

# Decision Notice and Finding of No Significant Impact For the Snow Bird Kirtland's Warbler Project

USDA Forest Service  
Huron-Manistee National Forests  
Huron Shores Ranger Station  
Iosco County, Michigan

## DECISION AND REASONS FOR THE DECISION

This Decision Notice (DN) documents my decision and Finding of No Significant Impact (FONSI) to implement the proposed activities described in the Snow Bird Kirtland's Warbler Environmental Assessment (EA). The Huron-Manistee National Forests' Land and Resource Management Plan (Forests' Plan, March 2006) provides the basis for the Snow Bird Kirtland's Warbler Project. The project is designed to move the project area from the existing condition to the desired future condition for Kirtland's warblers (KW) set forth in the Forests' Plan.

The Snow Bird Kirtland's Warbler Project Area is located on the Tawas Ranger District of the Huron-Manistee National Forests. It is approximately 932 acres in size and consists of two separate areas of treatment that are approximately six miles southeast of the town of Glennie in Township 24 North, Range 6 East, Sections 13 and 14, and Township 24 North, Range 7 East, Section 7 of Iosco County, Michigan. These activities are proposed for implementation between the years 2011 and 2019.

I have reviewed the analysis presented in the Snow Bird Kirtland's Warbler Project EA and the supporting documentation. I am satisfied that the Interdisciplinary Team (IDT) conducted a thorough analysis of the proposed action. The IDT applied standards and guidelines from the Forests' Plan, and carefully considered and applied project design features for the project. I am satisfied the IDT effectively involved the public and carefully considered and responded to their comments. This document describes the reason for my decisions and my findings for not preparing an Environmental Impact Statement. This finding is in accordance with the National Environmental Policy Act (NEPA).

### Decision

Based on the EA and in accordance with direction provided in the Forests' Plan and the Final Environmental Impact Statement for the Forests' Plan (2006) **it is my decision to implement Alternative 2 (Proposed Action)** as documented in the Snow Bird Kirtland's Warbler Project EA on page 9. Alternative 2, The Proposed Action will be referred to as the Selected Alternative from this point forward. This decision is within the scope of the original intent of the EA, meets the purpose and need for the project, is consistent with the Forests' Plan, and is responsive to issues raised during scoping, data collection, and resource assessment.

### The following is a description of the activities to be implemented under the Selected Alternative:

- Regenerate approximately 693 acres of jack pine at densities required for KW nesting habitat through a combination of commercial timber harvest, site preparation, and tree planting. Commercial timber harvest would consist of clearcutting red pine and mixed jack pine/red pine/oak stands. Site preparation would consist of either mechanical methods, prescribed fire or a combination of methods to reduce slash and submerchantable trees and prepare the sites for tree planting.
- Site prep approximately 11 acres of non forested small openings with prescribed fire and/or mechanical methods and regenerate to jack pine at densities required for KW nesting habitat.

The table on the following page displays the specifics of the Selected Alternatives vegetative management by compartment, stands and forest type.

*The Selected Alternative - Vegetative Management by Compartment, Stand, and Forest Type*

<b>Compartment</b>	<b>Stand</b>	<b>Acres</b>	<b>Forest Type</b>	<b>Prescription</b>
304	07	6.4	Jack pine	Cut, site prep, plant
304	10	39.3	Red pine	Cut, site prep, plant
304	11	19.7	Short rotation oak	Cut, site prep, plant
304	12	5.6	Opening	Site prep, plant
304	14	50.6	Short rotation oak	Cut, site prep, plant
304	17	162.7	Short rotation oak	Cut, site prep, plant
330	10	28.3	Jack pine	Cut, site prep, plant
330	11	168.1	Jack pine	Cut, site prep, plant
330	18	92.3	Jack pine	Cut, site prep, plant
330	19	21.7	Short rotation oak	Cut, site prep, plant
330	28	3.5	Opening	Site prep, plant
330	30	1.2	Opening	Site prep, plant
330	36	1.0	Opening	Site prep, plant
330	38	103.4	Jack pine	Cut, site prep, plant

