



**Decision Notice and Finding of No Significant Impact
for
FY07 Regeneration Project
USDA-Forest Service
Allegheny National Forest
Marienville Ranger District,
Jones, Highland and Millstone Township, Elk County, Pennsylvania
Howe, Jenks and Kingsley Township, Forest County, Pennsylvania**

I. Background

The FY07 Regeneration project area includes 452 acres of National Forest System (NFS) lands and is located on the Marienville Ranger District of the Allegheny National Forest (ANF) in northwestern Pennsylvania. The project consists of 29 stands scattered across the district.

The primary purpose of the FY07 Regeneration project is to accomplish resource objectives to meet the overall management goals as established in the ANF Land and Resource Management Plan (LRMP or Forest Plan).

The purpose of my decision on this action is to implement ANF LRMP direction while addressing site-specific needs and opportunities at the project level. The following is a summary of the purpose and need (listed on page 5 of the Environmental Assessment [EA]):

- Complete regeneration sequences in stands with previously initiated regeneration treatments to ensure regeneration success.
- Improve the spatial arrangement of age classes across the landscape.
- Provide a diversity of age and structural classes across the landscape.
- Recover some of the economic value of the down timber, reduce hazardous fuels, remove hazardous trees, reduce insect/disease vectors and improve stand diversity.
- Initiate understory development and develop a more complex stand structure in MA 2.2.
- Limit the further introduction and spread of non-native invasive plant (NNIP) species.
- Provide forage and cover for wildlife.

II. Decision and Rationale

I have reviewed the FY07 Regeneration EA, errata, supporting information in the project file, and public comments and fully understand the environmental effects disclosed therein. After careful consideration of the analysis, applicable laws, the ANF LRMP and public comments, it is my decision to implement Alternative 1, as described on pages 2–4 of the EA and in appendix B, including all design features listed on pages 8–10, 20, 42, 44–46, 48 and 56 of the EA.

This decision includes:

- **Silvicultural treatments:** 24 acres of salvage thinning harvests and 262 acres of salvage shelterwood seed cut/removal harvests, 58 acres of delayed shelterwood removal harvests and 39 acres of individual tree selection/group selection harvest.
- **Reforestation activities:** Reforestation treatments are proposed on 428 acres. Treatments may include site preparation, herbicide application, fence installation, tree planting, individual tree shelters and release. Reforestation treatments will only be implemented if needed. Timber harvest units will determine the location, amount and type of reforestation treatments to be implemented.
- **Wildlife habitat enhancement activities:** 34 acres of tree and shrub planting, 15 acres of fence installation, 2 nest box structure installations and 2 acres of apple tree pruning and release.
- **Non-native invasive plant (NNIP) species treatments:** Up to 11 acres of NNIP species treatments.
- **Transportation activities:** 12.7 miles of road maintenance, expansion of 9 existing stone pits for a total of 2.6 acres, all 9 stone pits will be rehabilitated after use for a total of 28 acres.

I have chosen to implement Alternative 1 for the following reasons:

1. Alternative 1, with its associated design features, can be implemented in an environmentally sound manner without significant environmental effects (EA, all sections, and project file), while best meeting the purpose and need for action (EA, pp. 4–5).
2. I do not believe that the six preliminary issues received during scoping identified significant resources conflicts. Appendix A lays out the rationale why some were beyond the scope of this project; some were conjectural and not supported by factual evidence; and one was related to a decision already made by the ANF LRMP for the desired conditions in a particular area (Painter Run).
3. Alternative 1 creates 320 acres of early structural habitat.
4. Management activities will comply with all applicable ANF LRMP standards and guidelines. Design features have been specified within the EA to protect resources and minimize conflicts.
5. The proposed stone pit expansion is intended to provide surfacing for the construction of log landings to accomplish this decision and for maintenance of Forest Service System roads. If a subsurface mineral owner seeks expansion of an existing stone pit or development of a new stone pit within the project area to provide stone for an oil and gas development, this will be analyzed in a separate environmental analysis.
6. I have taken a hard look at potential private oil and gas development (OGD) and the proposed actions from Alternative 1 and believe that the cumulative effects are not significant.

