

Northwood Alliance
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February 8, 2011

Appeal Deciding Officer
Kent Connaughton
USDA, Forest Service, Eastern Region
Gaslight Building, Suite 700
626 East Wisconsin Avenue
Milwaukee, WI 53202-4616

Dear Mr. Connaughton:

Notice of Appeal

Decision Notice and Finding of No Significant Impact Ottawa National Forest (DN/FONSI)
Off-Highway Vehicle Connector Routes Project

1. This notice of appeal is submitted pursuant to 36 CFR 215. The decision appealed is documented in a Decision Notice signed December 17, 2010 by Susan Spear, Forest Supervisor. The legal notice was published on January 5, 2011. The project area is the Ottawa National Forest, in the Upper Peninsula of Michigan.
2. This appeal is made by an individual in her own right and as a representative of the following organization, exactly the same manner their comments were previously filed. Appellant, Northwood Alliance, is a grassroots coalition of individuals and is an organization with an interest in the health and well being of forests in the north woods and the Upper Peninsula. Members have continued to express concern to our directors regarding the OHV connector routes project.
3. Northwood Alliance maintains an office at 6063 Baker Lake Road, Conover, WI 54519. Northwood Alliance has members that use and enjoy the Ottawa National Forest and will be harmed by the significant resource damage that can be expected as a result of OHVs using these trails.
4. Respondent Susan J Spear in her official capacity as an officer of the U.S. Forest Service and while Forest Supervisor maintained an office at E6248 US 2, Ironwood, Michigan 49938, in the State of Michigan. The Ottawa National Forest erred in Issuing the Decision Notice and Finding of No Significant Impact under 36 CFR S 251 and ignored comments by appellants.

5. Northwood Alliance strongly disagrees with the finding that these actions (Alternative 3 Modified) will not significantly affect the quality of the human environment. The Forest Supervisor did not disclose the environmental effects of illegal use. There is no analysis that discusses the relationship between increasing recreational use of OHVs to resulting illegal use. Furthermore, there is no reliable information regarding how many OHVs currently use the Ottawa.

6. On Page 10 of Attachment 1, *GAO Report Enhanced Planning Could Assist Agencies in Managing Increased Use of Off-Highway Vehicles*, it states, "The environmental impacts of OHV use, both direct and indirect, have been studied and documented over the past several decades. In fact, in 2004, the Forest Service Chief identified unmanaged motorized recreation as one of the top four threats to national forests, estimating that there were more than 14,000 miles of user-created trails, which can lead to long lasting damage. Potential environmental impacts associated with OHV use include damage to soil, vegetation, riparian areas or wetlands, water quality, and air quality, as well as noise, wildlife habitat fragmentation, and the spread of invasive species."

7. Further on page 17 of the same report it states, "Given that the Forest Service has identified unmanaged motorized recreation as one of the top four threats to national forests, the agency's strategic plan provides insufficient direction on this management challenge."

8. Although the Ottawa National Forest has developed maps reflecting roads and trails (MVUM) and an adaptive management strategy to address NNIP infestations and enforcement concerns, these efforts are grossly inadequate.

9. In response to our enforcement concerns, it is stated that, "It is the rider's responsibility to know where they are on the Forest." While a true statement, the motor vehicle use map does not display all the information needed by OHV riders such as such as topographic lines, landscape features such as rivers and streams or other trails users might encounter, such as trails closed to motor vehicles. While we agree it is the rider's responsibility, we also know that the record shows volumes of illegal activity, including ongoing cross-country travel, sparking concern.

10. Surveys conducted in several Western states show that a substantial number of riders admit to going off trail. For example, in Montana, 23% "always or sometimes" ride cross-country even though off-route riding is against the rules in Montana and has been since 2001. Over 28% "sometimes or never" avoid riparian areas and wetlands again, in violation of established rules. Of the ATV riders surveyed in Utah, 49.4% prefer to ride off established trails, while 39% admit to doing so on their most recent excursion. A key conclusion of the Colorado study showed that "information and education per se – will not result in substantial behavioral change". That survey revealed that "as many as two-thirds of adult users go off the trail occasionally." A significant percentage of riders, 15-20%,

admitted to frequently breaking the rules and riding off of legal routes often. Survey participants also stated that “others” ride off-route and cause most of the damage. In Nevada, A 2006 monitoring report compiled over a three-year period found that half of the places where riders violated guidelines were near signs that discouraged them from proceeding into sensitive butterfly habitat. See pages 24260-61 Federal Register, Vol. 72, No. 84 which is attached, along with the full survey results from Montana, Colorado and Utah.

