

DECISION MEMO

**Fall Lake, Birch Lake, South Kawishiwi River, Fenske Lake, Echo Lake and Jeanette Lake
Campgrounds Prospectus
Big Lake Commercial Tent Sites
August Lake Yurt Site
USDA Forest Service, Eastern Region, Superior National Forest
Kawishiwi and LaCroix Ranger Districts**

Lake County, Minnesota

T63N R11W Sec 10 (Fall)
T61N R11W Sec 19 (Birch)
T62N R11W Sec 33 (S. Kawishiwi)
T61N R10W Sec 20 (August Lake)

St. Louis County, Minnesota

T64N R12W Sec 30 (Fenske)
T66N R17W Sec 26 (Echo)
T66N R15W Sec 8 (Jeanette)
T65N R13W Sec 28 & 33 (Big Lake)

I. DECISION TO BE IMPLEMENTED

A. Description of Decision

This memo documents our decision to issue special use permits to operate and maintain Fall Lake, Birch Lake, South Kawishiwi River, Fenske Lake, Echo Lake and Jeanette Lake National Forest Campgrounds, Big Lake Commercial Tent Sites, and August Lake Yurt Sites. The location of each special use permit is displayed on the attached map. Forest Service regulations require the applicant to: submit an operation and maintenance plan that complies with the decision requirements; pay any necessary fees; post any necessary bonds; and secure any state or federal permits or authorizations required by law. The permits will be issued to the successful bidder for five years with the option of extending the permit(s) for an additional five years, pending adequate operations and meeting the requirements in the special use permit.

It is also our decision that a special use fee be charged for these special use permits because the operations do not qualify for a fee waiver in accordance with Code of Federal Regulations Title 36 part 251, section 57(b)(1) (CFR 251.57(b)(1)) because they charge a fee for services provided. The new permits will be issued before the expiration of the existing permits.

B. Purpose of Decision

All of the campgrounds have been operated under a special use permit for at least 12 years. The concession operations have been successful in providing quality recreational opportunities, reducing costs to the federal government, maintaining facilities and providing

quality customer service. The new prospectus is being developed to further the success of this program by reducing the cost to government while maintaining customer service and expanding facility maintenance. The commercial tent sites and yurt site have been operated for more than five years. When the campgrounds, commercial tent and yurt sites, are referred to altogether in this document they will be called “the Projects”.

There are currently two special use permits for campground concession operations on the Kawishiwi Ranger District; one for Fall Lake and another for Fenske, Birch and South Kawishiwi River. Echo and Jeanette Campgrounds on the La Croix Ranger District are operated by a separate concessionaire also. A desired outcome from combining all of the Kawishiwi and La Croix District campgrounds under one special use permit managed by one concessionaire would be a reduction in administrative time and associated expenses over the course of the permit. Prospective bidders will be able to submit a package for operating concessions at all six campgrounds as well as the option to bid on the campgrounds of their choice.

This decision is intended to contribute toward accomplishment of special uses objectives spelled out in the Forest Plan, pg. 2-53, O-SU-3; “Recreation special uses will continue where their use enhances the recreation potential of the area, meets an apparent public need, and is compatible with other multiple-use goals and objectives.”

C. Findings Required by Laws, Regulations and Policies

This action is categorically excluded from documentation in an environmental assessment or environmental impact statement because:

- 1) This type of action falls under Chapter 31.2, number 15 in the Forest Service Handbook 1909.15, National Environmental Policy Act;
- 2) This action is routine and no extraordinary circumstances (see II B below) exist that might cause this action to have significant effects.
- 3) We have found, based on our experience and considering the management of existing recreation sites and facilities, the effects of this use on National Forest Land will be of limited context, intensity and magnitude.

D. Implementation

This decision is not subject to appeal pursuant to 36 CFR 215.8(a) (4) and may be implemented immediately.

II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 sections 31.1b or 31.2 as, and there are no extraordinary circumstances related to the decision that may

result in a significant individual or cumulative effect on the quality of the human environment.

We have concluded that this decision may be categorically excluded as it is a routine activity within a category of exclusion and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment. Our conclusion is based on information presented in this document and the entirety of the Record.

A. Category of Exclusion

The decision is within the category of exclusion 31.2 (15) that includes; “Issuance of a new special use authorization for a new term to replace an existing or expired special use authorization.”

B. Relationship to Extraordinary Circumstances

1. Threatened and Endangered Species or Their Critical Habitat -

The Endangered Species Act requires that federal activities do not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species’ designated critical habitat. The Projects will have *no* effect on federally listed species or their critical habitat (see Biological Evaluation October 31, 2006 in project record).

2. Floodplains, Wetlands, or Municipal Watersheds -

Floodplains: Executive Order 11988 is to avoid adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as, “. . . the lowland and relatively flat areas adjoining inland and coastal waters include flood prone areas of offshore islands, including at a minimum, that area subject to a one percent [100-year recurrence] or greater chance of flooding in any one year.”

This decision includes facilities within floodplains such as swim beaches, docks, and landings near some campsites. This decision should not result in significant floodplain-related impacts because there are no new facilities planned within the floodplains and site visits (monitoring) of potential floodplain effects are frequently conducted by Forest Service personnel.

Wetlands: Executive Order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, “. . . areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.”

Some of the Projects are adjacent to but not located in wetlands. This decision will not affect wetlands.

Municipal Watersheds: Municipal watersheds are managed under multiple use prescriptions in land and resource management plans. The only project listed in this document within a municipal watershed (Burntside Municipal Watershed) is Fenske Lake Campground. Because the issuance of a special use permit to operate the campground does not involve changes to campground features or facilities, this decision will not affect the Burntside Municipal Watershed.