7. I have reviewed the new information concerning white-nose syndrome (WNS) and bat populations on the ANF. I find that the cumulative effects of the treatments planned in this project are consistent with and do not contribute in some unanticipated way to the cumulative effects analyzed in these reviews of information.
8. My decision will result in an estimated harvest of 4.4 million board feet of saw-timber and pulpwood products.
9. I have fulfilled the inform and disclose objectives set forth by NEPA regulations and provided responses to public comments on this EA (see appendix C – response to 30 comments and section IV – public involvement).

III. Other Alternatives Considered

In addition to the selected alternative, I considered one other alternative in detail. A comparison of these alternatives can be found in the EA on pages 10–11. Four other alternatives were considered but eliminated from detailed study and include (1) Proposed action as scoped in June 2007, (2) no herbicide use, (3) no timber harvesting and (4) no treatments in the Painter Run watershed. They are also listed on pages 7–8 of the EA with a rationale for each as to why they were eliminated from detailed study.

Alternative 2: No Action. Under this alternative, none of the proposed timber harvesting, regeneration activities, wildlife habitat enhancement activities, NNIP species treatments or transportation activities would occur in the project area at this time. This alternative was not selected because it would not meet the purpose and need for action.

Based on the public input received, I believe an adequate range of alternatives was analyzed. This complies with Forest Service NEPA regulations under 36 CFR 220.7b (2). The EA briefly describes the proposed action and alternatives that meet the need for action. No specific number of alternatives is required or prescribed.

IV. Public Involvement

The following public involvement activities were completed:

1. The project was listed in the ANF Schedule of Proposed Actions (SOPA) beginning in January 2007. This publication is posted quarterly on the ANF website.
2. A news release announcing the opening of the scoping period was sent to the local media on June 11, 2007.
3. The scoping package was posted on the ANF website on June 12, 2007.
4. On June 7, 2007, a scoping package was mailed to 131 individuals and organizations, including adjacent landowners and subsurface mineral owners. Comments were received from 17 respondents. No significant issues were identified (see appendix A of the EA for disposition of the comments received).
5. On December 19, 2008, the environmental assessment was mailed to those interested parties, who submitted comments during the scoping period.
6. The environmental assessment was posted to the ANF website on December 22, 2008.
7. A legal notice for comments was published in *The Kane Republican* newspaper (Kane, Pennsylvania) on December 26, 2008 announcing the opening of the 30-day notice and comment period for the FY07 Regeneration Environmental Assessment.

8. A news release announcing the initiation of the 30-day comment period was sent to local media on December 24, 2008.
9. The 30-day comment period for this project ended on January 26, 2009. Eleven responses were received. Those comments, as well as the responses to those comments, are contained in appendix C of the EA.

V. Finding of No Significant Impact

I have determined that the proposed actions will not significantly affect the quality of the human environment. Therefore, an environmental impact statement is not needed. My determination is based on the effects analysis documented in the FY07 Regeneration EA and project file. I considered the following factors listed in 40 CFR 1508.27:

(a) Context – Based on the large size of the Allegheny National Forest, and the comparatively small percentage of the area proposed for timber harvesting (less than 0.1 percent of the ANF), wildlife habitat enhancements, NNIP species treatments, and transportation activities in this project, the site-specific actions of Alternative 1, both short- and long-term, are not significant.

The context of this proposal is to complete silvicultural prescriptions began through earlier decision or to initiate salvage directed actions in scattered stands. Even in a local context, this proposal will not pose significant short- or long-term effects. ANF LRMP standards and guidelines, Pennsylvania Best Management Practices (BMPs) and project design features will minimize and avoid adverse impacts. Future projects will be analyzed in context with the activities as proposed or implemented under cumulative effects analyses (EA, pp. 13–61).