\*(All acreages are approximate, total treated GIS acres for Project area is approximately 704 acres)

**Project design criteria:** Design criteria are intended to lessen or eliminate potential impacts from activities. These criteria are measures that may or may not be included in Forests' Plan's Standards and Guidelines, or may impose a stricter application of a Standard or Guideline. The following design criteria would be applied to the Selected Alternative:

- Restrict harvest activities, hand-felling, bulldozing, within ¼ mile of occupied habitat from May 1 (not May 15 as stated in the EA) through August 15, to minimize disturbances to Kirtland's warbler during their breeding season.
- Within ¼ mile of occupiable habitat planting operations should be designed to begin nearest to the occupiable habitat as early in the spring as practical and then proceed away from the occupiable habitat. The desired effect of planting in this manner is to treat the adjacent areas before Kirtland's warblers return to occupiable habitat (May 15).
- In Kirtland's Warbler harvest units retain all snags and dead and downed woody debris, and retain two mast trees per five acres.
- Any cultural resource sites found during implementation of project actions would be protected in accordance with standard timber sale contract clause BT6.4.

### **Rationale for the Decision**

My decision to implement the Selected Alternative is based on its effectiveness in meeting the purpose and need identified in the EA and represents site-specific application of the goals of Management Direction listed in the EA. In evaluating the effects of the proposed activities, as described in Chapter 3 of the EA, it is my judgment that the Selected Alternative achieves the stated purpose and need, and best moves towards the desired condition.

In making my decision, I took into account the interests and values of the public, and carefully considered the appropriate type and level of treatment needed to achieve Forests' Plan goals and project objectives. The Selected Alternative provides adequate benefits to the public within the framework of existing laws, regulations, policies, public needs, and capabilities of the land, while meeting the stated purpose and need for this project. Based on all factors, including commodity and non-commodity considerations, it is my judgment that the selected alternative best provides for the greatest net benefit to the public.

The management actions in the Selected Alternative are routine and have been analyzed by the IDT. Based on analysis of the current project and other similar previous projects, it is my decision to implement the Selected Alternative to achieve the stated objectives of the project.

This project is planned under National Environmental Policy Act procedures at 36 CFR Part 220.7 (July 2008). I have considered the best available science in making this decision. I recognize that less than complete knowledge exists

about many relationships and conditions of wildlife, forests, fire, jobs, and communities. The ecology, inventory, and management of a large forest area are a complex and constantly developing science. Perfect knowledge and absolute guarantees are not attainable in this dynamic environment. 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 acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. My decision implements the Huron-Manistee National Forests Plan. As required by NFMA Section 1604(i), I find this project to be consistent with the Plan.

### **Other Alternatives Considered**

Two alternatives were considered in detail, Alternative 1; (The No Action Alternative), and Alternative 2 (The Proposed Action). The No Action Alternative contrasts the impacts of the proposed action with the current condition and expected future condition if the proposed action were not implemented (36 CFR 220.7(b)(2)(ii)). Alternative 2, The Proposed Action, follows management direction established in the Forests' Plan and proposed to regenerate 704 acres of jack pine at densities required for KW nesting.

### **Public Involvement**

The Forest Service uses public involvement and an interdisciplinary team (ID Team) of resource specialists to determine issues of concern and develop possible solutions. Scoping is a process for gathering comments about a site-specific proposed federal action to determine the scope of issues to be addressed and for identifying unresolved issues related to the proposed action (40 CFR 1501.7). Opportunities for comments enable concerned citizens, resource specialists from other agencies, and local governments to express their ideas and views.

An Interdisciplinary Team (ID team) of resource specialists gathered information from the project area to determine how to best implement Forests' Plan direction. Needs and opportunities were identified that would move the area from the existing condition to the desired future condition outlined in Forests' Plan, and project proposals were developed by the ID team. Comments on the proposed actions were solicited beginning in January 2010 from Forest Service employees, members of the public, adjacent property owners, and public and private agencies and organizations through a listing in the Huron-Manistee National Forests NEPA Quarterly Schedule of Proposed Actions. Posting of the proposal on the Huron-Manistee National Forests website, and a direct mailing occurred on February 3, 2010 as well.

