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Rochester Electric Special Use Permit Reissue Project

Decision Memo

**USDA Forest Service, Eastern Region
Green Mountain National Forest
Rochester Ranger District
Town of Rochester
Windsor County, Vermont**

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Rochester Ranger District
Town of Rochester, Windsor County, Vermont

I. SUMMARY

As District Ranger for the Rochester and Middlebury Ranger Districts of the Green Mountain National Forest (GMNF), I am authorizing the implementation of the re-issuance of the Rochester Electric Light and Power Company (Rochester Electric) Special Use Permits (SUP) to Central Vermont Public Service (CVPS) due to the purchase of Rochester Electric by CVPS. The project is located on National Forest System land in the Town of Rochester, Windsor County, VT on the Rochester Ranger District of the GMNF (see attached map, Figure 1).

II. DECISION TO BE IMPLEMENTED

A. Background and Project Area

CVPS purchased Rochester Electric 9/1/06. Due to this purchase, Rochester Electric's SUP needs to be re-issued to CVPS. The SUP power lines have a total length of 1.9 miles and are located along Vermont Route 73, FR63, FR227, and off of Vermont Route 100 to the Rochester Ranger District Office (Figure 1).

The SUP power lines are located in three Management Areas (MA): MA 3.1 Diverse Forest Use, MA 6.3 Remote Wildlife Habitat, and MA 9.4 Eligible Wild, Scenic, and Recreational Rivers (MA map is located in the project file).

B. Purpose and Need

The re-issuance of these permits is purely administrative with no changes in the scope or intensity of the permits. The purpose and need for this project is to re-issue the Special Use Permits from Rochester Electric to CVPS due to the purchase of Rochester Electric by CVPS. This project complies with Standards and Guidelines (S&G) in the 2006 GMNF Land and Resource Management Plan (Forest Plan) (Forest Plan, pp. 44-45).

C. Description of Decision

My decision is to re-issue the Special Use Permits from Rochester Electric to CVPS due to the purchase of Rochester Electric by CVPS.

This decision includes implementation of mitigation measures identified in Appendix A of this Decision Memo. This decision is based upon an environmental analysis conducted by Forest Service personnel during a Small Projects Day review on 3/25/08. This information is located in the project planning record located at the GMNF Rochester Ranger District Office in Rochester, VT.

III. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or an environmental assessment when they are within one of the categories found at 36 CFR 220.6(d) and (e), and there are no extraordinary circumstances related to the decision

that may result in a significant individual or cumulative environmental effect.

A. Category of Exclusion

Based upon the environmental analysis contained in the project file and on experience with similar activities on the GMNF, I have concluded that this decision can be appropriately categorically excluded from documentation in an environmental impact statement or environmental assessment. I have determined that the selected action is a routine activity within the following category of exclusion found at 36 CFR 220.6(e)(15): "Issuance of a new special use authorization for a new term to replace an existing or expired special use authorization when the only changes are administrative, there are not changes to the authorized facilities or increases in the scope or intensity of authorized activities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization".

B. Relationship to Extraordinary Circumstances

The list of seven extraordinary circumstances that were examined for this analysis may be found at 36 CFR 220.6(b). The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effects of a proposed action on these resource conditions that determines whether extraordinary circumstances exist. I have concluded that 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. My conclusion is based on information presented in this document and the entirety of the record. A summary of the project's potential effects on each resource condition is as follows:

1. Federally Listed Threatened or Endangered Species or Designated Critical Habitat, Species Proposed for Federal Listing or Proposed Critical Habitat, or Forest Service Sensitive Species –

There are no federally listed plant species on the GMNF, therefore, there will be 'no effect' on federally listed plant species or their critical habitats as a result from this project (Plant Biological Evaluation, 5/10/09).

