

DECISION MEMO

Buck Rub Access

USDA Forest Service, Superior National Forest
LaCroix Ranger District
Township 65 North, Range 17 West, Section 14
St. Louis County, Minnesota

Background

The proposal is to use existing township, private, and St. Louis County roads to access an existing ATV trail. The ATV trail is located on St. Louis County land in sections 10, 13, 14 and 15. It also crosses private lands in section 14 and 15. The trail is located on National Forest System lands in section 14. (See map for location of trail.)

Buck Rub Inc. owns 80 acres in west half of the NW ¼ of section 24; T65N R17W. There is no direct access to the parcel without crossing several different ownerships. The existing Township Road 4529 leaves St. Louis County 24 after the bridge across the Vermilion River. A private road leaves the township road to the northeast to access the private land. The road is gated with a private gate in SW of the NE section 10 T65N R17W. This road continues on to St. Louis County, private, Potlatch and federal land. The forest designation on the road is FR196, although no easements exist for the first several miles where it crosses private and county. The road has been used in the past for timber harvest activities on county and Potlatch lands. The Forest Service used the road in 2000-2001 for harvest activities associated with the New Picket timber sale. The road is considered year-round to SE of the SE section 10 (see map). The road from that point on is designated a winter road as it crosses through some large wetlands areas although there are portions of the road that lay on high ground. The Voyageur Snowmobile Trail also transects federal, county and private lands in section 10.

Several different options were considered to access the parcel. A route from the east off Forest Road 1006 was dropped due to topography of the land. Several drainages are very steep and road/trail building would be very difficult. The new construction of trail/road would increase the amount of miles of new road/trail and access parts of federal land where currently no roads exist. The original proposal to access the FR196 by using part of the Voyageur Snowmobile Trail from TWP4529 to FR196 and a modified proposal to build a new road along the snowmobile trail to FR196 were both dropped. New construction along the Voyageur Snowmobile trail and use of the trail is not needed since a road corridor already exists.

The only access approved across federal land will be in section 14 on the existing ATV trail. The decision is for a long term ATV trail or road access across the federal land. Buck Rub Inc. will be responsible to secure right-of-way agreements from county and private individuals to access the first 1.6 miles of road and 1.6 miles of ATV trail to the federal land and the 0.5 mile of trail/road across county land after leaving federal. This route was found to be the most reasonable to access the private land.

Decision

I have decided to implement access through issuance of a Special Use Authorization to Buck Rub Inc., that meets the requirements of the decision and Forest Service regulations. The authorization is for the federal portion of the existing ATV trail in section 14. Forest Service regulations require the applicant to pay any necessary fees and secure any state or federal permits or authorizations required by law. Buck Rub Inc would be required to obtain right-of-way agreements from private parties and St. Louis County for crossing non-federal lands.

The road rights-of-way total about 3089 feet in length encompassing approximately 1.13 acres. The intended mode of access is by foot travel, ATV, snowmobile or full size vehicles if a road is built. The location of this road can be found on the attached map.

The permit will be long term, valid for about a five-year period following issuance, and will meet the requirements of this Decision Memo and Forest Service regulations. The trail/road would be used in all seasons. Mitigation measures include following the "Voluntary Site-Level Forest Management Guidelines.

This action is categorically excluded from documentation in an environmental impact statement or an environmental assessment because it falls under category 31.2 (No.3) in Forest Service Handbook 1909.15.

Approval, modification or continuation of minor special uses of National Forest System Lands that require less than five contiguous acres of land.

The categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects which may significantly affect the environment. The project has been reviewed by the District Interdisciplinary Team. No effect to heritage resources was found within the project. A Biological Evaluation, dated October 11, 2007 found that the project may affect some individual Region 9 Sensitive Species but is not likely to adversely affect or cause a trend to federal listing or loss of viability. A Biological Assessment dated October 21, 2007, was completed and reviewed by the U.S. Fish and Wildlife Service. It was determined that this decision may affect but is not likely to adversely affect the Canada lynx. The U.S. Fish and Wildlife Service concurred with this determination on October 30, 2007 (see planning records). One concern about the location of the trail through drainages to the north and east was resolved by field visit to the existing trail. The trail does stay out all wetland areas and drainages on federal land. Another concern of illegal ATV use on the trail and surrounding area by the public was also raised during scoping of the project to the Interdisciplinary Team. There are several ways to access the non-motorized Echo Lake Trails/Ruffed Grouse Management area to the north off of FR196. Law Enforcement will be notified of any problems in the area. The last concern was coordination of the route with the Forest Service to access federal lands approved for timber harvest in the Echo Trail EIS. Buck Rub Inc. has been notified of proposed harvest units around the parcel.