One comment was received in response to scoping activities. Public and internal comments are used to refine issues, alternatives, and potential environmental effects of the site-specific proposed activities. A copy of the scoping letter, mailing list of individuals, government agencies, tribes, and organizations contacted, and comments received are included in the Planning Record.

A 30 day comment period was established through solicitation in the Oscoda Press on January 26, 2011 and a comment package was mailed to interested publics on January 24, 2011. No comments were received during the 30 day comment period.

### **FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

I have reviewed the significance criteria of both context and intensity as defined in the National Environmental Policy Act (NEPA) implementing regulations 40 CFR 1508.27, public comments on the EA, and the environmental consequences of the Selected Alternative. Based on this information and my experiences with similar practices and projects, I have determined that this action will not have a significant effect on the quality of the human environment. My conclusion is based on a review of the record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. Therefore, an environmental impact statement will not be prepared. I base my findings on the following:

#### **Context of Effects**

This project, and the environmental assessment on which it is based, applies only to the portion of the Tawas Ranger District in which it is located. The context for this Decision Notice is the Snow Bird Kirtland's Warbler Project Area only. Neither the effects analysis nor this Decision Notice apply to decisions that may be made elsewhere, either regionally or nationally. After a thorough review of the effects analysis contained in the EA, I can find no basis for

concluding that this project has significance (both short-term and long-term) beyond the bounds of the Huron-Manistee National Forests. The reasons for my conclusions are more specifically described in the paragraphs that follow.

### **Intensity of Effects**

This refers to the severity of impact, as defined by the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.27. The following ten factors are considered in evaluating intensity:

- 1. Both beneficial and adverse impacts have been considered in the analysis. The beneficial impacts will outweigh expected short term, adverse impacts.**

The Selected Alternative achieves the Purpose and Need objectives. Design criteria will be implemented to minimize or eliminate potential effects of proposed activities (EA, Chapter 2). The EA demonstrates that the effects of this alternative are relatively minor and impacts generated are not directly, indirectly or cumulatively significant (EA, Chapter 3).

- 2. Public health and safety are minimally affected by the proposed actions.**

The EA (Chapter 2) lists project design criteria for the proposed activities. Design criteria are intended to minimize or eliminate potential impacts from proposed activities. Chapter 3 of the EA discusses the direct, indirect and cumulative effects of the proposed actions on the human environment. The EA demonstrates that the effects of this alternative are relatively minor and impacts generated are not directly, indirectly or cumulatively significant.

- 3. The proposed action is not expected to impact any unique geographic area.**

There are no unique geographic areas within or adjacent to the project area. Project design criteria mitigate potential conflicts from project activities (EA, Chapter 2).

- 4. The effects on the quality of the human environment are not likely to be highly controversial.**

The project treatments are standard management activities and are not considered technologically controversial. There has been public interest in this project. Based on the level of response to the project by the public and past experiences with similar projects, I have determined that this project is not highly controversial. This does not mean that implementation of the project will be acceptable to all people, because some people will neither agree nor be pleased with the decision. However, the effects of the project are not likely to be a source of substantial controversial disagreement. I have determined that the effects on the quality of the human environment are not likely to be highly controversial (EA Chapter 1.7 and Chapter 3).

- 5. There are no known effects that are highly uncertain or involve unique or unknown risks.**

The activities in this project are similar to many past actions on the Huron-Manistee National Forests. Previously implemented projects, and the effects analysis show the effects are not uncertain, and do not involve unique or unknown risk. (EA Chapter 3).

- 6. The action is not likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.**

The decision made is consistent with Forests' Plan standards and guidelines and proposed and probable practices analyzed in the Final Environmental Impact Statement. This decision, applied to specific activities within the project areas does not commit me to future actions outside of this decision. This decision will not establish a precedent for future actions, nor will it limit future options for management. (EA Chapters 1 and 3).

