



File Code: 1570

Date: April 8, 2011

Route To:

**Subject:** Appeal of the Decision Notice and Finding of No Significant Impact for the Off-Highway Vehicle Connector Routes Project Environmental Assessment, Bergland, Bessemer, Iron River, Kenton and Watersmeet Ranger Districts, Ottawa National Forest, Appeal # 11-09-07-0004 A215 (Northwood Alliance)

**To:** Appeal Deciding Officer, Regional Forester

This letter constitutes my recommendation for the subject appeal filed by Nancy Warren as an individual and on behalf of Northwood Alliance on the Ottawa Off-Highway Vehicle Connector Routes Project Revised Environmental Assessment and Decision Notice on the Ottawa National Forest. Forest Supervisor Susan Spear signed this Decision Notice on December 17, 2010. A legal notice of the decision was published in Iron County *Report* and Ironwood *Daily Globe* on January 5, 2011.

My review was conducted pursuant to 36 C.F.R. 215 – “Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities.” To ensure the analysis and decision are in compliance with applicable laws, regulations, policies and orders, I have reviewed and considered each of the issues raised by the Appellants and decision documentation submitted by the Forest. My recommendation is based upon review of the Project Record (PR) including but not limited to the public comments, Decision Notice (DN), Revised Environmental Assessment (EA), and the Finding of No Significant Impact (FONSI).

The Responsible Official (RO) was not able to resolve any of the appeal issues informally.

### **Appeal Issues**

Northwood Alliance raised eleven main issues in their appeal of the Off-Highway Vehicle Connector Routes Project decision (i.e., OHV Connector Project). Northwood Alliance expressed most of these same concerns during the 30-day comment period; responses below indicate when they did not raise the concern previously.

**Issue 1: Illegal Use:** Northwood Alliance claims, “*The Forest Supervisor did not disclose the environmental effects of illegal use.*” (NOA, p. 2) They also assert:

- “*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.*” (NOA p. 2)
- “*It is illogical to conclude that opening more roads will reduce unauthorized use.*” (NOA p.3)



- *“The author [of the Supplement to the Botanist Specialist Report for the Off-Highway Vehicle Connector Routes Project dated July 27, 2010] did not analyze the negative effects that will be further compounded because of unauthorized use.”* (NOA, p. 5)

**Response:** The Appellants’ assertions on this topic relate to several aspects of the analysis, which I will address, but the overall question is whether the effects analysis accurately displayed effects of illegal OHV use in a way that informed the RO and public, and supported a FONSI.

The Revised EA for the OHV Connector Routes project clearly states that additional actions (e.g. design criteria, adaptive management strategy) and analysis were developed to address “unauthorized OHV use of roads and/or trails not designated for such uses on the MVUM.” (Revised EA, p. 9). For example, the analysis of potential effects to Heritage Resource was supplemented and concludes that, “(t)he risk of using OHVs in areas not designated for their use could potentially disturb cultural resource sites. Implementation of existing regulations and proposed design criteria (see Appendix B) would further protect heritage resources.” (Revised EA, p. 51) The Wildlife and Botany Resources analysis in the EA (p. 45) indicates that unauthorized use of closed roads could occur, is usually infrequent and unpredictable, and could result in disturbance to sensitive wildlife species, though the adaptive management strategy should limit those effects. The Supplement to the Botanist Specialist Report (BSR) notes that “a cumulative effect of the proposed action could be the spread of NNIPs by illegal use of OHVs onto roads and trails that intersect the connector routes.” (PR, Bk 4, I-33). This statement is repeated in the Botanical Resources Cumulative Effects section of the Revised EA (p. 49).

