DECISION MEMO

Special Use Permit Amendments

USDA Forest Service
Beaverhead-Deerlodge National Forest
Pintler Ranger District
Granite County

Background

Neal Clark is building a full time residence near Stony Creek Road that requires electrical power and telephone services. A linear right of way is needed with Forest road #241 to bury the electric and phone conduit.

Decision

I have decided to authorize amendments to the NorthWestern Energy and Blackfoot Telecommunications master special use permits to authorize a two foot right-of-way approximately 1,850 feet in length along Forest road #241, located in T7N, R16W, Section 21.

The power line and phone line will be buried in a trench.

No work will occur outside the roadway. No vegetation will be removed. The roadway will be restored once the work is completed.

Crews will properly store all attractants to minimize potential impacts to transient grizzly bears. Attractants include but are not limited to food and beverages. Attractants should be stored in a bear-resistant container or hard-sided vehicle when unattended during the day.

All activity must occur outside of the spring period (March 1 – July 15).

Reasons for Categorically Excluding the Proposed Action

An action may be categorically excluded from further analysis and documentation in an environmental impact statement (EIS) or environmental assessment (EA) if it is within one of the categories identified by the USDA in 7 CFR part 1b.3 or 7 CFR part 1b.3 or 36 CFR 220.6(d) or (e), 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.

This project has been reviewed in accordance with FSH 1909.15 Chapter 30. I have determined the project fits the following category: 36 CFR 220.6(e)(3):

Approval, modification, or continuation of minor special uses of NFS lands that require less than five contiguous acres of land.
My decision is based on a review of the project record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information.

By definition, categorical exclusions do not individually or cumulatively have significant effects on the human environment (40 CFR 1508.4). Resource specialists considered direct and indirect effects from the proposed action coupled with past, present, and reasonably foreseeable actions. I have examined the proposed action and the effects analyzes disclosed in the resource specialist reports listed above and conclude that without notable individual effects from the proposed action, there would be no discernable cumulative effects.

The interdisciplinary team reviewed the resource conditions listed in FSH 1909.15 Chapter 30 (31.2) and other concerns applicable to this project to determine whether any extraordinary circumstances exist. The mere presence of one or more of the resource conditions listed below does not preclude the use of a categorical exclusion. It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions, if such a relationship exists, and the degree of potential effect of a proposed action on these resource conditions that determine whether extraordinary circumstances exist.

The following table provides a summary of the final determinations regarding the cause-effect relationship between the proposed action and degree of potential effect on the resource conditions in the left hand column in the table below. All specialist reports (available in the project record) have been finalized and I have reviewed them in detail prior to reaching this decision. Summaries of the determinations of potential effect to the listed resource conditions are summarized in the right column in Table 1 below.

Table 1. Potential Effects to Resource Conditions Considered for Extraordinary Circumstances

<table>
<thead>
<tr>
<th>RESOURCE CONDITION</th>
<th>POTENTIAL EFFECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federally listed threatened or endangered species or designated critical habitat,</td>
<td>No Impact to threatened, endangered or sensitive terrestrial, aquatic, and plant species.</td>
</tr>
<tr>
<td>species proposed for Federal listing or proposed critical habitat, or Forest Service</td>
<td></td>
</tr>
<tr>
<td>sensitive species.</td>
<td></td>
</tr>
<tr>
<td>Floodplains, wetlands, or municipal watersheds</td>
<td>No negative impacts to the municipal watershed, floodplains, or wetlands are projected.</td>
</tr>
<tr>
<td>Congressionally designated areas, such as wilderness, wilderness study areas, or</td>
<td>No congressionally designated areas occur in or near the project; therefore no negative impacts to any congressionally designated areas are projected.</td>
</tr>
<tr>
<td>national recreation areas.</td>
<td></td>
</tr>
<tr>
<td>Inventoried Roadless Areas</td>
<td>There are no inventoried roadless areas within or adjacent to the project area. Therefore, no negative impacts to any research natural areas are projected.</td>
</tr>
<tr>
<td>Research Natural Areas</td>
<td>There are no research natural areas within the project area. Therefore, no negative impacts to any research natural areas are projected.</td>
</tr>
<tr>
<td>American Indians and Alaska Native religious or cultural sites.</td>
<td>Section 106 consultation will take place under the auspice of R1 Programmatic Agreement with Montana SHPO.</td>
</tr>
<tr>
<td>Archaeological sites, or historic properties or areas.</td>
<td></td>
</tr>
</tbody>
</table>

I find that the determinations reached in the extraordinary circumstances consideration table above maintain a high degree of certainty. Therefore, I am confident that this project would have no significant effect on the human environment, individually or cumulatively, and no uncertainty exists regarding this degree of potential...
effect. I have reviewed the individual specialist reports for detailed description of the methods and data used to come to these determinations.

Scoping and Public Involvement

The project was published on the SOPA October 26, 2015; no responses were received.

Forest Plan Direction

The National Forest Management Act (NFMA) requires the development of long-range land and resource management plans. The Beaverhead-Deerlodge National Forest Plan was approved in 2009 and provides guidance for all natural resource management activities on the Beaverhead-Deerlodge National Forest. NFMA also requires that all projects and activities be consistent with the plans. The decision is consistent with Forest Plan direction including all applicable standards.

