3.6 Findings Required by Other Laws and Regulations

3.6.1 National Forest Management Act

The National Forest Management Act (NFMA) requires specific determinations in the Record of Decision, including consistency with the Forest Plan. The Forest Plan complies with NFMA and the 1982 Planning Regulations at 36 CFR 219. The Forest Plan was recently revised and the revision is applicable to this project.

Our decision to implement the Selected Alternative is consistent with the Forest Plan's long-term goals and objectives. The Project incorporates appropriate Forest Plan desired conditions, objectives, standards, and guidelines forest-wide and for Management Areas; therefore, the project is in conformance with the Forest Plan. This Project is designed to meet the vegetation composition, age class, and tree species diversity objectives for the Jack Pine/ Black Spruce, Dry-mesic Red and White Pine, and Lowland Conifer Landscape Ecosystems. The Project is also designed to meet direction for the Management Areas within the Project: General Forest – Longer Rotation, Recreation Use in a Scenic Landscape, and Semi-primitive Motorized Recreation.

We have thoroughly reviewed the Final EIS. We believe the Interdisciplinary Team adequately analyzed and disclosed the relevant effects on the resources to the level commensurate with the risks concerning vegetation management and associated transportation management activities. Four alternatives were analyzed in detail, and 25 alternatives were considered and not carried forward for detailed analysis. This range of alternatives is broad enough to provide a range of effects of different levels of vegetation management actions. This analysis provided us with sufficient information to make a sound and reasoned decision, based on providing goods and services to meet the needs of the public and maintaining and enhancing the long-term productivity of the land.

3.6.2 Suitability for Timber Production

All vegetation removal by harvest in these areas will occur on forest land (as defined in 36 CFR 219.3) suitable for timber production. This conclusion is based on our on-the-ground examination of the stands proposed for harvest, review of the maps and facts provided in the EIS, and information provided in the project file. Based on our experience and the knowledge and expertise of the Interdisciplinary Team, we find there is reasonable assurance that harvested lands will be adequately restocked within five years. None of these lands have been withdrawn from timber production by an Act of Congress, the Secretary of Agriculture, or the Chief of the Forest Service.

3.6.3 Optimality and Appropriateness of Harvest Methods

Choosing the optimum harvest method for regenerating a particular stand is influenced by the silvicultural requirements of the species on the site, existing stand conditions, issues raised during the analysis, prior experiences in the area, and Forest Plan direction. A silvicultural prescription is prepared based primarily

on the biological requirements of the stand and the Landscape Ecosystem and Management Area direction. The harvest method for any given stand may differ from another stand. The method may be modified to mitigate other resource concerns such as visual quality or desired future conditions. However, the proposed harvest method is required to be sufficient to ensure regeneration of the stand. ROD Attachment 1 specifies the proposed harvest method for stands included in the action alternatives. ROD Attachment 9 includes design features and mitigation measures to protect resources and insure successful reforestation. The Final EIS Chapter 3 includes resource analyses of the potential effects of clearcutting in the units proposed in the Echo Trail Area.

The National Forest Management Act of 1976 Section 6 (g)(3), (E)(iv) and (F)(i) states that vegetation management practices be chosen that meet the objectives and requirements of the Land and Resource Management Plan. The Echo Trail Area Forest Management Project follows the direction in the 2004 Forest Plan for silvicultural prescriptions (Page 2-21, S-TM-5 and G-TM-7).

3.6.4 Vegetation Manipulation

The Echo Trail Area Forest Management Project complies with the Superior National Forest Plan and hence the National Forest Management Act (NFMA). This conclusion is based upon the following in relation to our review of the Final EIS:

1. The actions are best suited to the goals stated in the Forest Plan for the General Forest – Longer Rotation Management Area (MA), where a majority of the management actions will occur. The actions occuring in the Recreation Use in a Scenic Landscape and Semi-primitive Motorized Recreation MAs are also suitable and appropriate to meet Forest Plan goals and objectives.

2. The Forest Plan requires stands to be adequately restocked five years after treatments. (Forest Plan p. 2-20, S-TM-4). Appropriate reforestation and monitoring will be implemented for the Selected Alternative to insure stands are restocked in five years. (ROD-Attachments 1 and 9)

3. These activities were not chosen primarily because they give the greatest dollar output or the greatest output of timber. We selected Alternative 3 Modified because it best meets the goals and objectives in the Forest Plan while meeting the Project's Purpose and Need and addressing public comments.

