DECISION MEMO

Six Mile Lake Aquatic Passage Project

USDA Forest Service
Region 9
Chippewa National Forest
Deer River Ranger District
Cass County, Minnesota

I. Proposed Action

A. Description of Decision

I have decided to restore fish and aquatic organism passage at the outlet dam of Six Mile Lake. This will be accomplished by the removal of the aging dam and the construction of a series of rock arches designed to allow free movement of aquatic species. The arches will be designed to maintain a more stable lake level that will have the added benefits of reduced shoreline erosion and will be more beaver resistant.

B. Management Actions

- Removal of existing dam and stop boards
- Construction of a series of rock arches and step pools

All relevant Forest Plan Standards and Guidelines will be adhered to in this decision (Forest Plan, pp. 2-13 to 2-15 & 2-40). All appropriate Best Management Practices and “Gold Book” Voluntary Site-Level Management Guidelines are required for this project to ensure protection of the streams, the riparian area, and adjacent forest lands.

C. Background and Existing Condition

The dam was constructed in 1937 for the purposes of hay production following a period of drought and low water levels. The Forest Service obtained an easement to operate the dam in 1938 and obtained deeded title to the land in 1965. No longer having any value in conserving water or manipulating water levels, the Forest Service unofficially deferred the setting of the water level and maintenance to motivated local property owners. In recent years the concrete portions have experienced cracking and erosion and the wooden portions have deteriorated. In recent years, the water has been mainly going through small cracks in the structure, making fish passage unlikely.

D. Purpose and Need
The purpose of the Six Mile Lake Aquatic Passage Project is to restore hydrologic function and improve aquatic habitat by providing aquatic organism passage while reducing future environmental impacts, safety hazards, and maintenance costs. Direction within the Chippewa National Forest Plan emphasizes the need to maintain or restore stream channel stability, limit effects of sedimentation to aquatic organisms and their habitats, and provide a safe environment for recreational activities on the Forest. The project would improve safety and reduce environmental impacts to aquatic resources.

Needs for the Northeast Impoundment Removal project include:

- The Forest Plan emphasizes the need to restore hydrologic connectivity and minimize impoundments to assure passage of water, sediment, nutrients, wood, invertebrates, fish and to facilitate the dispersal of fresh water mussels (D-WS-8)
- There is a need to improve and protect watershed conditions (O-WS-1, O-WS-9).
- Failures at the road and dike crossing represent a risk to downstream water quality and aquatic habitat.
- There is a need to stabilize stream bank and surrounding riparian area by planting or seeding species native to the site on areas needing soil stabilization (G-WS-1, O-WS-10, S-WL-12).

E. Alternatives considered but dismissed

Complete removal of the dam without riffles was considered, but social impacts to local property owners regarding lake access was avoidable using rock riffles as grade control. The Forest Service boat launch at the lake may also become unusable should the water levels drop too low.

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, 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.

A. Category of Exclusion

I have concluded that the decision falls within FSH 1909.15 31.2 (6) “Timber stand and/or wildlife habitat improvement activities which do not include the use of herbicides or do not require more than one mile of low standard road construction (Service level D, FSH 7709.56)” and 31.2(7) “Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices”.

B. Relationship to Extraordinary Circumstances

No other extraordinary circumstances related to the project were identified. Therefore, I have concluded that the decision is appropriately categorically excluded from documentation in an
environmental impact statement or environmental assessment as based on information presented in this document and the entirety of the record.

Specifically considered are those resources and instances that could result in a significant individual or cumulative effect on the quality of the human environment as described in FSH 1909.15-30.3, 2a-g:

1. **Threatened and Endangered Species or Their Critical Habitat**
   
The Endangered Species Act requires that federal activities 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. A Biological Review conducted for the project concluded a finding of no effect to threatened/endangered species (Forest Service, 2011). Additional analysis can be found in the Biological Review within the project record.

2. **Floodplains, Wetlands, and Municipal Watersheds**
   
   Executive Orders 11988 and 11990 require avoidance of adverse impacts associated with the occupancy and modification of floodplains and the destruction or modification of wetlands. The topographic break in slope between the uplands and wetlands define the floodplain boundaries. This project will have a net positive effect on floodplains and wetlands by restoring flood plain acres, increasing the diversity of wetland plant communities, restoring more natural flows and soil moisture conditions, and improving the condition of aquatic and riparian habitat. This decision will not result in measurable negative impacts. “Gold Book” Voluntary Site-Level Management Guidelines will be implemented during work.

   This decision will not affect municipal watersheds because there are none within the forest boundary, or immediately downstream.

3. **Congressionally Designated Areas – Wilderness, Wilderness Study Areas, and National Recreation Areas**
   
   This decision does not affect Wilderness or National Recreation areas because there are none within the forest boundary.

   This decision does not affect Wilderness Study areas because the project area is not within or near them. (FEIS, Appendix C, pp. C-19 to C-23).

4. **Wild and Scenic Rivers**
   
   This decision does not affect Wild and Scenic Rivers because the project area is not within or near them.