On May 4, 2009, the project area was surveyed for federally threatened and endangered (T&E) species and regional forester sensitive species (RFSS). During the walkthrough survey, it was concluded that the location of the site and the site characteristics were not in accordance with any of the T&E species that have potential to occur within the GMNF boundaries. No federal T&E species were located at the time of survey. The likelihood for occurrence of any of the GMNF T&E species is low. For Indiana bat (*Myotis sodalis*), there are no known occurrences currently in the project area; however there is a very slight possibility for roosting Indiana bats to occur, permitting there are suitable roost trees available. There is no potential or critical habitat within the project area, and because the project area, except for the distribution line that serves the Rochester RD, exceeds elevation of 800 feet, the potential for Indiana bat maternal roosting habitat is low (See Forest Plan, p. 27). The stretch that serves the Rochester RD is below 800 feet, yet shows no signs of potential roost trees. It was determined that this decision will have 'no effect' on federally listed animal species or their critical habitats as a result from this project (Wildlife Biological Evaluation, 5/12/09).

No plants on the RFSS list are known from the area, and since the type of work authorized by the SUP is continued maintenance of an existing power line, potential habitat was not

investigated, therefore, there will be 'no effect' on the plants on the RFSS list or their critical habitats as a result from this project (Plant Biological Evaluation, 5/10/09).

The SUP project areas have been surveyed for RFSS animals and none occur within the SUP project areas. The walkthrough survey of the sites did not identify any individuals or ideal habitat for any RFSS animals. The habitat that exists at the SUP project areas is not in accordance with any known habitat of RFSS animals, except for the Eastern small-footed bat (*Myotis leibii*) and the wood turtle (*Clemmys insculpta*). Some of the project sites do hold potential summer foraging habitat for the Eastern small-footed bat although the forest conditions as they are presently (not many large trees, no hickories, no other hardwood trees exhibiting exfoliating bark or other roost tree characteristics) would be marginal summer foraging habitat. A review of pertinent literature suggests that the project area along VT RT 73 provides potential habitat along the stream for non-hibernating wood turtles. Although there is potential wood turtle habitat, the likelihood of occurrence of wood turtles or any RFSS animals on these previously impacted parcels of National Forest System lands is low. This project will have 'no effect' on any of the RFSS or their preferred habitats, and thus is not likely to lead to loss of viability or trend toward federal listing for any animal on the RFSS list (Wildlife Biological Evaluation, 5/12/09).

2. Floodplains, Wetlands, or Municipal Watersheds –

The project is not located in or near floodplains, wetlands, or municipal watersheds. This has been validated by map and site-review. No significant impacts to floodplains, wetlands or municipal watersheds are expected to result from this project. (Communication with staff soil and water personnel, 3/25/08 and 4/27/09, floodplains, wetlands or municipal watersheds map is located in the project file).

To further ensure that floodplains, wetlands, or municipal watershed impacts are minimized, Acceptable Management Practices are incorporated into this decision.

3. Congressionally Designated Areas, such as Wilderness, Wilderness Study Areas, or National Recreation Areas –

Wilderness:

This decision does not affect Wilderness. The project is not in or near Wilderness. Wilderness is identified on the Forest as Management Area 5.1 (Forest Plan, p. 49). The closest Wilderness to the project area is the *Breadloaf* Wilderness Area, which is approximately five miles northwest of the project. This decision, with impacts limited to the immediate area of activity, will not affect the Wilderness Area (communication with Forest Planner, 3/25/08, wilderness map is located in the project file).

Wilderness Study Areas:

There are no Wilderness Study Areas within the project area. This decision will not affect Wilderness Study Areas (communication with Forest Planner, 3/25/08).

National Recreation Areas:

The GMNF contains two National Recreation Areas: the *Moosalamoo National Recreation Area* and the *Robert T. Stafford White Rocks National Recreation Area*. The project is not located in or near these areas. This has been validated by map and site-review. This

decision will not affect the National Recreation Areas (communication with Forest Planner, 3/25/08).

Wild and Scenic Rivers:

Although the GMNF does not contain any Congressionally designated Wild and Scenic Rivers, there are many river segments that are eligible to be further considered for addition to the National Wild and Scenic River System. These river segments and their associated corridors are within the Eligible Wild, Scenic, and Recreational Rivers Management Area (MA 9.4). This decision includes activity within the eligible White River Recreational River corridor. The activity within this area is consistent with direction for management of the Recreational River. Recreational segments will usually be more developed than scenic river segments and will often have parallel or crossing roads, railroad accesses, or transportation facilities that parallel the river for long stretches (Forest Plan, pp. 105-109). This decision will not adversely affect the outstandingly remarkable values identified for this river, and thus will not preclude it from future consideration for addition to the National Wild and Scenic River System (communication with Forest Planner, 3/25/08, Recreational River MA map is located in the project file).