4. These activities were chosen after considering potential effects on residual trees and adjacent stands. The effects are disclosed throughout the Final EIS and in all cases, the effects are acceptable when considering the Purpose and Need of the Project and the goals, objectives, and desired conditions in the Forest Plan.

5. The activities will avoid permanent impairment of site productivity and will ensure conservation of water resources. The prescriptions, design features, and mitigation measures will adequately protect the natural resources. (Final EIS Sections 3.12 and 3.13)

6. The activities will protect or maintain water quality, wildlife and fish habitat, regeneration of desired tree species, recreation uses, scenic values, and other resource needs.

7. The selected activities are practical in terms of transportation and harvesting requirements, preparation costs, logging and administration, reforestation and release needs. We are basing this determination on the fact that the selected activities are similar to those which have been practiced on the Superior National Forest and Kawishiwi and LaCroix Ranger Districts in areas similar to those in the Echo Trail Project Area

3.6.5 Endangered Species Act

We find that this action will not have adverse impacts on threatened or endangered species. We consulted with the U.S. Fish and Wildlife Service (FWS) throughout the Project planning and the FWS was provided with a copy of the Echo Trail Area Forest Management Project Biological Assessment to the EIS. The FWS has concurred (letter dated August 7, 2006) with our determination that the Project may affect but will not likely adversely affect the bald eagle, gray wolf or gray wolf critical habitat, or Canada lynx or proposed Canada lynx critical habitat.

3.6.6 Bald Eagle Protection Act

An Interagency Agreement between the Forest Service and the USFWS to facilitate compliance with the Bald Eagle Protection Act restricts management activities within 330 feet of an eagle nest site. The Selected Alternative does not include any activities within 330 feet of a known bald eagle nest. The Selected Alternative is not anticipated to have a significant direct, indirect, or cumulative effect on any bald eagle habitat.

The Selected Alternative will not have an adverse impact on existing or potential nest trees. Large red and white pine trees are reserved in harvest units. If any nests are discovered that could be affected by any activity, the Agreement and 2004 Forest Plan guidelines will be followed.

3.6.7 Clean Water Act

The design of treatment units and winter road corridors for the Selected Alternative is guided by Project design features and mitigation measures (ROD Attachment 9), standards, guidelines, and direction contained in the Forest Plan, and applicable Forest Service manuals and handbooks. Implementation with site-specific application and monitoring of the State of Minnesota's Sustaining Minnesota Forest Resources Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers, and Resource Managers is expected to comply with applicable State water quality standards.

3.6.8 Clean Air Act

The Clean Air Act is addressed through the State Smoke Management Plan. Burning slash piles will be carried out in compliance with the Forest's Fire Management Plan and the State's Smoke Management Plan. The Forest and State Smoke Management Plans outline how prescribed burning of slash piles will be carried out so that the resulting smoke minimally effects air quality. These Plans require the preparation of site specific burn plans which also include addressing smoke management.

Pile burning usually occurs from early October to the second week in November when no other types of burning can occur because of the fall wet weather patterns. Federal, State and county fire staff also coordinate in the area to insure that all burning cumulatively in an area has the least impact. Burning will only be initiated on days when the atmosphere can adequately disperse the smoke.

The effect of the smoke from burning an estimated 601 slash piles created through implementation of the Selected Alternative will be negligible to people downwind. The materials in the tightly compacted piles are primarily dry branches and limbs that are less than three inches in diameter. Pile burning exhibits more complete combustion (and hence also produces fewer emissions) since more of the burning happens in the flaming phase than the smoldering phase (NWCG, 2001). Using the standard Forest Service and EPA modeling tools and worst case assumptions, smoke coming from burning piles was modeled and shown to have the potential to exceed health standards for only the first 2.8 miles downwind. This is less than the distance assumed to the closest possible sensitive receptor (4 miles). (FEIS Section 3.6.8)

Smoke impacts from individual burns can be addressed on a burn-by-burn basis. Based on the burning done over large burn units and in heavy blowdown fuels during the fall of 2002 in the Boundary Waters Canoe Area Wilderness, the Forest has developed a good record for managing smoke impacts during large scale prescribed burns. The National Ambient Air Quality Standards have been exceeded to date during large-scale prescribed burning on the Forest.