11. Michigan riders are no different. Although cross-country use has officially been eliminated, this practice still continues throughout the Ottawa. Travel most any road currently open to OHV use and you will find where someone has traveled off that trail, going around gates, passed signs and over barriers. It is illogical to conclude that opening more roads will reduce unauthorized use. Further, we strongly disagree with the statement (Page D-2 of the 12/10 Decision “Adapt”), “In cases where resource protection is not an issue, closed/unauthorized roads and trails may be evaluated for adding to the MVUM.” Instead of enforcing the rules, riders who violate regulations will be “rewarded” by potentially opening those roads/trails for OHV travel.

12. The GAO findings (pages 35-37) reveal that a majority of field unit officials indicated that they cannot sustainably manage existing OHV areas because they have insufficient resources for equipment or staff for management and enforcement. Sustainable management would include having the necessary human and financial resources available to ensure compliance with regulations, educate users, maintain OHV use areas, and evaluate the existing OHV program. About half the national forests that have published motor vehicle use maps indicated that they could not sustainably manage the OHV route system that they designated. Numerous issues, including insufficient staffing levels and financial resources, as well as enforcement of OHV regulations, were identified as challenges by field unit officials.

13. The preferred alternative “provides more opportunities for long distance riding on Forest System roads, including loop riding opportunities.” There are currently over 2300 miles of OHV access within the Ottawa which is considerably more access than the two nearby National Forests. (The Hiawatha with its one million acres has about 2000 miles of OHV access while the Chequamegon-Nicolet which is approximately 1,530,067 acres has about 300 miles of trails.) Currently, there is minimal enforcement. Pictures were previously submitted (Project File, Tab I) showing major degradation of just one road where both OHVs and vehicles are permitted. With tight budgets, reduced staff and an increase of OHV use, the Ottawa has faced difficulty in monitoring, repair and enforcement regulations on the current road system. The Forest Supervisor has failed to articulate how opening more roads can be effectively managed, especially considering the statement, “Use of higher level roads, in some instances may have the potential to cause additional effects to resources and present safety concerns associated with dual use.”

14. We can only speculate as to the reasons why Steven Drake's comments of 4/19/2009 (Project File E-32-1) were not evaluated as part of the September 2009 Decision. The IDP addressed his concerns in a document dated 4/26/2010; however these comments still were not included in the December 2010 decision and were not made part of the Project File as "I-12a" until January 2011 (after the departure of the Forest Supervisor).

15. Mr. Drake's concerns as Law Enforcement Officer for the Ottawa National Forest clearly support the concerns of Northwood Alliance when he stated, "I feel the Ottawa is once again moving too fast...We are not able to effectively manage and enforce the current MVUM, much less the proposed projects in this EA. It would be irresponsible to move forward with adding these projects prior to first being able to effectively manage the current conditions... It (MVUM) has been shown to be ineffective in restricting use on the various roads and trails. To believe otherwise is unrealistic. To date, enforcement and education efforts by two LEOs, several FPOs, signs and media releases have proven to be ineffective in gaining overall compliance."

16. The ONF must develop an effective monitoring system that includes adequate staffing and financing prior to opening any new roads/trails.

17. Although the Forest Supervisor agreed with our assessment that OHV travel can increase the spread of exotic plants, she concluded that, "the proposed routes under the 2010 Revised EA present a reduced risk in the spread of weeds when compared to those routes originally proposed." She further stated, "Effects of spreading NNIPs are anticipated under all alternatives; existing passenger vehicle use on the proposed routes as well as through increased use due to OHV designations." She fails to acknowledge the first priority (as described in decision notice and finding of no significant impact for the ONF non-native invasive plant control project) which is to **prevent** the introduction of new invaders.

18. The Forest Supervisor erred in evaluating the intensity of the actions. On Page 13 of the Decision, she stated that she considered both the beneficial and adverse impacts associated with the alternatives presented. Further, on Page 16 of the Decision she states, "Actions to be implemented under this decision do not threaten a violation of federal, state, or local environmental protection laws."

19. Executive Order 13112, directs Federal agencies to prevent introduction of invasive species, detect and respond rapidly to and control such species, not authorize, fund or carry out actions likely to cause or promote introduction or spread of invasive species unless the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measure to minimize risk of harm will be taken in conjunction with the actions. Furthermore, Forest Service Manual (FSM) 2081.03 requires that a weed risk assessment be conducted when any ground disturbing activity is proposed. A weed risk assessment determines the risk of introducing or spreading noxious weeds associated with the Proposed Action. Projects having moderate to high risk of introducing or spreading

noxious weeds must identify noxious weed control measures that must be undertaken during project implementation.

20. As noted in our comments dated 10/12/10, ATV's were capable of picking up as many as 200,000 seeds over 48 miles of travel (about 4200 seeds per mile) out of which roughly 750 were from noxious weeds. (Attachment 6, Seed Dispersal by Vehicles)

21. In response, the FS stated, "We agree with the commenter that Alternative 1 would contribute the least to the spread of non-native invasive plants."

22. As acknowledged, the 2009 EA disclosed that the disturbed soil and edge conditions of our roads and trails are suitable for many non-native plants.