My conclusion is based on a review of the record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk.

Public Involvement

Public involvement included listing the access request in the Superior Quarterly and mailing the proposal to interested public and adjacent landowners on 8/10/2007. The proposal was provided to the public and other agencies for comment during the scoping period from 8/10/07 to 8/27/07. All comments (verbal, written and from meetings) were used to refine the analysis, explore the possibility of extraordinary circumstances and evaluate potential effects to resources. No extraordinary circumstances were identified from the comments. Persons commenting on this proposal will receive this Decision Memo.

The District received two written comments in response to the scoping letter. One was a general comment for all special use proposals from Bois Forte Band, requesting heritage resources are taken into account when issuing special use permits. As described above, no heritage resources are know in the proposal. The other comment was from adjacent landowners, Tom and Verena Conley. Their concerns were correct location of the trail and location of trail in relation to their property, use of the

Voyageur Snowmobile trail by ATV's, and the appearance of a Buck Rub as having a looped route. The existing trail was field checked and GPS'ed in August of 2008. The Forest Service used a Garmin GPS unit which is accurate up to +/- 30 feet. The estimated trail location is depicted on attached map. The location of the trail is close to the property line in the southeast corner of the Conley's parcel but is not believed to cross the property line. A professional survey would be needed to accurately depict the exact location of the trail. Since the portion of the trail in question is not on federal land, the Forest Service does not have jurisdiction in the matter. The next concern was use of the snowmobile trail. Although the Forest Service does in some instances allow for dual use of snowmobile trails by ATV's, in this case Buck Rub Inc. will need to secure access across other ownership to avoid the use of the Voyageur Snowmobile Trail due to wet conditions on the trail for year-round use. The last concern was the perception of a loop access. Although FR196 is shown to access the private parcel, most of this route is a winter road navigating through large areas of wetlands and drainages. Long term use of the winter road system would cause resource damage in these areas, although the route is not on Forest Service lands.

Findings Required by Other Laws

This decision is consistent with the Superior National Forest Land and Resource Management Plan as required by the National Forest Management Act. The project was designed in conformance with forest plan decisions for General Forest Management Area that emphasizes land and resource conditions that provide a wide variety of good, uses and services. G-GF-3; 'Most Special Uses can be accommodated.' Forest Plan 3-8.

This permit is issued under the authority of the Organic Administration Act (Act of June 4, 1897), the Title V, Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1761-1771); and the Alaska National Interest Lands Conservation Act (ANILCA) of 1980.

Implementation Date

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

Administrative Review or Appeal Opportunities

This decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215. A written notice of appeal must be submitted within 45 calendar days after the Legal Notice is published in the Mesabi Daily News. However, when the 45-day filing period would end on a Saturday, Sunday or Federal holiday, then the filing time is extended to the end of the next Federal working day. The date of the publication of the Legal Notice is the only means for calculating the date by which appeals must be submitted; do not rely upon any other source for this information.

The Notice of Appeal must be sent to: Appeal Deciding Officer, Jim Sanders; c/o USDA Forest Service, Gaslight Building, Suite 700, 626 East Wisconsin Avenue, Milwaukee, Wisconsin 53202-4616. The Notice of Appeal may alternatively be faxed to: (414) 944-3963, Attn: Appeals Deciding Officer, USDA Forest Service, Eastern Regional Office. Those wishing to submit appeals by email may do so to appeals-eastern-regional-office@fs.fed.us. Acceptable formats for electronic comments are text or html email, Adobe portable document format, and formats viewable in Microsoft Office applications. Hand-delivered appeals may be submitted at the above address between 7:30 and 4:00 pm CT Monday through Friday, except on Federal holidays. Appeals must meet the content requirements of

36 CFR 215.14 and will only be accepted from those who have expressed interest during the formal comment period.

Contact Person

For additional information concerning this decision or the Forest Service appeal process, contact Beth Youngstrom, LaCroix Ranger District 520 Highway 53 Cook, Minnesota 55723 (218) 666-0038 or e-mail at eayoungstrom@fs.fed.us

/s/ Nancy S. Larson

12/1/2008

NANCY S. LARSON
District Ranger; LaCroix Ranger District

Date

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