

# Special Award Conditions

**Award Number:** NT10BIX5570087

**Amendment Number:** 3

## 1) Compliance with Environmental Protocols and Measures

Special Award Condition

Compliance with Environmental Protocols and Measures

Broadband Technology Opportunities Program Grant

Mid-Atlantic Broadband Cooperative

Fiber Optic Network Infrastructure Project

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 comply fully 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

MBC consulted with the U.S. Fish and Wildlife Service (USFWS) regarding potential Project impacts on biological

resources for the Project. Based on this consultation, MBC will implement the following BMPs and avoidance measures for the Project:

1. If vegetation clearing of areas > ½ acre in pine forest is required, MBC will have a qualified biologist conduct a red-cockaded woodpecker habitat assessment prior to tree clearing and conduct surveys if suitable nesting or foraging habitat is present. If removal of individual live pine trees is required, a qualified biologist will need to verify that there are no cavities suitable for use by cavity-nesting birds prior to tree removal. USFWS letter dated July 28, 2011
2. MBC will use aerial installation or directional boring for crossing wetlands associated with the Pagan River, Chuckatuck Creek, and the Nansemond River to avoid potential habitat for the sensitive joint vetch. If direct bury or new poles are required within or immediately adjacent to wetland areas, a qualified biologist will survey the area(s) for sensitive joint vetch (*Aeschynomene virginica*) prior to installation. USFWS letter dated July 28, 2011
3. MBC will install aerial fiber or use directional bore techniques in a manner that avoids all impacts to streams and rivers in the vicinity of the Project, particularly within the Nottoway River system, including sedimentation resulting from ground disturbance adjacent to streams. If MBC is unable to avoid stream or river impacts, additional coordination and consultation with USFWS will be needed. USFWS letter dated July 28, 2011
4. Prior to construction, MBC will have a qualified biologist survey the Project corridor to identify any occurrences of Michaux's sumac (*Rhus michauxii*). Should any individual or isolated populations be identified, the area will be flagged with an adequate buffer zone and avoided. Final project alignment and design will include consideration of avoidance measures to protect species that are identified. Final EA Section 4.5.1
5. If cable installation activities are scheduled during the breeding season for migratory birds (October through July), MBC will have a qualified biologist survey active construction sites to confirm the absence of nest and nesting activity. Final EA Section 4.5.1
6. If the Project results in any measureable negative effects on migratory bird populations, MBC will develop a Memorandum of Understanding with the USFWS, per requirements in Executive Order 13186 Responsibilities of Federal Agencies to Protect Migratory Birds. Final EA Section 4.5.1
7. MBC will implement best management practices to minimize erosion and sedimentation. USFWS letter dated July 28, 2011

#### Historic and Cultural Resource Protection Protocols and Measures

NTIA initiated consultation with the Virginia Department of Historic Resources (State Historic Preservation Office [SHPO]) and informed five (5) Native American Tribes registering interest in the project vicinity through the Tower Construction Notification System (TCNS).

Project stipulations resulting from these consultations are outlined in the Archaeological Assessment Report of the Mid-Atlantic Broadband Cooperative Project #7280, Chesapeake, Greenville, Isle of Wright, Southampton, Suffolk, Surry,

and Sussex Counties, Virginia (Kimberley A. Snyder, M.A.: October 2011). These requirements include:

1. A qualified archaeologist will review the final Project plans for consistency with the materials submitted on November 1, 2011.
2. The locations of the archaeological sites and cemeteries identified on the individual mapping pages of the Archaeological Assessment Report (November 1, 2011 submittal) will be included on Project plans, with the exception of those previously found not eligible.
3. Field personnel associated with all phases of the Project will be provided with the Best Management Practices document developed for this Project (Assessment Appendix IV) that stipulates how to identify, avoid, and deal with burial sites and rural cemeteries located within existing Virginia Department of Transportation (VDOT) rights-of-way.
4. Attachment of the fiber optic cable and associated network equipment to the buildings listed in Table 1 of the Assessment submitted on November 1, 2011 will adhere to NTIA's BMPs titled, Attaching Broadband Equipment to Historic Buildings.
5. MBC will continue working with NTIA to provide the Cherokee Nation with additional project information, as requested by the Tribe. Should the Cherokee or any Tribe express any specific cultural resource concerns, MBC will notify NTIA and participate in consultation to resolve their concerns.

If any human skeletal remains or Native objects are discovered during construction, construction will stop immediately, and appropriate authorities, including law enforcement agencies, the SHPO, and interested Tribes, will be informed.

#### Additional Protection Protocols and Measures

1. MBC will obtain the necessary long-term easements for the node facility locations.
2. MBC will obtain State and local permits, as necessary, and continue working with the Virginia Department of Environmental Quality (DEQ) for work within the Coastal Zone in Chesapeake, Isle of Wright, Suffolk, Surry, and Sussex Counties.
3. MBC will continue working with the U.S. Army Corps of Engineers (USACE), Norfolk District, and Virginia Marine Resource Commission (VMRC) on the ongoing permitting process pursuant Section 404 of the Clean Water Act. MBC must receive concurrence from the USACE and VMRC before construction activities may begin within the vicinity of regulated wetlands and waterways (e.g. streams, rivers, wetlands, floodplains).
4. MBC will follow permitting and regulatory requirements outlined by the USFWS for all Project activities.

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

None