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Forest
Service

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Decision Notice and Finding of No Significant Impact

Lake County Fiber Optic Project

Superior National Forest Duluth, MN

Responsible Official

Brenda Halter
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Introduction

The purpose of the Lake County Fiber Optic Project is to evaluate and consider approving a Special-Use Authorization to allow Lake County to install, operate, and maintain fiber optic cable, both buried and aerial on existing utility poles, which is intended to increase the rural broadband utility services in the area. Lake County received a loan and grant from Rural Utility Service (RUS) Broadband Initiatives Program (BIP) and American Recovery Reinvestment Act (ARRA) of 2009, for the purpose of installing and operating a fiber optic cable.

The Lake County Fiber Optic Environmental Assessment (EA) discloses the effects of this proposal. An interdisciplinary team of resource specialists prepared the EA. Information sources included public scoping, field review, environmental studies, personal information, professional opinion and the Superior National Forest Land and Resource Management Plan (Forest Plan). The EA is available at USDA Forest Service, Forest Supervisor's Office, 8901 Grand Ave. Place, Duluth, MN 55808. The EA is also available on the Forest Service web page at www.fs.usda.gov/goto/superior/projects.

The following Appendices are included with this Decision Notice:

- Appendix A: Land Lists and Maps

The Decision

I have decided to grant a special use permit to Lake County to install, operate and maintain fiber optic cable as described in Alternative 2 of the Lake County Fiber Optic EA. My decision includes the following minor modifications based on input from the permit applicant:

- Some portions of the land list description have been updated in this Decision Notice (see Appendix A). However, the overall routes shown on the maps in the EA indicate where the fiber optic cable would be installed.
- Four additional utility cabinets are included in support infrastructure for the cable installation (see Appendix A for locations). These are small boxes located in roadside locations that would have minimal environmental effects (see note in project file).

Stipulations

The following stipulations are included in my decision and will be added to the special use permit.

1. The installation will be performed by direct insertion via cable plow with small amounts of trenching near termination points and vaults. The cable is to be a minimum of 36 inches below the existing grade. Where the ledge rock surface prohibits this depth, Lake County will place the cable as deep as possible and cover the cable with sackcrete. The sackcrete is to be covered with a minimum of 18 inches of topsoil and reseeded with a mix of native grasses and/or forbs.

2. When crossing gravel surfaced roads, any depression made with the cable plow or associated equipment will be filled with MnDOT Specification 3138, Class 5 gravel to meet the grade of the remaining road, compacted in maximum 3-inch lifts making the condition of the road equal or better than it was prior to being disturbed. Directional boring equipment will be used where direct insertion is prohibited due to obstacles or hard surfaced roadways and to cross rivers and streams.

3. For burial along Forest Service roads:

- Notify Forest Service Zone Engineering a minimum of one week in advance of burial installation on each of the roads so the FS can plan Forest road maintenance activities to minimize potential conflicts.
- Bury the cable at least 5 feet beyond the end of all culverts and 5 feet outside of ditches or where there isn't a ditch, 10 feet from the edge of the gravel shoulder.
- If any culvert is damaged the applicant shall replace the entire culvert with the same length, diameter and gauge of steel as the existing and install the culvert with existing invert elevations.
- Do not leave any vegetative debris, piles of soil or rock in the roadway, ditches and 10 feet from the edge of the gravel surface.
- Any gravel surfacing damaged or removed as part of the project shall be replaced with MnDOT Specification 3138, Class 1 to the same depth as the existing, compacted in a maximum of 3-inch lifts.

4. Best management practices (BMPs) and Standard Operating Procedures (SOPs) designed to protect water quality shall be implemented. Applicable BMPs are found in the *Minnesota Forest Resources Council Voluntary Site Management Guidelines*. Applicable Compass Consultant SOPs include, but are not limited to, "Vibratory Plow", "Use of Boring Pits" and "Buried Fiber Optic Handhole". Directional drill pits shall not be left open overnight.

5. Bi-weekly spill logs for spills occurring within the Superior National Forest shall be supplied electronically to a SNF hydrologist concurrent with notification to the Resident and in accordance with the Compass Consultants Standard Operating Procedure (SOP) "Notification Procedures for USACE". Emergency notification to an SNF hydrologist shall occur concurrent with notification to the Resident and/or Lake County representatives as described in the aforementioned SOP (Emily Creighton, hydrologist - emilybcreighton@fs.fed.us; 218.365.7636).