- 7. The action does not cumulatively reach a level of significance, even when combined with past, present and reasonably foreseeable future actions on public and private lands in the area.**

The EA (Chapter 3) describes the anticipated direct, indirect, and cumulative effects on vegetation resources, wildlife resources, federally threatened, endangered, and proposed species, Regional Forester sensitive species, soil and water resources, visual resources, transportation resources, recreation resources, cultural resources,

civil rights and environmental justice, and economics and community well being. There are no undisclosed or related actions that would produce cumulative significant effects on the physical or human environment.

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. The action will also not cause loss or destruction of significant scientific, cultural, or historic resources.**

A cultural resources report was completed for the Project. A rule 4 survey was conducted and no historic properties were known to occur in the the project area. If during implementation historic properties are found, design criteria have been developed to help protect sites from potential adverse impacts. Management activities would be excluded from identified historic cultural sites through sale design or designation of a reserve area that includes a buffer area adequate in size to protect the known site or mitigated to avoid or lessen impacts.

9. **The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973.**

A Biological Evaluation (BE) was prepared for the Snow Bird Kirtland's Warbler Project (see Project Record). The BE evaluated and documented the effects of this project on federally listed or proposed species, designated critical habitat, and Regional Forester's sensitive species that may inhabit the project area.

10. **The action will not violate Federal, State, and local laws or requirements for the protection of the environment.**

Applicable laws and regulations were incorporated into the Forest Plan Standards and Guidelines (Forest Plan pages I-4 to I-6). The Selected Alternative complies with the Forest Plan (EA Chapter 1). Treatment activities comply with State of Michigan Water Quality Management Practices on Forest Lands (EA Chapter 3). All necessary federal, state, and local permits will be obtained prior to project implementation.

## **Findings Required by Other Laws and Regulations**

This decision is consistent with the intent of the Forests' Plan's long term goals and objectives listed on pages II-2 through II-7. The project was designed in conformance with Land and Resource Management Plan standards and incorporates appropriate Land and Resource Management Plan guidelines (EA Chapter 1).

Other Applicable regulatory requirements and laws are listed below.

o **National Forest Management Act**

The Snow Bird Kirtland's Warbler Project implements the 2006 Huron-Manistee National Forests' Land and Resource management Plan. As required by NFMA Section 1604(i), this project is consistent with the Forests' Plan.

o **Endangered Species Act**

A Biological Evaluation (BE) was prepared for the Snow Bird Kirtland's Warbler Project EA (see Project Record). The BE evaluated and documented by alternative the effects of this project on federally listed or proposed species, designated critical habitat, and Regional Forester's Sensitive Species that may inhabit the Project Area.

o **Clean Water Act**

This Act is designed to restore and maintain the integrity of water resources. Project activities comply with Forests' Plan Standards and Guidelines for water resources and State of Michigan Best Management Practices (EA Chapter 3). Any necessary federal, state, and local permits would be obtained prior to implementation.

o **National Historic Preservation Act, Archaeological Resources Protection Act and Native American Graves Protection and Repatriation Act**

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect

of a project on any district site, building, structure, or object that is included in, or eligible for inclusion in the National Register. The Archeological Resources Protection Act covers the discovery and protection of historic properties that are excavated or discovered on federal lands.

Site specific surveys identified no historic or prehistoric sites within the project area. If during implementation, historic properties are encountered, design criteria have been developed to protect sites from potential adverse impacts. Management activities would be excluded from identified historic cultural sites through sale design or designation of a reserve area that includes a buffer area adequate in size to protect the site or mitigated to avoid or lessen impacts (refer to Cultural Resources Survey Records in the project file).

- o **National Environmental Policy Act**

This Act requires public involvement and consideration of environmental effects. The entirety of documentation for this decision supports compliance with this Act.

