

Special Award Conditions

Award Number: NT10BIX5570019

Amendment Number: 6

1) Mitigated FONSI SAC

This BTOP Grant Special Award Condition establishes requirements applicable to implementation of the Mid-Atlantic Broadband Cooperative (MBC) Fiber Optic Network Infrastructure Project. The funding of the Grant is dependent on compliance with the provisions of this Special Award Condition.

Post-award environmental reviews of the Project included consultation with regulatory agencies related to the protection of biological and historic and cultural resources. These consultations identified specific protocols or environmental protection measures. These protocols or protective measures may be either required or recommended to be included in the implementation of the Project to minimize potential impacts to biological resources and effects on historic and cultural resources. The protocols and measures are listed below.

Note that this Special Award Condition does not distinguish requirements identified during the consultations from recommendations that were also provided. MBC shall implement the identified protocols and measures without regard to this distinction and advise the Federal Project Officer (FPO) immediately if any issues arise related to the ability to fully comply with any requirement or recommendation listed below.

For each protocol or measure listed, MBC shall include the following information in its periodic report to the FPO administering the grant:

- a. Specifically where and when the protocol has been used or a measure has been implemented during the reporting period, and
- b. Whether full compliance with the protocol or measure was achieved.

The FPO may, if they determine necessary, require additional information to ensure compliance with the protocol or measure. If, at any time, MBC has questions or requires clarification regarding any of these protocols or measures, they shall notify the FPO, who will coordinate with the appropriate regulatory authority to provide the necessary information.

Biological Resource Protection Protocols and Measures

Project-specific consultations were conducted with the U.S. Fish and Wildlife Service (USFWS).

Requirements and recommendations applicable to implementation of the Project and identified during these consultations include:

1. MBC will install aerial fiber optic cable to cross nine specific water bodies in Henry, Franklin, Bedford, and Sussex Counties. These waterways include the Smith River and its tributaries, Big Chestnut Creek, Big Otter River, Nottoway River, and an unnamed creek in Franklin County. USFWS, August 20, 2010.

2. MBC will implement strict erosion and sedimentation control measures when conducting Project activities near waterways and streams. USFWS, August 20, 2010.

Historic and Cultural Resource Protection Protocols and Measures

MBC and NTIA entered into a programmatic agreement (PA) with the State Historic Preservation Office (SHPO) on August 15, 2010. NTIA also invited the Virginia Department of Transportation (VDOT), interested local governments, the Virginia Council on Indians, and the National Park Service to participate in the PA as concurring parties. The PA executed on August 15, 2010 constitutes an alternative Section 106 procedure, with stipulations outlined to satisfy National Historic Preservation Act requirements with respect to identification, evaluation, and treatment of historic properties. The PA is a legally binding document, and MBC must abide by the stipulations and provisions to satisfy the historic preservation SAC and avoid NEPA impacts to historic and cultural properties. Although subject to change through formal amendment of the executed PA, these stipulations currently include:

1. All MBC or contractor personnel directly responsible for supervising preservation of historic and cultural resources during Project implementation will meet the Secretary of Interior's Professional Qualification Standards (48 FR 44739). Appropriately qualified personnel will conduct an assessment of the potential effects of planned activities on historic properties, including visual effects. MBC will consider visual effects on known historic properties and previously unrecorded buildings or structures fifty years of age or older. The completed package will be submitted to NTIA, the SHPO, and other consulting parties for review and comment. Any comments received will be appropriately incorporated into reports and plans. Any subsequent changes to the planned construction will be immediately elevated to the attention of NTIA, the SHPO, and other consulting parties for evaluation prior to implementation.
2. MBC will assess the potential for ground disturbance associated with underground cable installation to affect archaeological sites and cemeteries that are or may be eligible for listing on the National Register of Historic Places (NRHP). MBC will have a qualified archaeologist conduct a visual reconnaissance of all areas where ground disturbance will occur to establish whether previously unrecorded cemeteries will be affected by the Project. If necessary, MBC will conduct limited subsurface testing to establish the boundaries of the newly identified cemetery.
3. MBC will make every reasonable effort to avoid sites that are listed or eligible for listing on the NRHP, including those that would require further investigation to conclusively establish their eligibility. Where avoidance is possible, MBC will develop and implement a plan for long-term protection of the resource. Where avoidance is not feasible, MBC will develop and implement a plan for data recovery. Directional drilling is not considered avoidance because of the potential for drill failure. MBC will develop a contingency plan to recover site data if such drilling is planned within the boundaries of a known archaeological site.
4. MBC will notify VDOT cultural resource staff prior to conducting archaeological work in VDOT highway rights-of-way (ROW). When conducting this work, MBC will comply with all VDOT requirements pertaining to work zone safety.
5. MBC will make all reasonable efforts to avoid disturbing gravesites, including those containing Native American

human remains and associated funerary artifacts. MBC will treat all human remains in a manner consistent with the Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects and other appropriate regulations and guidance. MBC will make a good faith effort to ensure that the general public is excluded from viewing any Native American burial site or associated funerary artifacts.

6. If previously unidentified historic properties or unanticipated effects to historic properties are discovered during construction, MBC and their contractors will immediately halt all activity within 100 feet of the discovery and implement interim measures to protect the discovery from looting and vandalism. MBC will have a qualified professional evaluate the discovery and will notify NTIA, the SHPO, and other consulting parties.

Mitigation Measures identified in the Environmental Assessment as being required to avoid potential significant environmental impacts:

None