5. **Inventoried Roadless Areas**
   
   This decision does not affect Inventoried Roadless areas (RARE II or Forest Plan) because the project area is not within or near them.
6. **Research Natural Areas**

This decision does not affect Research Natural areas (RNA). No RNAs or Candidate RNAs are within 5 miles of the project area (Forest Plan, pp. 3-35 and 3-38).

7. **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 consulted with the Leech Lake Band of Ojibwe (LLBO) by sending a scoping letter to LLBO Division of Resource Management, and the LLBO Tribal Historic Preservation Officer Gina M. Lemon. No tribal concerns were identified for this project.

8. **Archaeological Sites and 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.

Specific to compliance with Section 106 of the National Historic Preservation Act, the Chippewa NF Archaeologist examined the project area to determine its potential to affect historic properties. The existing Six Mile Lake Dam was constructed in 1937 and the Forest Service evaluated the historic significance of the structure against the criteria established for listing on the National Register of Historic Places. The evaluation resulted in the determination (with SHPO concurrence) that the dam would not be eligible for listing on the National Register and thus, for the purposes of Section 106, would not be considered as a historic property.

With the dam structure being ineligible for listing on the National Register, it was clear that the proposed action could be exempted from further Section 106 review under the Programmatic Agreement established among the Advisory Council on Historic Preservation, the Leech Lake Tribal Historic Preservation Office, the State Historic Preservation Office and the Chippewa National Forest on the management of heritage
resources on the Chippewa NF. The applicable exemptions are listed under items 10, 15, and 17 in Appendix A dealing with maintenance of roads, culverts, and impoundments where there is no expanded construction footprint proposed that would threaten historic properties.

The Forest Service concludes that no standing structures, archaeological sites, or other historic properties would be affected by this decision.

III. Public Involvement

This project was developed in collaboration with the DNR Fisheries Walker Office and Cherney’s Resort owner, Butch Cherney beginning with talks in the summer of 2009.

This project was listed in the Chippewa National Forest NEPA Quarterly Schedule of Proposed Actions beginning with the July 2010 edition.

A scoping letter that described the proposed action was mailed August 6th, 2010 to local area residents, property owners, state agencies, and Leech Lake Band members and employees.

A public Meeting was held at Cherney’s Resort on Six Mile Lake on September 2 to explain the project, present the design, field questions from the public. An intermediate lake level was chosen by both agency managers and attending local property interests to accommodate design concerns, erosion, and water depth for boating.

IV. Finding Required by and/or Related to Other Laws and Regulations

My decision will comply with all applicable laws and regulations. I have summarized some pertinent ones below:

**Federal Land Policy and Management Act**

This Act allows the granting of easements across National Forest System Lands. The regulations at 36 CFR 251 guide the issuance of permits, leases, and easements under this Act. Permits, leases, and easements are granted across National Forest System lands when the need for such is consistent with planned uses and Forest Service policy and regulations. This decision is consistent with this Act.

**Forest Plan Consistency (National Forest Management Act)**

This Act requires the development of long-range land and resource management plans. The Chippewa National Forest Land and Resource Management Plan was approved in 2004, as required by the Act. The plan provides for guidance for all natural resource management activities. The Act requires all projects and activities to 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 Sections I and II of this document, and is consistent with Plan Standards and Guidelines (pp.2-8 through 2-52).
Endangered Species Act  
See Section II B, item 1 of this document.

Regional Forester Sensitive Species (RFSS)  
FSM 2670 direction requires analysis of potential impacts to sensitive species, those species for which the Regional Forester has identified population viability as a concern. The project will have no impacts to species listed as a RFSS (Forest Service, 2011). Additional analysis can be found in the Biological Review within the project record.

Clean Water Act  
The intent of the Act is to restore and maintain the integrity of waters. The Forest Service complies with this Act by implementing the Forest Plan and through the use of Best Management Practices to ensure protection of soil and water resources.

Wetlands and Floodplains (Executive Orders 11990 and 11988)  
See Section II B, item 2 of this document.

Clean Air Act  
This decision is consistent with this Act.

National Historic Preservation Act, Archaeological Resources Protection Act, and Native American Graves Protection and Repatriation Act  
See Section II B, Items 7 and 8 of this document.

Wild and Scenic Rivers Act  
See Section II B, Item 4 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. Public involvement occurred for this project, the results of which I have considered in this decision. Public involvement did not identify any adversely impacted local minority or low-income populations. 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 to 36 CFR 215.12 because comments received during the 30 day review and comment period were supportive of the actions.

VI. Implementation Date

This decision may be implemented immediately, but is anticipated to begin in late Summer of 2012.

VII. Contact Person

Further information about this decision can be obtained from Eric Raitanen during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Deer River District office, 1037 Division Street, Deer River, MN 566436. Telephone: 218.246.3475 or Fax: 218.246.9743 or alternatively via e-mail at: ericraitanen@fs.fed.us.

VIII. Signature and Date

/s/ Jason Kuiken     May 31, 2012

____________________________________ ___________
Jason Kuiken                                                       Date
Deer River District Ranger

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Appendix A