



United States
Department of
Agriculture

Forest
Service

Eastern
Region

Mark Twain
National Forest

Wayne County,
Missouri

T28N, R5E

Brown's Hollow Area of Influence and Non-significant Forest Plan Amendment Decision Notice and Finding of No Significant Impact



Indiana bat (*Myotis sodalis*)

Decision and Reasons for the Decision

Background

Indiana bats are small, insect-eating mammals that only occur in eastern and southern parts of the United States, and have been listed as endangered since 1967. Missouri is home to about 13% of the world's estimated Indiana bat population. The Mark Twain National Forest has two known Indiana bat hibernacula (where the bats hibernate) with estimated populations of 1-250 Indiana bats. When they emerge from their hibernacula, Indiana bats roost in trees with flaking bark.

In May 2004, researchers discovered several roost trees used by pregnant Indiana bats. Forest Service researchers with North Central Research Station assisted with the tracking of two pregnant Indiana bats fitted with transmitters. The tracking of one of these females allowed researchers to locate a maternity roost tree on National Forest System lands. This is the first documented maternity colony on the Mark Twain National Forest.

The purpose of the Brown's Hollow Area of Influence and Non-significant Forest Plan amendment environmental assessment (EA) is to comply with the Programmatic Biological Opinion for the Indiana Bat and provide for protection and management of a maternity colony (EA, page 2). Compliance with the RPM/TC of the BO is necessary to minimize the impact of incidental take on Indiana bats. A further purpose of this action is to comply with Section 7(a)(1) of the Endangered Species Act, as amended, by carrying out a program for the conservation of an endangered species, and to contribute to recovery actions as outlined in the Indiana Bat Recovery Plan. The environmental assessment documents the analysis of two alternatives to meet this need.

Decision

Based upon my review of all alternatives, I have decided to implement Alternative 2 because it provides a higher level of protection for and facilitates recovery of the Indiana bat. It should improve the reproductive success and health of individuals in this colony (EA, page 16). My decision covers the following actions:

- Amend the Forest Plan to comply with the programmatic Biological Opinion by establishing an AOI for the recently discovered Indiana bat maternity roost tree on the Poplar Bluff Ranger District. We propose to change the current 4.1 Management Area for the Compartments 28 and 29 to 3.5 Management Area prescription.
- Insert the following Management Recovery Strategy vegetative objectives for maternity colony AOIs in the Forest Plan on page IV-124--2:

Each maternity colony Area of Influence will provide a continuous supply of suitable roost trees (Reference Forest Plan page IV-50--1) and foraging habitat by:

- Retaining a minimum average of 24 potential roost trees per forested acre that may include snags, live shellbark

and shagbark hickories ≥ 9 " dbh, dead or dying trees with at least 10% exfoliating or defoliating bark ≥ 9 " dbh, lightning struck trees ≥ 9 " dbh, lightning struck trees ≥ 9 " dbh, den or cull trees, and live trees ≥ 26 " dbh;

- Removing occupied roost trees determined to be a safety hazard only after consultation with the US Fish & Wildlife Service;
 - Performing tree removal activities which would benefit Indiana bat habitat only during a season when roosting bats are absent and only when it has been determined that roosts are unoccupied; and
 - Maintaining 30-50% mature oak-hickory and/or oak-pine forest with 60-80% canopy closure.
- Change the wording in the Forest Plan to say the AOI should “normally” be no more than $\frac{3}{4}$ mile in radius to allow flexibility in defining the area.

This alternative will comply with the Terms and Conditions of the Biological Opinion and meet the needs of the Indiana bat. This alternative meets requirements under NFMA, NEPA, and ESA and other applicable federal laws.

Other Alternative Considered

Alternative 1 - No Action Alternative -This alternative provided a baseline (reference point) against which to describe the environmental effects of Alternative 2. This alternative responds to the concerns of those who want no change in the current management direction.

The current management area direction would remain the same. Changes to the Indiana bat habitat might occur through current management direction, natural processes, or future management decision. Roads and ponds would continue to be maintained.

I did not choose this alternative because it does not meet the Terms and Conditions of the Biological Opinion, does not provide guidelines for foraging habitat, allows harvesting when the Indiana bats are present, and does not comply with the Forest Plan.

Objective/Issue	Alternative 1 - No Action	Alternative 2 - Proposed Action
Does the Alternative meet the Terms and Conditions in Programmatic Biological Opinion?	No	Yes
Does the Alternative provide adequate roost trees?	Yes	Yes
Does the Alternative provide guidelines for foraging habitat?	No	Yes
Does the alternative allow harvest when Indiana bats are active?	Yes	No
Is the alternative consistent with the Forest Plan?	No	Yes

Public Involvement

The project proposal was listed on the Mark Twain NF's quarterly Schedule of Proposed Actions (SOPA) for June through September 2004. The SOPA was mailed to over 150 addresses and posted on the Mark Twain NF's website.

