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File Code: 1570-1

Date:

CETIFIED RECEIPT
REQUESTED

Mr. Frank Jeff Verito
350-1/2 East Ridge Street
Marquette, MI 49855

Re: Appeal of the Decision Notice and Finding of No Significant Impact for the Prospector Vegetative Management Project Environmental Assessment, Watersmeet Ranger District, Ottawa National Forest, Appeal 04-09-07-0023 A215

Dear Mr. Verito:

On March 23, 2004, I accepted your Notice of Appeal, pursuant to 36 CFR 215.18. District Ranger Tracy Tophooven signed her Decision Notice and Finding of No Significant Impact on March 17, 2004, of the Prospector Vegetative Management Project. The legal notice for the decision was published on March 24. My decision is based upon the appeal record and the recommendation of the Appeal Reviewing Officer (ARO) Tracy Beck, regarding the disposition of your appeal. The Appeal Reviewing Officer's review focused on the decision documentation developed by the Responsible Official, District Ranger Tracy Tophooven, and the issues raised in your appeal. The Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on the appeal and on the specific relief requested.

FOREST ACTION BEING APPEALED

The Prospector Vegetative Management Project evaluates resource management alternatives within the National Forest managed under the Ottawa National Forest Land and Resource Management Plan.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer found no evidence that the Responsible Official's decision violated law, regulation or policy. He found that the decision responded to comments raised during the analysis process and comment period and adequately assessed the environmental effects of the selected action. In addition, he found that the issues raised in your appeal were addressed, where appropriate, in the decision documentation. Based on his review, the Appeal Reviewing Officer recommended that the decision be affirmed.

DECISION



After review, I concur with the Appeal Reviewing Officer's analysis and findings regarding your specific appeal issues. To avoid repetition, I adopt his rationale as my own and refer you to the enclosed Appeal Reviewing Officer recommendation for further detail. It is my decision to affirm District Ranger Tracy Tophooven's Decision Notice and Finding of No Significant Impact for the Project Environmental Assessment, Ottawa National Forest.

This project may be implemented on, but not before, the 15th business day following the date of this letter (36 CFR 215.9(b)).

Pursuant to 36 CFR 215.18(c) this decision constitutes the final administrative determination of the Department of Agriculture.

Sincerely,

/s/ Robert Lueckel
ROBERT LUECKEL
Appeal Deciding Officer
Forest Supervisor

Enclosure

cc:
Responsible Official, Tracy Tophooven
NEPA Coordinator, Karen Dunlap
ARO, Tracy Beck
RO, Patricia Rowell



United States
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File Code: 1570-1

Date: June 10, 2004

Route To:

Subject: Appeal of the Decision Notice and Finding of No Significant Impact for the Prospector Vegetation Management Project, Watersmeet Ranger District, Ottawa NF, Appeal 04-09-07-0023 A215

To: Appeal Deciding Officer

This letter constitutes my recommendation for the subject appeal filed by Mr. Frank Jeff Verito for the Decision Notice and Finding of No Significant Impact for the Prospector Vegetation Management Project, Watersmeet Ranger District, Ottawa National Forest. District Ranger Tracy J. Tophooven was the Responsible Official for this decision. Her Decision Notice was signed on March 17, 2004.

My review was conducted pursuant to 36 CFR 215, amended June 4, 2003. To ensure the analysis and decision are in compliance with applicable laws, regulations, policies and orders, I have reviewed and considered each of the points raised by the Appellant and the decision documentation submitted by the Ottawa National Forest. My review recommendation is based on review of the project file and appeal record, including but not limited to the scoping letter, public comments, Environmental Assessment (EA), Decision Notice (DN) and Finding of No Significant Impact (FONSI).

The Appellant was not interested in pursuing an informal resolution.

Appeal Issues

In general, the Appellant alleges the District Ranger ignored environmental effects, ignored public opinion and did not make the right decision.

The EA adequately evaluated environmental effects. (Project File, Vol. 1, E12). It discussed the effects of the project on vegetation (3-1 to 3-28), transportation (3-28 to 3-34), heritage resources (3-34 to 3-38), aquatic and riparian resources (3-38 to 3-50), fisheries ((3-50 to 3-54), wild and scenic rivers (3-54 to 3-62), wildlife (3-67 to 3-79), botany (3-79 to 3-85), soils (3-85 to 3-88), visuals (3-88 to 3-92), and recreation (3-92 to 3-94). Under each section, the issues identified during scoping were addressed under direct, indirect, and cumulative effects discussions. The Finding of No Significant Impact evaluated all ten of the Council on Environmental Quality's intensity criteria and concluded that the project would not result in significant impacts.

The Forest conducted adequate public involvement. Public involvement began on January 1, 2003 when the District placed a legal notice in *The Reporter* (Iron River, Michigan) announcing the start of project analysis. (Project File, Volume 1, B22). The District also mailed letters to all



known interested individuals, organizations, and public agencies asking for comments on the proposed action. (Project File, Volume 1, B12). The District also made the scoping letter available on the Web Page for the Ottawa National Forest. (DN, Project File, Vol. 1, I6, at 26). The Prospector Project was additionally listed in the *Ottawa Quarterly*, an Ottawa NF document used to inform the general public of proposed projects. (DN at 26). The District used the scoping responses to develop issues relating to the project.

The District also conducted a thirty-day notice and comment period for the draft EA. On August 1, 2003, the District placed a legal notice of this comment period in *The Reporter*. (Project Record, Volume 1, E25). It also mailed the EA to interested publics. (Project Record, Volume 1, E1). The District responded to the public's comments on the EA. (Project Record, Volume 1, F1).

The District Ranger considered four alternatives in detail and selected a combination of the three action alternatives. She based her decision on the decision criteria (including purpose and need) and how well the alternative resolved public issues. Specifically, the selected alternative attempted to resolve the issues of the level of aspen harvest, the classification of old growth, underplanting long-lived tree species in riparian areas, transportation/access management, vegetation management within a historic travel corridor, vegetation management and placement of large woody debris within a wild and scenic river corridor, and improvement of an existing dispersed access site to the South Branch Paint River. (DN at 26-31). The Decision Notice set forth the District Ranger's rationale as to why the combination of activities was selected.

While I realize the Appellant disagrees in general with Forest Service management activities, I find that I would have made the same decision as the District Ranger.

Recommendation

After reviewing the appeal record for the Prospector Vegetation Management Project, I recommend that District Ranger Tracy J. Tophooven's March 17, 2004 Decision Notice be affirmed.

/s/ Tracey Beck
TRACEY BECK
Appeal Reviewing Officer

cc:
Ottawa Forest Supervisor, Robert Lueckel
Responsible Official, Tracy Tophooven
NEPA Coordinator, Karen Dunlap
RO, Patricia Rowell