These and other resource analyses address the potential impacts of illegal OHV use of roads and trails not designated for OHV use. In addition, Design criteria to lessen negative impacts are identified in the Revised EA and DN, as are a monitoring approach and an adaptive management strategy to guide implementation (Revised EA, Appendix B; DN, Appendices C and D). The DN (Appendix D, p. D-1) states, “This strategy is designed to allow the Ottawa to address uncertainty or the risk involved in the management of unauthorized motorized uses that may occur off of the selected connector routes”. This appendix acknowledges that the likelihood of illegal use on any given road, trail, or unauthorized route is unknown and that, “(t)he threat posed by unauthorized use may vary depending on the specific road or trail.” It discloses Forest-wide monitoring of OHV effects, identifies the need for monitoring of effectiveness of OHV management and effectiveness of road and trail closures, and describes an adaptive approach that will implement corrective measures to address unauthorized use based on monitoring results. It is clear that the Responsible Official understood, disclosed, and considered the potential for and impacts of illegal use of closed roads and trails.

None of the aforementioned analysis addresses the effects of cross-country OHV travel, which the Appellants’ appeal specifically addresses (NOA p. 3). Off-Highway Vehicle Management was a principal issue in the Forest Plan (FP) revision effort, leading to key differences among alternatives (FEIS p. 1-5 to 1-7). With the 2006 FP, the Forest has transitioned from a policy of OHV riding almost anywhere, as allowed under the 1986 FP, to a policy where OHV use is only legal on designated roads and trails. The FP Final Environmental Impact Statement (FEIS) analyzed in detail the effects of OHV use, including cross-country travel. The FEIS evaluated the effects of OHV use on soil, water resources, transportation, non-native invasive species, aquatic species of viability concern, fire, and heritage resources (FEIS p. 3-3 to 3-4, 3-14, 3-19 to

3-20, 3-34 to 3-35, 3-87, 3-92 to 3-93, 3-165, 3-168, 3-172, 3-184). The OHV Connector Routes Project analysis tiers to the 2006 FP analysis (Revised EA, p. 1) and the analysis for Botanical Resources cites the NNIP effects analysis in the FEIS (Revised EA, p. 49).

Two effects analyses in the Revised EA clearly considered cross-country travel. Potential effects from illegal use to soil and water resources were evaluated in the 2009 EA (p. 35-36) and supplemented in the Revised EA (p. 42-43). The combined analysis indicates that illegal use, both of closed roads and cross-country, could increase sedimentation and negatively impact streams and wetlands. Site-specific monitoring (Revised EA, p. 60; DN p. C-2) was developed “to determine if further mitigation measures are necessary to reduce stream or wetland sedimentation. Additional design criteria or mitigation measures may be established if erosion issues are identified following designation of motorized use on proposed routes.”

Illegal use is described in the Recreation Supplemental Analysis (RSA) (PR, Bk 4, I-37) as follows: “Illegal use occurs when OHVs travel cross-country ... Illegal use also occurs when OHVs travel on roads and trails that are closed to such use (which may also serve as a starting point for cross-country travel).” This report acknowledges that “(t)he amount of roads and trails open to OHVs serve as an overall indicator for the potential illegal use since these travel ways could be used as a starting point for illegal use. All action alternatives would increase the opportunity for illegal use, when compared to Alternative 1...” The RSA supports Section 3.3a of the Revised EA, Effects of Unauthorized OHV Travel (p.19-24), which states that travel on designated roads and trails “can subsequently increase the potential risk for travel onto other roads and trails that are not open to motorized uses as well as unauthorized cross-country travel” (Revised EA, p. 20).

The Responsible Official undoubtedly understood that OHV users may illegally travel cross-country from the routes designated by this decision, and that such illegal use could impact resources such as soils and water quality. However, the EA (with the exception of discussions related to soils/water and recreation (Revised EA, p. 42-43 and 19-24)) did not fully disclose the potential environmental effects of cross-country OHV use. Although the types of impacts that may result from cross-country use are addressed for many resources in the FP FEIS, illegal cross-country use is a foreseeable impact of the proposed action and its effects should be analyzed and disclosed at the project scale within the EA. I find the Appellants’ concerns about the analysis of effects from illegal cross-country use valid and recommend the Responsible Official more fully address this issue.