6. When crossing rivers and streams, the minimum depth of the directional bore will be four (4) feet below the channel. License must be obtained from the US Army Corps of Engineers and Minnesota Department of Natural Resources prior to crossing any river,

lake, wetland or stream. Directional drill activities entrance and exit points shall be set back a minimum of 20 feet from the top of bank or delineated water resource.

7. For the crossing at the Cloquet River, an eligible Recreational River waterway, the entrance and exit points of the directional bore shall be set back at least 50 feet from the top of bank, or far enough from the river so there is no disturbance to the river bank and riparian wetland/riparian corridor, whichever distance is greater.

8. New utility poles or cable maintenance structures are not permitted in riparian or wetland areas.

9. When installing ancillary structures such as pedestals, Lake County must verify ownership of land at that location to stay within the right-of-way.

10. During installation, signs are to be posted and traffic control individuals utilized where needed to inform drivers of the possible traffic hazards on any roads that may be affected.

11. Lake County must not interfere with any other existing Special-Use authorization such as road, telephone, fiber optic cable, or powerline rights-of-way previously issued.

12. Clearing of timber, brush, trimmed branches, and other debris (slash) removed from within the cleared right-of-way, shall be disposed of by scattering it away from any Forest system road or trail. The slash must be at least ten feet away from the road or trail, ensuring it lies within two to three feet height from the ground, or is chipped and scattered, or otherwise disposed of to the satisfaction of the Forest Service. No slash shall be deposited in lakes, meadows, streams, or other wetlands.

13. Contractors and other personnel installing cable shall retain in all vehicles information to allow them to identify Canada lynx. The Forest Service will provide this information. Sightings of suspected lynx should be reported to the U.S. Forest Service.

14. Utility poles can provide nesting structures for some bird species, including osprey, eagles, hawks, and ravens. If a nest is found during project implementation, activities should be temporarily halted and a Forest Service representative notified. The District Biologist will be consulted and appropriate mitigation measure(s) will be carried out prior to restarting activities.

15. For the Canada yew occurrence on Lake County Highway 7 that occurs about 50 feet northwest of Forest Service Road 1849, bury the fiber optic line only in the cleared right-of-way of Lake County 7 at this location.

16. Forest Service sensitive mussels have been documented near the Stony River Overlook (Township 60 North, Range 10 West, Section 26 (EO ID#33694)), which is part of the area where Lake County will be installing fiber optic cable. To mitigate impacts to sensitive mussels, Lake County shall implement and maintain soil erosion prevention measures and sediment control practices during and after installation of the fiber optic cable. This

includes placing a commercial grade erosion barrier fence between the construction area and the water's edge at Stony River Overlook. The fence should be placed so no sediment will wash into the river (refer to the *Minnesota Forest Resources Council Voluntary Site Management Guidelines*). Once vegetation has stabilized the soil, the fence will be removed.

17. To prevent the spread of non-native invasive plants, remove all seeds, plant-matter, soil, and vegetative debris from heavy equipment prior to bringing the equipment onto the Superior National Forest.

Rationale for the Decision

In making my decision, I considered the environmental effects of each alternative and how well each alternative would meet the Project's Purpose and Need and meet the desired conditions as described in the Forest Plan. I have had discussions with the resource specialists about the effects this project would have on the natural and social resources we manage. Reviewing the EA, I find that the project may be accomplished while minimizing any adverse effects on natural and social resources.

Granting this special use permit would help meet Forest Plan Objective O-SU-2: "Attempt to meet demand for special use activities when consistent with the Forest Plan direction and when the proposed use cannot be accommodated on non-NFS land." The proposed installation cannot be accomplished without the use of non-NFS land since NFS land is located throughout the project area, including along the proposed installation locations.

Further, the project is needed to address the lack of broadband service for rural and unserved establishments within all of Lake County and portions of St. Louis County. Installation is anticipated to provide fiber-optic network services including voice, video, and data to thousands of residents, subscribers and multiple businesses in the area. This connectivity will likely benefit economic and social activity in northeast Minnesota.