4. Inventoried Roadless Areas or Potential Wilderness Areas –

A section of this project is within the Pittenden 2006 Forest Plan Inventoried Roadless Area, located along Vermont Route 73 in Tract #520D (Inventoried Roadless Areas map is located in the project file). This project is comprised of existing power lines that were present at the time the 2006 Forest Plan Roadless Inventory and Evaluation process was conducted. As such, the project will not have any new impacts on the roadless character of the Pittenden Area. Similar past projects in this area were determined to have no significant impacts on inventoried roadless areas. This decision will not result in significant impacts on inventoried roadless areas (communication with Forest Planner, 3/25/08 and 5/1/08).

5. Existing and Candidate Research Natural Areas –

There are no Research Natural Areas in the project area. The closest Research Natural Areas, the *Mt. Horrid* Research Natural Area is 3.6 miles west and The Cape Research Natural Area is 5.7 miles southwest, of the project (Research Natural Area map is located in the project file). This decision, with impacts limited to the immediate area of activity, will not affect Research Natural Areas (communication with staff ecologist, 3/25/08).

6. American Indian and Alaska Native Religious or Cultural Sites –

See Item 7 below.

7. Archaeological Sites, or Historic Properties or Areas –

This decision complies with the National Historic Preservation Act, the Archaeological Resources Protection Act, and the Native American Graves Protection and Repatriation Act. The project will have no significant or adverse impacts to cultural resources or historic sites (concurrence from Forest Archaeologist, 3/25/08).

8. Other Resources –

In addition to resource conditions that could lead to extraordinary circumstances, I also have considered the direct, indirect, and cumulative effects to other resources such as soil/water, fisheries, visuals, recreation, and non-native invasive species. The project will not result in significant impacts to these resources, particularly because all applicable Forest Plan Standards and Guidelines will be implemented (communication with Resource Specialists at Small Projects Day, 3/25/08, and Forest Planner communication, 5/1/09).

IV. PUBLIC INVOLVEMENT

This project was listed in the quarterly *Green Mountain National Forest Schedule of Proposed Actions* (SOPA) beginning in January 1 – March 31, 2008 and will remain in the SOPA until the project is authorized for implementation.

No external issues have been identified. This project was also internally scoped with Forest Service staff during Small Projects Day on 3/25/08. No internal issues were identified.

V. FINDINGS 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.

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.

Forest Plan Consistency (National Forest Management Act) –The National Forest Management Act (NFMA) requires the development of long-range land and resource management plans, and that all site-specific project activities be consistent with direction in the plans. The GMNF Land and Resource Management Plan (Forest Plan) was completed and approved in 2006 as required by NFMA. The Forest Plan provides direction for all management activities on the GMNF. The Rochester Electric Special Use Permit Reissue Project implements the Forest Plan.

The project area is within the Diverse Forest Use and Remote Wildlife Habitat Management Areas as described in the 2006 Forest Plan. As required by NFMA Section 1604(i), I find this project to be consistent with the Forest Plan including goals, objectives, desired future conditions, and Forest-wide and Management Area Standards and Guidelines.

This project complies with Standards and Guidelines (S&G) in the Forest Plan (Forest Plan, pp. 44-45), Diverse Forest Use MA direction (Forest Plan, pp. 47-48), Remote Wildlife Habitat MA direction (Forest Plan, pp. 60-62) and Eligible Wild, Scenic, and Recreational Rivers MA direction (Forest Plan, pp. 105-109).

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.

Endangered Species Act - 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. In accordance with Section 7(c) of this Act, a report of the listed and proposed, threatened, or

endangered species that may be present in the project area was reviewed. See Section III, Item B.1 of this document.

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 Forest Plan Standards and Guidelines, specific project design criteria, and/or mitigation measures to ensure protection of soil and water resources.

Wetlands (Executive Order 11990) - Executive Order 11990 directs the agency to avoid to the extent possible the adverse impacts associated with the destruction or modification of wetlands, and to avoid support of new construction in wetlands wherever there is a practical alternative. See Section III, Item B2 of this document.