3. Congressionally Designated Areas – Boundary Waters Canoe Area Wilderness:

None of the Projects are within the Boundary Waters Canoe Area Wilderness (BWCAW). Refer to attached map where location of each facility and their proximity to the BWCAW is illustrated. Fall Lake Campground, which serves as an entry point to the BWCAW, is located approximately ¼ mile from the wilderness boundary. The other five campgrounds are located between two to eight miles from the wilderness boundary. The Big Lake Commercial Tent Sites are located at least ¼ mile from the wilderness boundary. The August Lake Yurt Site is located 1 ½ miles from the wilderness boundary. Because activities associated with the operation and maintenance of the Projects are limited to the immediate area, they would have no negative affect on the wilderness area.

4. Inventoried Roadless Areas -

This decision will not affect Inventoried Roadless Areas.

5. Research Natural Areas -

None of the Projects exist in close proximity to Forest Research Natural Areas. This decision, with impacts limited to the immediate area, will not affect Research Natural Areas.

6. American Indian and Alaska native religious or cultural sites -

The Federal government has trust responsibilities to Tribes under a government-to-government relationship to insure that the Tribes reserved rights are protected. Consultation with tribes helps insure that these trust responsibilities are met. The Forest programmatically consults with potentially affected tribes. The intent of this consultation has been to remain informed about Tribal concerns. There is interest by the tribes covered by the 1854 Treaty for free use of some campgrounds by its members. This use will be addressed in the campground prospectus.

7. Archaeological sites, or historic properties or areas –

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. Section 106 of the National Historic Preservation Act also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered in federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and objects that are excavated or discovered in federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through “in situ” preservation, but may encompass other actions to preserve these remains and items. This decision complies with the cited Acts. Surveys were conducted for Native American religious or cultural sites, archaeological sites, and historic properties or areas that may be affected by this decision. Results of heritage resource surveys for the Projects have been recorded and are on record at the Forest Supervisor’s office as well as the District offices.

8. No other extraordinary circumstances related to the project were identified.

III. PUBLIC INVOLVEMENT

The responsible official(s) have discretion in determining appropriate public involvement. This project is listed in the Superior Quarterly Newsletter under a Schedule of Proposed Actions. Because of the routine nature and limited complexity of the project, no further public contact was conducted. Internal scoping among Superior National Forest staff from the following program areas raised no further concerns: Heritage Resources, Fisheries, Hydrology, Soils, Wildlife, Recreation and Wilderness, and Special Uses.

IV. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS

This decision will comply with all applicable laws and regulations. We have summarized some pertinent ones below.

Forest Plan Consistency (National Forest Management Act) - This Act requires the development of long-range land and resource management plans (Plans). The Forest Plan was approved in 2004, as required by this Act. The Act requires all projects and activities be consistent with the Plan. The Plan has been reviewed in consideration of this project. This decision is responsive to guiding direction contained in the Plan, as summarized in Section I of this document. This decision is consistent with the standards and guidelines contained in the Plan.

Endangered Species Act – The Projects are covered in the Biological Evaluation of 2006 Recreational Facility Operation Authorization dated 10/31/2006, see section II, item B1 of this document.

Sensitive Species (Forest Service Manual 2670) - Routine projects such as re-issuing a special use permit for campground administration are covered in the Forest Plan Biological Assessment. The Projects may have impact on some individual Regional Forester Sensitive Species (RFSS) but is not likely to cause a trend toward federal listing or viability. The Projects and associated activities will not likely lead toward the federal listing of any of these species. (see Biological Evaluation October 31, 2006 in project record) .

Clean Water Act - This Act is to restore and maintain the integrity of waters. The Forest Service complies with this Act through the use of Best Management Practices. This decision incorporates Best Management Practices to ensure protection of soil and water resources.

Wetlands (Executive Order 11990) - See Section II, Item B2 of this document.

Floodplains (Executive Order 11988) - See Section II, Item B2 of this document.

National Historic Preservation Act - See Section II, Item B7 of this document.

Archaeological Resources Protection Act - See Section II, Item B7 of this document.

Native American Graves Protection and Repatriation Act - See Section II, Item B6 of this document.

Environmental Justice (Executive Order 12898) - This Order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with this Act. This decision is not expected to adversely impact minority or low-income populations.

National Environmental Policy Act - This Act requires public involvement and consideration of potential environmental effects. The entirety of documentation for this decision supports compliance with this Act.

V. ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITIES

This decision is not subject to a administrative review or appeal pursuant.

VI. IMPLEMENTATION DATE

This decision may be implemented immediately.

VII. CONTACT PERSON

Further information about this decision can be obtained from John Pierce during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Kawishiwi District Office (Address: 118 S. 4th Ave E. Ely, MN 55731.; Phone: voice 218 365 7600, TDD 218 365 7602(hearing impaired); Fax: 218 365 7605; e-mail: jpierce@fs.fed.us).

VIII. SIGNATURE AND DATE – RESPONSIBLE OFFICIALS

/s/ Mark E. Van Every

1/24/2007

MARK E. VAN EVERY
Kawishiwi District Ranger

Date

/s/ Nancy S. Larson

1/24/2007

NANCY S. LARSON
La Croix District Ranger

Date

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's target center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-w, Whitten Building, 1400 Independence Ave. SW, Washington, DC 20250-9410 or call 202-720-5964 (voice or TDD).

USDA is an equal opportunity provider and employer.