Other Alternatives Considered

In addition to the selected Alternative, I considered a No Action alternative in detail (discussed below). A more detailed comparison of alternatives can be found in the EA.

Alternative 1, No Action

Under the No Action alternative, the fiber optic installation project would not occur. I did not select this alternative because it would not meet the purpose and need of the project (EA Section 1.3). The Forest Service would not meet the intent of Forest Plan Objective O-SU-2 under this alternative. Nor would Lake County be able to use the ARRA funds to benefit the public by providing the availability of fiber optic network services. And the public would not be able to utilize this communication resource which is becoming a mainstay of modern communication and commerce.

Public Involvement

The proposed exchange first appeared in the Schedule of Proposed Actions in the fourth quarter of 2013. Scoping was done by consulting Forest Service specialists on potential resource issues in the area. The issues identified by Forest Service specialists were addressed with the stipulations included in my decision. A specific public scoping request was not issued because of the absence of public interest on similar fiber optic installation projects in the past (e.g. Middle Mile Project).

After considering scoping input and producing the EA, we mailed notice of the EA out to our Forest contacts interested in these types of projects, and posted the EA to our project website. A legal notice of the opportunity to comment on the EA was published on January 17, 2014 in the Duluth News Tribune. We received no comments from the public. Since no specific written comments were received, this decision is not subject to objection per 36 CFR 218.

Tribal Communities

Tribal consultation was conducted and no comments or concerns were received from the Fond Du Lac and Grand Portage Bands of the Lake Superior Chippewa or the Bois Forte Band of Chippewa.

Finding of No Significant Impact for the Lake County Fiber Optic Project

I have considered both the context and intensity of the environmental consequences of the Lake County Fiber Optic Project, including the reference documents, additional information in the Project Record, and maps of the Project. Based on my experience with similar projects and practices, I conclude that the selection of Alternative 2 will not significantly affect the quality of the human environment. The level of analysis conducted for the Project is adequate and contains enough analysis for me to determine that an environmental impact statement is not needed. This determination is based on the following factors:

Context- The geographical setting of the proposal is the immediate roadside area of the routes to be installed. It does not have implications that warrant extending the analysis beyond the Superior National Forest. The physical and biological effects are disclosed in Chapter 3 of the EA and are analyzed at appropriate scales, such as the specific affected roadside areas. The effects of the Project are limited to those described in the EA and other documents incorporated by reference. All actions are consistent with the Forest Plan, and all environmental effects are within the range of effects disclosed in the 2004 Forest Plan FEIS.

The EA shows that Alternative 2 will not have significant effects on the resources, either in the short-term or long-term (EA Chapter 3).

Intensity - The intensity of the impact will not be significant based on the following:

1. Impacts may be both beneficial and adverse. A significant effect may exist even if, on balance, effects are believed to be beneficial.

Both beneficial and adverse effects have been taken into consideration when making this determination of significance (EA Chapter 3). Beneficial effects have not, however, been used to offset or compensate for potential adverse effects. I have considered beneficial and adverse effects and neither are significant.

2. The degree of effects on public health or safety.

The selected action will protect public health and safety. For example, the project will restore any damage to driveways along the installation route (see stipulations included in the decision). Also, availability of improved communication through the fiber optic network may benefit public health and safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

There will be no significant effects on unique features in the area, such as historical or cultural resources, prime forest lands, wild and scenic rivers, scientific resources, or ecologically critical areas.

- **Park Lands and Prime Farm Lands** – There are no park lands or prime farm lands within the affected area.

- **Wetlands** – Due to the scale of the project and the included design features and mitigation measures, there would be minimal or no negative effects to wetlands (EA Section 3.1). If any permits are necessary for compliance with the Clean Water Act, the permittee must acquire these from the Army Corps of Engineers before implementation.

- **Wild and Scenic Rivers** – The project is located outside candidate Wild and Scenic River segments on the Forest. Effects are localized to the roadside area and no effects are anticipated to these areas.

- **Ecologically Critical Areas** – The project is located outside Unique Biological Areas, candidate Research Natural Areas, or Research Natural Areas or other ecologically critical areas. Effects are localized to the roadside area and no effects are anticipated to these areas.

