DECISION MEMO
Special Use Authorization
Bamfield Road Safety Improvement Project
USDA-Forest Service, Eastern Region, Huron-Manistee National Forests
Harrisville Ranger District

I. DECISION

A. BACKGROUND

The Alcona County Road Commission has been approved by the Michigan Department of Transportation to implement a $375,000 Safety Improvement Project on Bamfield Road. The Huron-Manistee National Forests proposes to issue an easement to the Alcona County Road Commission as reconstruction is planned within the Huron-Manistee National Forests.

The maintenance of County roads by County Road Commissions within the Huron Manistee National Forests is a recognized use of National Forest System lands. Authorizations from the Forest Service are required when a County agency plans to conduct reconstruction projects that involve roads that are not legally documented as County roads and/or work is to be conducted on road widths beyond the existing drivable road surface.

The Bamfield project is planned for the summer of 2014 and involves reshaping approximately ½ mile of roadbed along the existing road centerline alignment with the majority of the work within a 66’ width between AuSable Road and Forest Road 4771. This road project is located within Sections 13 & 14 of T25N R5E, Curtis Township, Alcona County, Michigan. Approximately ¼ mile of this project involves National Forest System Lands (1320 linear feet; 87384 square feet; 2 acres).

The County has also requested a temporary permit, to occupy 5 separate areas outside of the typical County road right-of-way of 66’. In Section 14; 5’ wide by 250’ long. In Section 13; 20’ wide by 150’ long; At AuSable road intersection, 10’ wide by 125’, 10’ wide by 65’ and 15’ wide by 194’ long adjacent to the AuSable Vista access road (784 linear feet; 9060 square feet; 0.2 acres).

Reconstruction involves removal of the old surface and reshaping the highway base, new base and asphalt, signs and striping, roadside ditching, new drainage structures, reconstruction of the road intersections and snowmobile trail crossings and reconstruction of the road for drainage up to 33’ from the center line of the roads.

B. DESCRIPTION OF DECISION

My decision will be to issue an easement to the Alcona County Road Commission to allow the reconstruction and long-term maintenance of Bamfield Road; a 66’ wide right-of-way at this location. In addition, the Forest Service would issue a temporary permit of 1 year or less to the Alcona County Road Commission for the temporary occupancy at specified locations outside of the 66’ wide authorization.
The Heritage Specialist determined the project has no potential to cause effects to historic properties. The Botanist determined that no plant species or habitat suitable for rare or sensitive plant species would be impacted with issuance of this permit. The District Wildlife Biologist determined that implementation of the proposed action would have no effect on federally endangered and threatened species and would have no impacts to any Regional Forester’s Sensitive Species. The Forest Roads Engineer Managers were consulted on this project and determined that the proposed reconstruction is necessary and consistent with maintenance standards. Results of these reviews are detailed in this document.

This decision will be implemented through issuance of special use authorizations that meet the requirements of the decision and Forest Service regulations. Forest Service regulations require the applicant to: submit (or resubmit) a development and maintenance plan that complies with the decision requirements; pay any necessary fees, post any necessary bonds; and secure any state or federal permits or authorizations required by law.

Cost recovery fees have been determined, charged and payment received from the Alcona County Road Commission for this project. A land use fee will not be charged for these authorizations because Alcona County Road Commission, a unit of County Government, does qualify for a fee waiver in accordance with the Code of Federal Regulations Title 36 part 251.

C. PURPOSE OF DECISION

The purpose of the decision is to respond to a request from the Alcona County Road Commission to reconstruct Bamfield Road to provide safety improvements at this location. The proposed project would modify the AuSable Road intersection to improve site distance. The existing horizontal curve would be realigned to provide a smooth radius. Guardrail and rumble strips would be installed to protect and alert drivers to road conditions.

D. CONSISTENCY WITH FOREST PLAN

The proposal is consistent with the 2006 Huron-Manistee Land and Resource Management Plan as amended and within Management Areas 2.1, Roaded Natural Rolling Plains and Morainal Hills and 4.2 Roaded Natural Sandy Plains and Hills.