(b) Intensity - I base my finding on the following intensity factors:

1. **Beneficial and adverse effects** – Both beneficial and adverse effects have been considered in the analysis. Benefits of this project were not used to offset adverse impacts, and adverse impacts of this project are not significant even when separated from benefits (EA, p. 14).
2. **Public health and safety** – Implementation of this project will not cause any significant effects to public health and safety (EA, pp. 14–16).
3. **Unique characteristics of the geographic area** – No parklands, floodplains, wetlands, wild and scenic rivers or ecologically critical areas would be adversely affected by implementing Alternative 1 as these features are not present near or affected by the project. There are 157 acres of prime farmland or farmland within the project area. The soils analysis shows that proposed activities will not permanently affect soils considered prime farmland or farmland. One stand has been identified as culturally sensitive; a design feature is included, which directs consultation with district archaeologists before treatment to avoid damage to heritage sites. Ten proposed treatment areas and 11 CE analysis areas are located within an important mammal area (IMA) as recognized by the Pennsylvania Department of Natural Conservation (PA DCNR). The project area makes up less than 1 percent of the IMA, which is over 316,773 acres in size. The treatment proposals are not expected to affect the habitat and designation of the IMA. There will be no significant effects on unique characteristics within the area (EA, pp. 16–17).

4. **Controversy** – Based on public participation, the effects on the quality of the human environment are not likely to be highly controversial (EA, p. 17). There was concern raised by the public about the use of pesticides impacting the reduction of honey bees in Pennsylvania and herbicide impacting wild edibles and medicinal plants (see appendix A, preliminary issue 1). The risk analysis for terrestrial wildlife and invertebrates (honey bee) are shown in tables 17 (p. G2–74) and 19 (p. G2–78) of appendix G in the ANF LRMP FEIS. Adverse effects are unlikely to occur at application rates that would be used in ANF programs (USDA-FS 2007d, p. G2–73). The Forest Service has established standards and guidelines in the ANF LRMP to minimize the impacts of herbicide application. Controversy is described as a dispute amongst the scientific community. Based on that definition, there is no substantial dispute among the scientific community as to the size, nature or effects of implementing Alternative 1 on the various biological and physical environments (EA, p.17).
5. **Uncertainty, unique or unknown risks** – One area of uncertainty exists concerning the effects this project may have on climate change, as well as the effects climate change may have on this project over the long-term. Because there is currently no reliable way of predicting future climate change or its effects at the project level, the ANF LRMP provides for maintaining a diversity of plant and animal communities that would enhance the resiliency of the forest to respond to these changing conditions. This project is tiered to the ANF LRMP FEIS and a summary of the climate change information utilized in preparation of that document is contained in a paper titled Climate Change Support Material for Project Level Analysis 8/08 (see project file).

Treatments proposed for this project constitute well-established methods for vegetation management, timber harvesting, reforesting stands, enhancing wildlife habitat, treating NNIP species, maintaining roads and protecting water quality. The effects analysis shows the known effects; the proposal does not involve unique or unknown risks (EA, pp. 17–18).
6. **Precedence** – This proposal does not establish a precedent for future actions or represent a decision in principle about future management considerations. Any future decisions will need to consider all relevant scientific and site-specific information available at that time. Implementing Alternative 1 is within the scope of the ANF LRMP and associated supporting environmental documentation (EA, p. 18).
7. **Cumulative impacts** – Effects of past, present and reasonably foreseeable land uses, along with the effects of Alternative 1, were considered in reaching my conclusion. This included projecting future levels of private OGD that would occur (project level cumulative effects analysis for OGM development in project file). The effects of implementing the selected alternative do not individually, nor with other activities taken cumulatively within the areas affected, reach a level of significance (EA, pp. 18–55).
8. **Cultural, historic, and scientific resources** – The project area has been inventoried for heritage resources. Heritage resources have been delineated and buffered for protection. Three scientific study areas are located within CE analysis area. Proposed activities will take place at least 75 feet away from the research study areas, as specified by design features. There are no anticipated effects to heritage or scientific resources with implementation of Alternative 1 (EA, p. 55).

9. **Threatened and Endangered species and their habitat** – The Indiana bat and small-whorled pogonia have suitable habitat within the project area, but have not been documented in the project area. There is no designated critical habitat for any federally threatened or endangered species on the ANF. A **may affect, not likely to adversely affect** determination was reached for the Indiana bat. A **no effect** determination was reached for the small-whorled pogonia, northeastern bulrush, northern riffleshell mussel and clubshell mussel. Potential effects to threatened or endangered species and their habitat are anticipated to be non-significant with implementation of ANF LRMP standards and guidelines (EA, pp. 55–56). These project level activities and determinations are within the level of actions analyzed in the biological evaluation (BE) for the ANF LRMP. A concurrence letter on the (BE) dated January 31, 2007 was received from the U.S. Fish and Wildlife Service.