### **Administrative Review or Appeal Opportunities**

This decision is subject to appeal pursuant to 36 CFR 215 by those who supplied comments or otherwise expressed interest in this proposal before the close of the 30-day comment period. The appeal must be filed in writing with the Responsible Official and at a minimum, must include the following:

1. State whether the document is an appeal filed pursuant to 36 CFR 215 or under 36 CFR 251, subpart C;
2. List the name and address of the appellant and, if possible, a telephone number. When multiple names are listed, identify the lead appellant. Signature or other verification of authorship must be provided upon request (a scanned signature for electronic mail may be filed with the appeal);
3. Identify the decision document by title and subject, date of the decision, and name and title of the Responsible Official;
4. Identify the specific change(s) in the decision that the appellant seeks and rationale for those changes or portion of the decision to which the appellant objects and an explanation for the disagreement;
5. State how the Responsible Official's decision fails to consider comments previously provided, either before or during the comment period specified in 215.6 and, if applicable, how the appellant believes the decision violates law, regulation, or policy.

A written notice of appeal must be submitted within 45 calendar days after the Legal Notice is published in the Oscoda Press; however, when the 45-day filing period ends on a Saturday, Sunday, or Federal holiday, then filing time is extended to the end of the next Federal working day. The Notice of Appeal must be sent to: Attn: Appeal Deciding Officer, USDA, Forest Service, Gaslight Building, Suite 700, 626 East Wisconsin Avenue, Milwaukee, WI 53202. The Notice of Appeal may also be faxed to: 414-944-3963, Attn: Appeals Deciding Officer, USDA, Forest Service, Eastern Regional Office. Office hours for those submitting hand-delivered appeals are: 7:30 to 4:00 pm CT Monday through Friday, except on Federal holidays.

Those wishing to submit appeals by email may do so to: [appeals-eastern-regional-office@fs.fed.us](mailto:appeals-eastern-regional-office@fs.fed.us), identify "Snow Bird Kirtland's Warbler Project" in the subject line. Acceptable formats for electronic comments are text or html email, Adobe portable document format, and formats viewable in Microsoft word applications. Appeals must meet the content requirements of 36 CFR 215.14 and will only be accepted from those who have standing to appeal as outlined at 36 CFR 215.13.

It is the responsibility of appellants to ensure that their appeal is received in a timely manner. The 45-day time period is computed using calendar days, including Saturdays, Sundays, and Federal holidays. When the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next federal working day. The day after the publication of the legal notice of the decision in the Oscoda Press is the first day of the appeal-filing period. The publication of the legal notice of the decision in the newspaper of record is the exclusive means for

calculating the time to file and appeal. Appellants should not rely on dates or time frame information provided from any other source.

When there is a question about timely filing of an appeal, timeliness shall be determined by:

1. The date of the postmark, e-mail, fax or other means of filing an appeal and any attachments; or
2. The time and date imprint at the correct Appeal Deciding Officer's office on a hand delivered appeal and any attachments;
3. When an appeal is electronically mailed, the appellant should normally receive an automated electronic acknowledgement form from the agency as confirmation of receipt. If the appellant does not receive an automated acknowledgment of receipt of the appeal, it is the appellant's responsibility to ensure timely receipt by other means.

### PROJECT IMPLEMENTATION

When no appeal is filed within the 45-day time period, implementation of the decision may begin on, but not before the fifth business day following the close of the appeal-filing period (36 CFR 215.15). Except for emergency situations, when an appeal is filed, implementation may occur on, but not before the 15th business day following the date of appeal disposition (35 CFR 215.2). All activities authorized by this Decision Notice will be monitored to ensure they are implemented as planned and described in the EA.

### Contact

For additional information about specific activities authorized with this decision, or to request a copy of the Environmental Assessment, contact Paul Thompson, Huron Shores Ranger Station, 5761 North Skeel Ave., Oscoda, MI 48750; Telephone (989) 739.0728 ext. 3028; or email: pdthompson@fs.fed.us.

### Responsible Official

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SUSAN M. KOCIS  
District Ranger  
Huron Shores Ranger Station

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Date

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