23. According to *Supplement to the Botanist Specialist Report for the Off-Highway Vehicle Connector Routes Project* dated July 27, 2010, "For cumulative effects, the bounds of analysis are the connector routes plus the travel routes that intersect the connector routes. Invasive plants introduced by increased OHV use can be expected to spread onto adjacent routes." The author did not analyze the negative effects that will be further compounded because of unauthorized use.

24. OHV riders will not be confined to just the roads where infestations of non-native invasive species are most likely to exist. OHV riders readily travel back and forth between county and forest roads and forested trails. They travel among a variety of land cover types and because they transport soil, they disseminate invasive seeds and earthworm eggs or cocoons on their tires and underbodies into a wide variety of more remote and ecologically sensitive areas including those areas that are technically off-limits. As invasive creatures, the earthworms wreak the most havoc with hardwood forests, such as those consisting of maple, basswood, red oak, and poplar or birch species – all species common throughout the Ottawa.

25. The designation of these OHV connector routes will greatly accelerate the spread of nonnative invasive species and violates Executive Order 13112 by not making public its determination that the benefits of these connector routes clearly outweigh the potential harm caused by invasive species.

26. The Forest Management Plan (FMP) of the Ottawa National Forest contains no provision for these local community connector OHV routes for recreational riding. The FMP Final EIS (page 2-11) makes no mention of any connectors beyond the two North/South routes. Further, page 3-197 specifically states, "The new designated north/south connectors would provide approximately 25-75 miles of access and would give OHV users opportunities and improved access to essential services and recreational destination points (gas, food and lodging)." The intent of the Plan is clear: 1) the development of two north-south connector routes (and only two north-south connector routes) to connect to the existing State of Michigan east-west routes, for recreational trail

riding and connection to essential services such as gas, food, and lodging 2) the designation of additional OHV routes (on a combination OML 1, 2, and 3 roads) for user access into the Forest, for uses such as hunting and fishing (not for recreational riding).

27. Clearly, with regard to OHV use, the March 2006 Ottawa NF Forest Plan emphasizes recreational riding on one large loop trail (the new N/S connectors, plus the existing State of Mich. E/W trails), plus designation of additional OHV routes on OML 1,2,3 roads for OHV access into the Forest, for uses such as hunting. If the Ottawa now wishes to provide additional miles of OHV routes for recreational riding, the Forest Plan must first be amended to provide for such use. The designation of several "local connector loop routes", as proposed (with the stated purpose of recreational riding and connection to essential services) is not consistent with the direction in the 2006 Ottawa NF Forest Plan.

28. We strongly disagree with the decision to defer implementation of Route E. Deferral does not preclude it from being designated of OHV access in the future. Although the record reflects our objections, they bear repeating since this Route E (Forest Road 630) has not been excluded from consideration. Route E crosses two streams, including the perennially flowing Cranberry River and an un-named intermittently flowing tributary to the Cranberry River which also crosses or is adjacent to six wetlands. This route is partially within the semi-primitive non-motorized area. Page 3-193 of the FEIS states in part, "No additional new motorized trails or routes would be permitted in MA 6.1." The Forest Service cannot choose to ignore the intent of MA 6.1 designation which is to maintain or increase opportunities for quiet and remote experiences in semi-primitive non-motorized areas. Allowing a motorized trail within MA 6.1 is inconsistent with the Forest Plan, therefore Route E must be excluded from consideration, not simply deferred.

29. The Forest Supervisor did not adequately address our concerns regarding funding. Nowhere in the response did she explain how the monitoring, maintenance and repair of these trails will be funded. Currently, roads throughout the Ottawa have been torn up by excessive OHV use, some are virtually impassable. OHV riders routinely cross wetlands and streams damaging fragile ecosystems. With so many roads open to OHV traffic, riders know they are unlikely to encounter any enforcement action and the abuses continue. There are little to no funds available to make the necessary repairs and when they are made, within a matter of weeks, the trails are once again rutted because of the heavy clay soils which are often wet. Volunteer organizations have attempted some repairs but they too, run on a shoestring budget. With the State of Michigan and Federal budget crisis, it is not likely any additional funding will be received to maintain the current trail system, let alone expand it.

30. We ask that this decision be reversed. The Forest Supervisor, in this decision, has distorted the effects of the actions by over-emphasizing any potential benefits while downplaying and minimizing the many negative impacts. We believe the increased motorized access as outlined in the final decision for OHV Connector Routes will have a negative effect on forest resources and should not be implemented.

Sincerely,

Nancy Warren

Nancy Warren
Secretary
Northwood Alliance

Attachment 1 GAO Report June 2009 Enhanced Planning Could Assist Agencies in Managing Increased Use of OHV Vehicles

Attachment 2 Federal Register May 2 2007

Attachment 3 Montana Survey

Attachment 4 Utah Survey

Attachment 5 Colorado Survey

Attachment 6 Seed Dispersal by Vehicles

