital 299 Project documentation, that is found at the aforementioned websites, pursuant to the California Environmental Quality Act (CEQA).**

- **California State Agencies:**

- California Air Resources Board
- California Coastal Commission
- California Department of Conservation
- California Department of Fish and Wildlife
- Habitat Conservation Planning
- California Department of Fish and Wildlife Marin Region 7
- California Department of Forestry and Fire Protection
- California Department of Parks and Recreation
- California Department of State Parks
- Division of Boating and Waterways
- California Department of Transportation, District 1
- California Department of Transportation, District 2
- California Department of Transportation, Division of Aeronautics
- California Department of Transportation, Division of Transportation Planning
- California Department of Water Resources
- California Energy Commission
- California Governor's Office of Emergency Services
- California Highway Patrol
- California Native American Heritage Commission
- California Natural Resources Agency
- California Public Utilities Commission (**LEAD GOVERNMENT AGENCY for the D299 Project**)
- California Regional Water Quality Control Board, Central Valley Redding Region 5
- California Regional Water Quality Control Board, North Coast Region 1
- California State Lands Commission
- California Transportation Commission
- Central Valley Flood Protection Board
- Office of Historic Preservation
- State Water Resources Control Board, Division of Drinking Water
- State Water Resources Control Board, Division of Water Quality
- Department of Toxic Substances Control
- California Department of Fish and Wildlife, Northern and Eureka Region 1
- Among Others

- **Listed below, are some, but not necessarily all, Federal Government Agencies, that have been provided, and have reviewed, the Digital 299 Project documentation, pursuant to the National Environmental Policy Act (NEPA).**

- **Federal Government Agencies**

- U.S. Army Corps of Engineers (United States Army)
- U.S. Forest Service (Department of Agriculture)
- U.S. Bureau of Land Management (Department of Interior)
- U.S. Fish and Wildlife Service (Department of Agriculture)
- U.S. Bureau of Reclamation (Department of Interior)
- U.S. Bureau of Indian Affairs (Department of Interior)
- U.S. National Park Service (Department of Interior)
- U.S. Environmental Protection Agency (Independent Executive Agency)
- U.S. Department of Homeland Security (Independent Executive Agency)
- Among Others

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- **All of the Project’s fiber optic cable facilities that will occupy the existing, public utility corridors that lie parallel to, and within, the Highway 299 public rights of way (as necessary so as to avoid disturbing new greenfield areas) are being authorized by the application for, and issuance of, encroachment permits and similar permits, from the following agencies, only after pre-application discussions and careful review by agency engineers and other personnel.**
 - **Federal, State, and Local Government Agencies**
 - Caltrans. (The vast majority of the cable facilities’ alignment lies within Caltrans’s Highway 299 public right of way.)
 - Humboldt County
 - Trinity County
 - Shasta County
 - City of Eureka
 - City of Redding
 - City of Weaverville
 - City of Lewiston
 - U.S. Forest Service
 - U.S. Bureau of Land Management
 - Among others at the State and Local levels

Vero Fiber Networks welcomes and values comments and questions from the public, and maintains a toll free telephone number to facilitate comments and questions. Feel free to call us 24/7 at the:

Digital 299 Broadband Project Hotline

(888) 241-1890

www.veronetworks.com

Open Access Networks

Vero's networks are open access, which means that Vero supports other service providers by offering Fiber Infrastructure at low costs to foster better service and pricing to the community through competition.

Carrier

Open Access networks enable a variety of telecommunication providers to service more customers and foster innovation and lower costs.

Local Government

Like K-12, local governments have unique needs that can be best addressed with private fiber networks connecting government sites.

K-12

Education networks are the core of everything Vero does. Vero specializes in building and operating fiber networks for the K-12 segment and provides the most advanced, reliable and lowest cost networks.