Issuance of a special use authorization to the Alcona County Road Commission is consistent with the Forest-Wide Standards and Guidelines of the Forest Plan as amended in addition to the Standards and Guidelines for the Management Areas.

Forest-Wide Standards and Guidelines

2700 SPECIAL USES MANAGEMENT

I. Issue permits only for uses compatible with the area’s management direction.

II. Decisions on applications for distribution systems crossing National Forest System lands will be made on an individual basis.

III. Where reasonable alternatives exist, surface-disturbing activities will take place outside of old growth.

IV. Permit only those utility transmission corridors required to serve recreational or administrative facilities. Exceptions will be considered on an individual basis.

A. Bury utility lines if technically feasible.

V. Do not allow utility lines in Management Areas 5.1, 8.2 and 9.1.
Standards and Guidelines for Management Area 2.1
2700 SPECIAL USES MANAGEMENT
I. Decisions on applications for special uses involving National Forest System lands will be made on an individual basis.
II. Adhere to Federal Power Act Section 4(e) Forest Service Conditions on the eight hydro-electric projects licensed by the Federal Energy Regulatory Commission.
III. Provide for utility transmission corridors. Emphasize the use of corridors when granting appropriate rights of way.

Standards and Guidelines for Management Area 4.2
2700 SPECIAL USES MANAGEMENT
I. Decisions on applications for special uses involving National Forest System lands will be made on an individual basis.
II. Adhere to Federal Power Act Section 4(e) Forest Service Conditions on the eight hydro-electric projects licensed by the Federal Energy Regulatory Commission.
III. Provide for utility transmission corridors. Emphasize the use of corridors when granting appropriate rights of way. Except, discourage utility transmission corridors in Kirtland’s Warbler management Areas.

II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when:

1. They are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR Part 1b.3, or
2. They are within one of the categories identified in 36 CFR 220.6(d) and (e) and identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15, Chapter 30, Sections 31.1 or 31.2, and
3. There are no extraordinary circumstances related to the proposed action.

A. CATEGORY OF EXCLUSION

This project is within category of exclusion 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.”
B. RELATIONSHIP TO EXTRAORDINARY CIRCUMSTANCES

Threatened and Endangered Species or Their Critical Habitat

The Endangered Species Act requires that federal activities do 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.

The District Wildlife Biologist and Zone Forest Botanist determined, in a Biological Evaluation dated June 5, 2014, that implementation of the proposed action would have no effect on federally endangered and threatened species and would have no impacts to any Regional Forester’s Sensitive Species. The proposed activities comply with the requirements of the Endangered Species Act. There is no critical habitat within the project area, therefore actions will not jeopardize or adversely modify critical habitat of federally listed species. The Biologist and Botanist also determined that all ETS and associated suitable habitat for species documented with the Huron Shores Ranger Station received full consideration in the decision-making process and the described actions will not contribute to the loss of viability of any native or non-native species and will not cause a trend toward federal listing of any species.

Floodplains, Wetlands or Municipal Watersheds

Floodplains - Executive Order 11988 is to avoid adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as, “…the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any one year”.

The proposed activity will not impact floodplains. The Forest Service has validated this conclusion with maps and a site-review.

Wetlands – Executive Order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, “…areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction.”

The proposed activity permit will not impact wetlands. The Forest Service has validated this conclusion with maps and a site-review.

Municipal Watersheds – Municipal watersheds are designated by Congress and managed under multiple use prescriptions in forest plans.

There are no municipal watersheds located within the Huron-Manistee National Forests.

Native American Religious or Cultural Site, Archaeological Sites or 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 history) 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 cover 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.

The Heritage Specialist was consulted on the project area. According to the Cultural Resource Survey CRRR09-04-0700499A Inventory Record dated 04/25/2014, a determination under 36 CFR 800.4(d)(1) of No Historic Properties Affected has been made for this project. In the Heritage Specialists’ professional opinion, the undertaking has no potential to cause effects to historic properties in accordance with the definition of such effects at 36 CFR Part 800.16(j). Therefore, the Agency Official has no further obligation under Section 106 or its implementing regulations.

Appropriate consultation on this project has occurred.