Forestwide Goals and Objectives:

People and communities benefit from programs and infrastructure that support livestock grazing and an array of Forest products and services (FP page 11).

Findings Required by Law

National Forest Management Act - The Beaverhead-Deerlodge National Forest Land and Resource Management Plan (Forest Plan) was approved in 2009, as required by this Act. The Forest Plan has been reviewed in consideration of this project and the project meets all applicable management direction, including consistency with all applicable standards.

On April 9, 2012 the Department of Agriculture issued a final planning rule for National Forest System land management planning (2012 Rule) 77 FR 68 [21162-21276]). None of the requirements of the 2012 Rule apply to projects and activities on the Beaverhead-Deerlodge National Forest, as the 2009 Beaverhead-Deerlodge Forest Plan was developed under a prior planning rule (36 CFR §219.17(c)). Furthermore, the 2012 Rule explains, “[The 2012 Rule] supersedes any prior planning regulation. No obligations remain from any prior planning regulation, except those that are specifically included in a unit’s existing plan. Existing plans will remain in effect until revised” (36 CFR §219.17).

Endangered Species Act - See the “Reasons for Categorically Excluding the Proposed Action” Section of this document, and Table 1, for a summary of the effects of this project to Endangered, Threatened, or Candidate Species. The summary is based on a more thorough analysis available in the project record. This project is consistent with the requirements of the Endangered Species Act.

Sensitive Species (Forest Service Manual 2670) - This direction requires analysis of potential impacts to sensitive species and the Regional Forester approved the sensitive species list on February 25, 2011 (updated August 26, 2011 to include white bark pine which reflects the inclusion of species as a candidate for listing on the USFWS list of Threatened, Endangered and Candidate species for the BDNF as of January 8, 2015.) Our review of the potential effects of this decision upon the sensitive species has been completed and the analysis documented in the project file and Resource Condition Table above.

Environmental Justice (Executive Order 12898) - This Order requires consideration of whether projects would disproportionately affect minority or low-income populations in or around the project area. Based on internal review and public scoping, the proposed action did not identify any adversely impacted local minority or low-income populations.
Clean Water Act – The intent of the Act is to restore and maintain the integrity of waters. The Forest Service complies with this Act through the use of Best Management Practices (BMPs). This decision incorporates Best Management Practices to ensure protection of soil and water resources and complies with the Clean Water Act and State water quality standards.

Clean Air Act – Under this Act, areas of the country were designated as Class I, II or III airsheds for “Prevention of Significant Deterioration” purposes. There will be no air quality impacts as a result of this decision.

The National Historic Preservation Act – As discussed earlier in this document and in detail in the project file, adverse impacts to cultural resources are not expected.

Migratory Bird Treaty Act – There will be no known substantial losses of migratory bird habitat expected from the implementation of this proposal.

National Environmental Policy Act - This Act requires public involvement and consideration of potential environmental effects. This decision memo and the project record provide documentation of compliance with this Act.

Other Laws or Requirements – The proposed action is consistent with all other Federal, State, and/or local laws or requirements.

Administrative Review Opportunities

Decisions made under Categorical Exclusions are not subject to objection pursuant to 36 CFR 218. The permittee however, may appeal this decision pursuant to Department of Agriculture regulations 36 CFR 214. To appeal this decision under 36 CFR 214, a written Notice of Appeal, meeting the content requirements at 36 CFR 214.8 must be postmarked or received (if delivered by hand) within 45 calendar days after the date of notice of decision in this letter (36 CFR 214.9). However, when the 45-day filing period would end on a Saturday, Sunday, or Federal Holiday, the filing time is extended to the end of the next Federal working day. The Notice of Appeal must be sent to USDA Forest Service, Forest Supervisor, Beaverhead-Deerlodge National Forest, Attn: Appeals, 420 Barrett St, Dillon, MT 59725. A copy of the appeal must simultaneously be sent to the District Ranger at 88 Business Loop, Philipsburg, MT 59858. Additionally, if an appeal is filed and the appellant would like to make an oral presentation concerning the appeal (36 CFR 214.16) and/or request a stay of implementation of the decision (36 CFR 214.13(b)(1)), those requests must be included in the appeal (36 CFR 214.8(b)(1)( and b)(2)).

Implementation Date

This decision is not subject to objection pursuant to 36 CFR 218 and may begin immediately. Work is expected to commence in December of 2015.

Contact Person

Supporting documentation for this decision is available for public review at the Pintler Ranger District, 88 Business Loop, Philipsburg, MT 59858.

Further information about the decision can be obtained from the Pintler Ranger District during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at Philipsburg, Montana ; by phone: 406-859-3211; by mail at 88 Business Loop, Philipsburg, MT 59858 or by e-mail: to Patty Bates, pbates@fs.fed.us.
Responsible Official

/s/Charlene Bucha       June 8, 2016
CHARLENE BUCHA
District Ranger
Pintler Ranger District

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual’s income is derived from any public assistance program. (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, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.