A review of new information (RONI) has been prepared (February 2009) and added to the project file pertaining to the white-nosed syndrome that is affecting bats. The findings in the RONI include the following: (1) no correction, supplement, or revision to the environmental documentation for the ANF LRMP or an amendment of the ANF LRMP is necessary at this time; (2) no additional work will be required for existing project analyses tiered to the analysis found in the ANF LRMP; (3) the project level analysis is sufficient at this time; and (4) there is no change in the listed determination for the Indiana bat.

10. **Federal, state, or local law or requirements** - The selected alternative conforms to all applicable federal, state and local laws and requirements. Alternative 1 would not result in a trend toward federal listing or a loss of viability for any Regional Foresters sensitive species or other species of local concern (EA, pp. 56–61, the project BA and project BE).

VI. Findings Required by Other Laws and Regulations

My decision implements vegetation management activities to develop desired conditions in the ANF LRMP. As required by the National Forest Management Act section 1604(i), I find this project to be consistent with the ANF LRMP. This project does not include any OGD activities. This project is also in full compliance with 36 CFR 220, the Endangered Species Act, the Clean Water Act and the National Historic Preservation Act. All actions meet National Forest Management Act requirements as detailed in 16 USC 1600 et. seq.

This decision is consistent with the Migratory Bird Treaty Act and the provisions of the memorandum of understanding between the US Fish and Wildlife Service and the Forest Service to integrate conservation measures for migratory birds into the comprehensive land management and project planning. This decision balances the long-term benefits to migratory birds against the short-term adverse effects and minimizes “take” by retaining snags and the integrity of nesting sites and with other conservation measures.

My decision is based on a review of the record that shows consideration of relevant scientific information, including responsible opposing views, and as appropriate, the acknowledgement of incomplete or unavailable information, scientific uncertainty or risk.

VII. Implementation Date

Implementation of this decision is subject to the regulations in 36 CFR 215.9. If no appeal is filed, implementation may begin on the fifth business day following the close of the appeal filing period. If an appeal is filed, implementation may begin on the 15th day following the date of appeal disposition. In the case of multiple appeals on this decision, the date of the last appeal disposition controls the implementation date.

VIII. Administrative Review or Appeal Opportunity

This decision is subject to appeal pursuant to 36 CFR 215.11. Appeals must meet content requirements of 36 CFR 215.14. An appeal, including attachments, must be filed (regular mail, fax, hand-delivery, express delivery or messenger service) with the appropriate appeal deciding officer (36 CFR 215.8) within 45 days following the date of publication of the legal notice. Written appeals shall be sent to:

Leanne M. Marten, Appeal Deciding Officer
Attn: Appeals and Litigation
USDA-Forest Service, Eastern Region
626 E. Wisconsin Avenue
Milwaukee, WI 53202

Appeals may be faxed to (414) 944-3963, Attn: Appeal Deciding Officer, USDA Forest Service, Eastern Regional Office. Normal business hours (for hand-delivered appeals) are 7:30 a.m. - 4:00 p.m., Monday through Friday. Electronic appeals should be directed to appeals-eastern-regional-office@fs.fed.us. Electronic appeals should be in txt, rtf, doc, pdf or other Microsoft Office compatible formats.

The publication date of the legal notice in the newspaper of record (*The Kane Republican*, Kane, Pennsylvania) is the exclusive means for calculating the time to file an appeal (36 CFR 215.15). Those wishing to appeal should not rely upon dates or timeframe information provided by any other source. It is the responsibility of interested parties to respond to this notice within the established time period. If a document is not available or delivered at the expected time, to ascertain its availability, and, if necessary, arrange an alternate delivery method, please contact Kevin Treese at 814-927-5759.

IX. Responsible Official and Contact Information

The responsible official is:

Robert T. Fallon, District Ranger
Marienville Ranger District
Allegheny National Forest
HC 2 Box 130
Marienville, PA 16239

Questions regarding this decision notice and FONSI should be directed to the responsible official or Kevin Treese, district NEPA coordinator, at (814) 927-5759. This document is also listed on the ANF website at

http://www.fs.fed.us/r9/forests/allegheeny/projects/vegetative_management

/s/Robert T. Fallon
ROBERT T. FALLON
District Ranger

03/20/2009
Date

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.)

Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.