**Congressionally Designated Area**

Wilderness - The Nordhouse Dunes Wilderness Area is the only Wilderness Area within the Huron-Manistee National Forests. This decision will not affect the Nordhouse Dunes Wilderness Area.

National Recreation Areas - There are no National Recreation Areas on the Forests. This decision will not affect National Recreation Areas.

National Wild and Scenic Rivers - The project area is not located within a Wild and Scenic River corridor. This decision will not affect Wild and Scenic Rivers.

National Scenic Trails – This decision will not affect the North Country National Scenic Trail.

Inventoried Roadless Areas – The National Forest System land where the project is proposed is not in or near the Bear Swamp Roadless Area. This decision will not affect inventoried roadless areas.

Research Natural Areas – This project is not in or adjacent to any research natural areas and will not affect research natural areas on the Forests.

No other extraordinary circumstances related to this decision were identified.

**III. PUBLIC INVOLVEMENT**

Scoping was conducted on the proposal utilizing the Forests’ Schedule of Proposed Actions. It was also published on the Huron-Manistee National Forest website. Notice of the project was 1st published April 1st, 2014 and a separate public website posting was established June 10, 2014 - June 24, 2014.
IV. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS

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

Environmental Justice (EO12898) – 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 the decision-making. 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.

Title 36, Code of Federal Regulations, Part 251, Subpart B – This subpart provides direction for special uses management on National Forest System lands, including guidance pertaining to the special-use process; terms and conditions of use; rental fees; fee waivers; termination, revocation, suspension, and modification of existing authorizations; and permit administration.

This decision is consistent with this Act.

V. DECISION

My decision is to issue an easement to the Alcona County Road Commission to allow the reconstruction and long-term maintenance of Bamfield Road; a 66’ wide right-of-way at the location in Sections 13 and 14 of T25N R5E. In addition, the Forest Service will issue a temporary permit of 1 year or less to the Alcona County Road Commission for the temporary occupancy at specified locations outside of the 66’ wide authorization in Sections 13 and 14 of T25N R5E.

It is also my decision that a special-use fee will be waived for this permit because the Alcona County Road Commission has requested a fee waiver and does qualify for a fee waiver as a local unit of Government, in accordance with the Code of Federal Regulations Title 36 part 251.

I have concluded that this decision qualifies for categorical exclusion from documentation in an environmental impact statement or environmental assessment as identified in 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.”

It is also my decision that Alcona County Road Commission will modify construction plans for the grading permit to protect a colony of Yellow Lady Slippers identified by the Forest’s Zone Botanist.

It is my finding that there are no extraordinary circumstances which may result in significant individual or cumulative effects on the quality of the human environment.
This project is consistent with the approved Land and Resource Management Plan for the Huron-Manistee National Forests as amended.

My conclusions are based on information presented in this document and the entirety of the Project Record.

VI. ADMINISTRATIVE REVIEW AND APPEAL

Section 431 of the Consolidated Appropriations Act of 2014 (P.L. No. 113-76) directs that the 1992 and 2012 legislation establishing the 36 CFR 215 (post-decisional appeals) and 36 CFR 218 (pre-decisional objections) processes “shall not apply to any project or activity implementing a land and resource management plan … that is categorically excluded …under the National Environmental Policy Act (NEPA).”

Section 8006 of the Agricultural Act of 2014 (Farm Bill) (P.L. No. 113-79) repealed the Appeals Reform Act (ARA) (P.L. No. 102-381). The ARA’s implementing regulation was 36 CFR 215. The 2014 Farm Bill also directs that the pre-decisional objection process established in the Consolidated Appropriation Act of 2012 shall not be applicable to categorically excluded projects or activities.

Therefore, this project is not subject to appeal.

VII. IMPLEMENTATION DATE

This decision may be implemented immediately.

VIII. CONTACT PERSON

Further information about this decision can be obtained from Gordon Haase at the Huron Shores Ranger Station, 5761 N. Skeel, Oscoda, Michigan 48750; Telephone: (989) 739-0728; TTY: 771+989-739-0728; FAX: (989) 739-0347; email ghaase@fs.fed.us.

IX. SIGNATURE AND DATE

________________________  Dated: _________________________

ART JEFFERS
Acting Forest Supervisor

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