On June 25, 2004, a scoping packet was posted on our website and sent to 178 addresses, including landowners adjacent to the project area, local newspapers, and county officials. The scoping packet, which included background information, specifics on the proposal, and maps, requested comments be submitted by July 26, 2004. We received seventeen responses. The scoping packet, mailing list, public responses, etc., are available in the Project file (Folder A - Public Involvement).

A news release was distributed to Missouri newspapers. The St. Louis Post-Dispatch did an extensive article on Indiana bat mist-netting and the Forest Service researchers involved. The article was picked up by Associated Press and published in Kansas City Star.

Using comments from the public and interdisciplinary team, the Forest Supervisor identified the significant issue relevant to evaluating resource impacts and comparing alternatives. The main concern dealt with the level of protection and recovery of Indiana bat. Some people expressed concern that the proposal would not provide protection for the Indiana bat. They are concerned that allowing timber harvest may impact the availability of suitable roost trees and potentially harm the species during harvest activities. Others said protection and recovery for the Indiana bat was unnecessary and outside our control. This issue provided a basis for the effects analysis in the EA.

Finding of No Significant Impact

After considering the environmental effects described in the EA, I have determined that these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

1. My finding of no significant environmental effects is not biased by the beneficial effects of the action. This action does not affect any designated critical habitat for Indiana bat. Based on context (at most 0.2% of the world-wide estimated population and 0.8% of Missouri's estimated population would be affected)(EA, page 16); and intensity (both alternatives provide some foraging and roosting habitat for Indiana bat), the beneficial effects of this action on Indiana bat would not be significant, as used in the NEPA context
2. Public health and safety will not be affected.
3. There will be no significant effects on unique characteristics of the area, because there are no ground disturbing activities associated with this programmatic decision.

4. The effects on the quality of the human environment are not likely to be highly controversial. That is, there is no substantial dispute among the scientific community as to the size, nature, or effect of the proposal. US Fish and Wildlife Service is the lead Federal agency responsible for the recovery of all federally listed threatened and endangered species, including the Indiana bat. The USFWS helped develop the proposal and is a cooperating agency in the analysis.
5. We have considerable experience with the types of activities to be implemented. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk. The amendment represents a minor change in the techniques used to implement the Forest Plan. The effects of implementing the Forest Plan over the past fifteen years are known. The effects of these minor changes can be determined and are not highly uncertain.
6. The action is not likely to establish a precedent for future actions with significant effects. This amendment changes the management prescription for 0.1% of the Mark Twain National Forest land base. Therefore, the precedential effect from the amendment is considered minimal.
7. The cumulative impacts are not significant (see EA pages 18 & 20).
8. The action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, because there are no ground disturbing activities associated with this amendment (see EA pages 20).
9. The degree to which this amendment is likely to adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973, is not significant. There is no critical habitat for any endangered or threatened species on the Forest.
10. The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (see EA pages 7-8). The action is consistent with the Mark Twain National Forest Plan (See EA page 14).

Findings Required by Other Laws and Regulations

This decision to amend the Forest Plan and designate the Brown's Hollow AOI as a 3.5 Management Area is consistent with the intent of the forest plan's long term goals and objectives listed on pages IV-1 through IV-4.

It is my finding that the actions of this decision comply with the requirements identified in Sections 2(b), 2(c)(1) and Section 7(a)(1) of the Endangered Species Act, as amended, to carry out programs for the conservation and recovery of endangered and threatened species. The actions of this decision implement the Terms and Conditions and Reasonable and Prudent Measures of the June 23, 1999 Biological Opinion.

It is my finding that the actions of this decision comply with the requirements of the National Forest Management Act of 1976, NFMA implementing regulations in 36 CFR Section 219, the National Environmental Policy Act, and the Council on Environmental Quality regulations.

I followed the direction found in 16 U.S.C. 1604(f)(4), 36 CFR 219.10(f), and Forest Service Manual (FSM) 1922.5 and determined that this is not a significant amendment to the Forest Plan because it does not meet the required definitions of significance found in FSM 1922.5. My reasons for making this determination are discussed below.

The term "significant" as it pertains to a forest plan amendment is not the same as "significant" in the context of addressing environmental effects in a National Environmental Policy Act (NEPA) analysis (as might be found in the language of an environmental assessment). "Significant" as it pertains to a Forest Plan amendment gauges the impact of a proposed change to a forest plan. (FSM) 1922.52 lists two examples of circumstances that may cause a significant change to a Forest Plan:

- (1) Changes that would significantly alter the long-term relationship between levels of multiple-use goods and services originally projected (36 CFR 219.10(e)); and
- (2) Changes that may have an important effect on the entire forest plan or affect land and resources throughout a large portion of the planning area during the planning period.