Based on the provisions set forth in the Smoke Management Plans and the results of past projects, we determine that the Selected Alternative will be in compliance with the Clean Air Act.

3.6.9 National Historic Preservation Act

The Selected Alternative is in compliance with the provisions of 36 CFR part 800. Appropriate heritage resource surveys have been conducted in the Project Area. The provisions of the Memorandum of Understanding with the State Historic Preservation Officer have been followed. We have determined, consistent with Forest Service direction on heritage resources, that there will be no significant effect on heritage resources.

3.6.10 Alaska National Interest Lands Conservation Act, Section 1323

Federal regulations require the Forest Service to review the intended use of non-federal land to be accessed and determine if the proposed use constitutes "reasonable use and enjoyment" (Alaska National Interest Lands Conservation Act).

We have determined that similarly situated lands on the LaCroix and Kawishiwi Ranger Districts are generally managed for long-term timber production utilizing conventional equipment requiring roads. In addition, nonfederal inholdings are generally accessed for the purpose of timber harvest or access to private land. Access is generally by ATVs or trucks, which require low-standard roads or trails. Use of the land to be accessed for these purposes is consistent with that of surrounding lands.

The Selected Alternative and the special use authorizations included in the decision (Attachment 6) meet the regulations in ANILCA by providing access to non-federal landowners for their "reasonable use and enjoyment". Minimizing effects on all land was also a consideration. Three of the special use authorizations do not entirely meet ANILCA because access could occur on State land; however access across federal land was approved because it will have the least potential for environmental effects. (Final EIS Section 3.26)

3.6.11 Executive Orders

Executive Order 11990 **-** requires federal agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands. Winter roads constructed across the sedge-meadow grass dominated wetlands have less of a short and long-term impact to the environment than roads constructed on upland sites. Timber harvest and road building techniques and mitigation measures included in the Final EIS will serve to maintain the wetland attributes. We find that this project is designed so there will be no loss of wetlands. Soil moisture regimes and vegetation on some wetlands may be altered in some cases; however, these altered acres will still be classified as wetlands and function as wetlands in the ecosystem.

Executive Order 11988 **-** directs federal agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains. The Executive Order was largely intended to reduce the risk of property loss, minimize the impact of floods on human safety, health, and welfare. It is also meant to restore and preserve the beneficial values provided by floodplains. The Selected Alternative does not result in any human occupancy in floodplains. Because there will only be limited development of classified seasonal roads in floodplains, we find there will be no loss of property values, nor will human health, safety, or welfare be adversely affected. The design of the proposed activities (ROD Attachment 9) and the application of the State of Minnesota's Sustaining Minnesota Forest Resources Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers, and Resource Managers combine to minimize adverse effects on floodplains.

Executive Order 12898 **-** directs federal agencies to identify and address the issue of environmental justice, i.e., adverse human health and environmental effects of agency programs that disproportionately impact minority or low-income populations. Forest Service activities must be conducted in a discrimination free atmosphere. Contract work that may be generated from this document will include specific clauses providing for civil rights protection. The Forest Service will make a concerted effort to enforce these policies.

The minority population closest to the Project Area is the Bois Forte Band of the Chippewa Tribe located near Orr and Tower, Minnesota. Members of the band are known to hunt large and small game within the Project Area and to harvest wild rice, fish, and small game from the Vermilion Lake and Vermilion River. We find that implementation of Selected Alternative will not cause adverse health or environmental affects that disproportionately impact minority or low-income groups.

Executive Order 12962 **-** requires federal agencies to evaluate the effects of proposed activities on aquatic systems and recreational fisheries. We find that the Selected Alternative minimizes the effects upon aquatic systems through project design (ROD Attachment 9), application of Forest Plan Standards and Guidelines, the State of Minnesota's Sustaining Minnesota Forest Resources Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers, and Resource Managers, and site-specific mitigation measures. Recreational fishing opportunities will remain the same because impacts to aquatic habitats are minimized to the extent possible.