Floodplains (Executive Order 11988) - Executive Order 11988 directs the agency to avoid to the extent possible the adverse impacts associated with the occupancy and modification of floodplains, and to avoid support of floodplain development wherever there is a practical alternative. See Section III, Item B2 of this document.

National Historic Preservation Act - 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. It also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. See Section III, Item B.7 of this document.

Archaeological Resources Protection Act - 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. See Section III, Item B.7 of this document.

Native American Graves Protection and Repatriation Act - 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. See Section III, Item B.6 of this document.

Wild and Scenic Rivers Act - See Section III, Item B.3 of this document.

Federal Noxious Weed Act of 1974 and Executive Order 11312 (Non-Native Invasive Species) – The Federal Noxious Weed Act requires cooperation with State, local, and other federal agencies in the management and control of non-native invasive species (NNIS); Executive Order (EO) 11312 requires all pertinent federal agencies (subject to budgetary appropriations) to prevent the introduction of NNIS. This project’s decision meets the intent of this law and EO by incorporating all pertinent Forest Plan Standards and Guidelines to ensure the management and control of NNIS.

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 order. Public involvement occurred for this project, the results of which I have considered in this 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.

VI. ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITIES

This decision is not subject to an administrative review or appeal pursuant to 36 CFR 215 and the Earth Island Institute v. Ruthenbeck Ruling of October 19, 2005.

This decision is subject to appeal pursuant to 36 CFR 251 by those who hold or, in certain instances, those who apply for written authorizations to occupy and use National Forest System lands. An appeal for initial review may be filed by those who hold or, in certain instances, those who apply for written authorizations to occupy and use National Forest System lands. To appeal this decision under 36 CFR 251, a written Notice of Appeal, meeting the content requirements at 36 CFR 251.90, must be postmarked or received within 45 calendar days after the date of notice of this decision to applicants and holders of written authorization to occupy and use National Forest System land. 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, Green Mountain and Finger Lakes National Forests, ATTN: Forest Supervisor, Margaret Mitchell, 231 N. Main St. Rutland, VT 05701 (fax: 802-747-6766). The Notice of Appeal may alternatively be faxed to: USDA, Forest Service, Green Mountain and Finger Lakes National Forests, Region 9, ATTN: Forest Supervisor, Margaret Mitchell, (fax: 802-747-6766). A copy of the appeal must simultaneously be sent to the District Ranger (fax: 802-767-4777). If an appeal is filed, I am willing to meet and discuss concerns. Additionally, if an appeal is filed, an oral presentation concerning the appeal (36 CFR 251.97) and/or stay of implementation (36 CFR 251.91) of the decision may be requested at any time prior to closing the appeal record.

VII. IMPLEMENTATION DATE

This decision may be implemented immediately.

Implementation is scheduled to begin on or after the date this decision is signed.

VIII. CONTACT PERSON

Further information about this decision can be obtained from David Bosch during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the GMNF Supervisor's Office at 232 No. Main St. Rutland, VT 05701; Phone: 802-747-6746; Fax: 802-747-6766; TTY: 802-747-6765 or e-mail: dbosch@fs.fed.us.

Additional information about this decision can be found on the Internet at:
http://www.fs.fed.us/r9/forests/greenmountain/htm/greenmountain/links/projects/projects_current_andcomplete.htm

IX. SIGNATURE AND DATE

/s/ Gregory D. Smith
Greg Smith
Rochester and Middlebury District Ranger
Responsible Official

Date: 6/19/09

Attachment(s): Map of project area, Figure 1
Appendix A, Mitigation Measures

Appendix A: Mitigation Measures

Non-Native Invasive Species (NNIS):

Several NNIS are well-known from the general area. Any equipment used for any work at any of these sites may spread NNIS and/or may introduce new NNIS. All equipment should be clean (free of mud and plant debris) prior to accessing these sites. All equipment should be cleaned again prior to moving from any of these sites to any place else. If any vegetation management or earth-disturbance will occur, a species-specific plan for preventing the spread of NNIS should be developed.

Any seed mixes used to control erosion should be pre-approved by the Forest botanist, to ensure they meet Forest Plan Standards & Guidelines.