As defined in FSM 1922.51, non-significant amendments can result from:

- (a) Actions that do not significantly alter the multiple-use goals and objectives in the long-term land and resource management.
- (b) Adjustments of management area boundaries or management prescriptions resulting from further on-site analysis when the adjustments do not cause significant changes in the multiple-use goals and objectives for long-term land and resource management; and
- (c) Minor changes to standards and guides.
- (d) Opportunities for additional management practices that will contribute to achievement of management prescriptions.

This amendment does not meet the criteria for significance in items (1) and (2) above:

- (1) The long-term relationship between the outputs of multiple-use goods and services originally projected will not be substantially altered, as documented in the effects analysis of the environmental assessment (EA, page 18). The effects section of the EA discloses that there are no substantial effects or substantial changes expected to any of the outputs of multiple-use goods and services originally projected by the Forest. Additionally, the Forest Plan is currently in the process of revision (EA, page 5). The decision on the new Forest Plan and associated environmental analysis is expected in the next 18 months. Any change in management effects derived from this amendment will be extremely short-lived. Therefore, the long-term relationships between multiple-use goods and services will not be substantially altered.
- (2) While the amendment is important, its effects are primarily limited to the Indiana bat; the actual effect on the entire Forest Plan is minimal. Although there would be minor effects across the Mark Twain National Forest, they will mostly occur within the areas of influence, which is less than 0.15 % of the Forest.

This amendment does meet the criteria for a non-significant amendment listed in (a), (b) and (c) above in the following ways:

- (a) The multiple-use goals and objectives are not altered. The amendment implements the existing wildlife management goal to “Provide for recovery of federally endangered and threatened species by following reasonable and prudent measures outlined in any biological opinion issued by USFWS as a result of formal consultation.” (Forest Plan, pg. IV-2)
- (b) The amendment adjusts management area boundaries to accommodate the Area of Influence. This adjustment does not change the multiple use goals and objectives for long-term land and resource management. Creating the Area of Influence and providing management strategies complies with the existing wildlife management goal to “Provide for recovery of federally endangered and threatened species by following reasonable and prudent measures outlined in any biological opinion issued by USFWS as a result of formal consultation.” (Forest Plan, pg. IV-2).
- (c) The amendment does add standards and guidelines for the Area of Influence, but this is a minor change overall for two reasons. First, the added standards and guidelines will not substantially alter the outputs as stated in the Forest Plan. As discussed above, the effects analysis documented in this EA discloses what effects may occur. The second reason the proposed additions to the standards and guidelines are minor is because they will not substantially change how the Forest is currently being managed through implementation of standards and guides now in place. The Forest Plan has existing standards and guidelines requiring that Areas of Influence be determined and management recovery strategies developed for them (Forest Plan IV-50 and IV-50--1). The proposed standards and guidelines specifically identify where the areas of influence are located and provide specific direction for the management of those areas. Therefore, the proposed standards and guidelines and the current standards and guidelines are substantially similar in that both provide for maintenance and enhancement of Indiana bat roosting and foraging habitat within the vicinity of hibernacula.

Implementation Date

Implementation of this decision shall not occur for 7 calendar days following publication of the legal notice of this decision in the *Rolla Daily News* (36 CFR 217.10(a)).

Administrative Review or Appeal Opportunities

This decision is subject to administrative review pursuant to 36 CFR Part 217. The last day to file an appeal of this decision is 45 days after a legal notice for this decision is published in the *Rolla Daily News*. If the 45th day falls on a Saturday, Sunday, or federal holiday, the end of the appeal period extends until the end of the next business day. In order to be considered, a written Notice of Appeal must be postmarked within the appeal period at the following address:

USDA, Forest Service
ATTN: Regional Forester, Appeal Reviewing Officer 36 CFR 217
626 East Wisconsin Avenue
Milwaukee, WI 53202

A duplicate filing of the notice of appeal to the Deciding Officer (Forest Supervisor Ronnie Raum) is required by 36 CFR 217.8(a)(1).

It is the responsibility of those who appeal a decision under 36 CFR 217 to provide a Reviewing Officer sufficient narrative evidence and argument to show why the decision by the lower level officer should be changed or reversed. At a minimum, a written notice of appeal filed with the Reviewing Officer must:

- 1) State that the document is a Notice of Appeal filed pursuant to 36 CFR 217;
- 2) List the name, address, and telephone number of the appellant;
- 3) Identify the decision about which the requester objects;
- 4) Identify the document in which the decision is contained by title and subject, date of the decision, and name and title of the Deciding Officer.
- 5) Identify specifically that portion of the decision or decision document to which the requester objects;
- 6) State the reasons for objecting, including issues of fact, law, regulation, or policy, and, if applicable, specifically how the decision violates law, regulation, or policy; and
- 7) Identify the specific change(s) in the decision that the appellant seeks.

Contact

For additional information concerning this decision or the Forest Service appeal process, contact Becky Bryan, Forest NEPA Coordinator, 401 Fairgrounds Road, Rolla, MO 65401.

/s/ Ronnie Raun
RONNIE RAUM
 Forest Supervisor
 Mark Twain National Forest

8/13/2004
 Date

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