- **Boundary Waters Canoe Area Wilderness** – The project is located outside the BWCAW. Effects are localized to the roadside area and no effects are anticipated to the BWCAW.

4. The degree of controversy over environmental effects.

There is no apparent public controversy over the effects, nor is there substantial scientific controversy on what the effects may be. Chapter 3 of the EA documents the minor, negligible or nonexistent effects from the project.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The EA revealed no known effects on the human environment that are highly uncertain or that involve unique or unknown risks (see EA Chapter 3). The Superior National Forest has conducted similar projects such as the Middle Mile Project and the actual effects of those fiber optic cable installation projects are similar to those predicted in their respective environmental analysis documents.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

This action does not set a precedent for future decisions. The purpose and need for this project is only for the special use permit application from Lake County to install fiber optic cable in the areas specified in my decision. If future proposals are made these would be considered in a separate environmental review.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

Each of the resource sections in Chapter 3 of the EA and EA Appendix B addressed potential cumulative effects. This action does not represent potential significant cumulative impacts when considered in combination with other past or reasonably foreseeable actions.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

There will be no effects to heritage resources (EA section 3.4). The direction in the Programmatic Agreement between the Superior National Forest and the State Historic Preservation Office was followed for this project.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 (ESA).

Determination of the impacts on listed rare plants and animals from this action are provided in the biological evaluation (EA Appendix C) and summarized in Section 3.3 of the EA. There would be no effect on the listed as threatened Canada lynx or its critical habitat and no effect on the proposed for listing species northern long eared bat.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

This action does not violate any federal, state or local laws, or requirements for protecting the environment, including NFMA and associated regulations that provide for amendments of Forest Plans. See Findings Required by Other Laws and Regulations section of this Decision Notice.

Findings Required By Other Laws and Regulations

The decision meets the requirements of all applicable laws, regulations and executive orders. Some pertinent ones are discussed below.

National Historic Preservation Act

There will be no effects to heritage resources (EA section 3.4). The direction in the Programmatic Agreement between the Superior National Forest and the State Historic Preservation Office was followed for this project. My decision complies with the National Historic Preservation Act.

Endangered Species Act

As discussed under Item #9 of the FONSI, there will be no effect on Canada lynx or its critical habitat and no effect on northern long eared bat. My decision complies with the Endangered Species Act.

Clean Water Act, Floodplains (EO 11988) and Wetlands (EO 11990)

Due to the scale of the project and the included design features and mitigation measures, there would be minimal or no negative effects to water resources (EA Section 3.1). If any permits are necessary for compliance with the Clean Water Act, the permittee must acquire these from the Army Corps of Engineers before implementation. My decision complies with the Clean Water Act and these Executive Orders.

Environmental Justice (EO 12898)

My decision complies with EO 12898 and will not cause disproportionately high and adverse human health or environmental effects on minority population or on low-income populations.

National Forest Management Act and Forest Plan Consistency

The Forest Service is operating under the 2012 Planning Rule. I have considered the best available scientific information in making this decision. The project record demonstrates a thorough review of relevant scientific information, consideration of responsible opposing views, and, where appropriate, the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. My decision implements the Superior National Forest Land and Resource Management Plan (Forest Plan).

The project is located in Management Areas where special uses, including the special use proposed in this project, are allowed (EA Section 1.6). Stipulations included in the project incorporate relevant direction from standards and guidelines in the Forest Plan (EA Section 2.2). As required by the National Forest Management Act Section 1604(i), I find this project to be consistent with the Forest Plan.

Objection Rights for the Project

This decision is not subject to objection pursuant to 36 CFR 218 because no specific written comments on this project were received during a comment period designated by the Responsible Official.

Implementation

Since this project is not subject to objection pursuant to 36 CFR 218, implementation of this decision may occur immediately after the date of this decision. Implementation is likely to begin in spring 2014 and be complete by fall 2014.

Contact Person

For more information about the specific activities authorized with this Decision, please contact Elizabeth Schleif, Lands Program Manager, 8901 Grand Avenue Place, Duluth, MN 55808, phone 218-626-4373.

Brenda Halter

5-13-14

BRENDA HALTER

Date

Forest Supervisor

Superior National Forest

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