

Special Award Conditions

Award Number: NT10BIX5570118

Amendment Number: 1

1) New Compliance with Environmental Protocols & Measures SAC

Broadband Technology Opportunities Program Grant

Nexus Systems, Inc., Piney Woods Fiber Project

This BTOP Grant Special Award Condition establishes requirements applicable to Nexus Systems, Inc. (Nexus Systems) implementation of the Piney Woods Fiber 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. Nexus Systems 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, Nexus Systems 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 require, if they determine necessary, additional information to ensure compliance with the protocol or measure. If, at any time, Nexus Systems 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

Nexus Systems consulted with the U.S. Fish and Wildlife Service (USFWS) and the Louisiana Department of Wildlife and Fisheries (LDWF), with regard to potential Project impacts on biological resources. The Endangered Species Act Section 7 consultation resulted in identification of the following requirements and recommendations:

1. Nexus Systems will originate and terminate fiber installation via directional drilling within U.S. Highway 167 ROW at surface water crossings to avoid impacts to Louisiana pearlshell mussel (*Margaritifera hembeli*) habitat and potential mussel beds. Nexus Systems will include best management practices (BMPs) in a project specific Storm Water Pollution Prevention Plan (SWPPP) and Erosion and Sedimentation Control Plan to reduce adverse water quality impacts to any streams containing Louisiana pearlshell mussels. USFWS, February 15, 2011

2. Nexus Systems will inform on-site construction personnel of the possible presence of nesting bald eagles (*Haliaeetus leucocephalus*) within the Project area. Nexus Systems will identify, avoid, and immediately report any observed bald eagle nests to the USFWS. If bald eagles are observed foraging or roosting near the Project route, Nexus Systems will coordinate with the local USFWS to minimize potentially disruptive activities. If a bald eagle s nest is discovered near where activities would occur during the nesting season (October 1 May 15), Nexus Systems will consult with the USFWS and conduct an evaluation to determine whether the Project is likely to disturb nesting bald eagles. USFWS, February 15, 2011

Historic and Cultural Resource Protection Protocols and Measures

Project-specific consultations were conducted with the Louisiana State Historic Preservation Officer (SHPO). NTIA also contacted interested Tribes via the Federal Communication Commission s automated Tower Construction Notification System (TCNS). Requirements and recommendations applicable to implementation of the Project and identified during these consultations include:

1. All construction will be restricted to previously disturbed areas. If any cultural material is discovered during construction, the SHPO, interested Tribes and NTIA will be notified immediately and all activities halted until a qualified archaeologist assesses the cultural remains.

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

3. Nexus Systems must complete Federal Communications Commission (FCC) requirements and obtain appropriate permits and licenses regarding mounting and operating equipment on existing towers.

4. Nexus Systems must complete any U.S. Department of Agriculture-Forest Service (USDA-FS) cultural resource requirements necessary to obtain special use permits for fiber proposed within the USFS managed territory.

Additional Protection Protocols and Measures

1. Nexus Systems will obtain the necessary floodplain permits from the local floodplain administrators prior to conducting any work within these areas. Federal Emergency Management Agency Region VI, January 24 and Louisiana Department of Transportation and Development Floodplain Management Program, January 27, 2011

2. Nexus Systems will continue working with the U.S. Department of Agriculture Forest Service (USDA-FS) on the ongoing special use permitting process. Concurrence from the USDA-FS must be received before initiating fiber construction within the Catahoula and Winn Ranger Districts of the Kisatchie National Forest along U.S. Highway 167 ROW.

3. If contaminated soils are encountered during the project, Nexus Systems will stop construction work in that affected section immediately, inform relevant authorities and regulators, and, if needed, contract with an environmental consult to determine best management and control of the contaminated soil.

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

None