**Issue 2:** *“In response to our enforcement concerns, it is stated that, “It is the rider’s responsibility to know where they are on the Forest.” (NOA p. 2) “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.” (NOA, p. 2)*

**Response:** The analysis recognizes that transition to the MVUM has had errors and that users are having a hard time discerning which routes on the ground are shown on the map (EA, p. 7). This background on the existing condition and the Forest’s response to Appellants’ comment on

this topic include a description of a current effort underway to improve recognition of the legal routes on the ground with additional signing. Since the analysis acknowledges the Appellants' concern and identifies current efforts underway to improve recognition on the ground of legal riding opportunities, I find this issue received adequate attention.

It is reasonable to assume that compliance with the dramatic shift in allowable use that occurred in 2006 will take time and substantial education, enforcement, and monitoring. The Revised EA, (p. 24) acknowledges, "The era of allowing less restrictive motorized uses (e.g., prior to implementation of the 2006 Forest Plan) has proven challenging to overcome." The Forest focused on informational and signing efforts, not citations, for the first two years (Revised EA, p. 17). The Revised EA (p. 18) states, "These efforts have led to an increase in public awareness about the Ottawa's travel management restrictions. In some cases, increased patrols and signing appear to have reduced illegal use (USDA 2008(b))." The monitoring approach and adaptive management strategy included in the selected alternative (DN Appendices C and D) are designed to evaluate the effectiveness of the additional design criteria, and signing, enforcement, and public relations efforts, and implement corrective measures as needed. Selection of an action alternative that offers improved access to currently designated roads and connections to local communities from existing state OHV trails (Revised EA, p. 51), along with a mechanism to monitor closure effectiveness and adapt as needed, has a reasonable chance to improve legal compliance.

**Issue 3:** Northwood Alliance states, "*(W)e 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.*" (NOA p. 3)

**Response:** The statement cited by the Appellants is contained within the Implement-Monitor-Adapt section of the Adaptive Management Strategy (DN, Appendix D). Prior to that sentence is a description of corrective measures that may be used to address unauthorized use. The sentence following that cited by the Appellants says, "A variety of adaptive management measures will allow the Ottawa to have the flexibility to address violations on a case-by-case basis". Taken in context, the cited statement is only one option out of many and each will be evaluated based on site-specific conditions.

The Appellants did not raise this concern during the comment period, so the Forest did not have the opportunity to respond to it directly. I note the process followed to update the annual MVUM affords a 30-day comment period (36 C.F.R. 212.52). The Appellants will have the opportunity to comment on any changes to designated routes that may result from the adaptive management strategy associated with this project decision. I find no violation of law, regulation or policy related to this issue.

**Issue 4:** Northwood Alliance claims, "*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."*" (NOA, p. 3)

**Response:** The purpose and need for this project was clearly defined and tied to FP Desired Conditions (PR, Bk 1, Tab C-3, p. C1-1 to C1-3). The project was developed to continue the transition from OHV management under the 1986 FP that allowed open OHV access throughout much of the Forest (unless posted closed in specific areas) to a closed forest except where roads and trails are designated open for OHV use. This transition was made to protect forest resources from OHV disturbances and to more effectively manage recreation use on the Forest (Plan ROD, p. 11). As discussed for Issue 2, the project analysis acknowledges that this transition has been challenging, but Forest monitoring has shown increased awareness and some reduction in illegal use (Revised EA, p. 18).

The statement questioned by the Appellants is a clear and accurate disclosure of the choice to be made by the RO: whether the benefits of providing more routes to OHV users is worth the risk and potential harm that use of those routes may bring. The direction given to the Interdisciplinary Team (IDT) (PR, Bk 1, Tab C-3, pp. C1-3) was that the analysis should provide design criteria and monitoring requirements for the project to minimize the risks to public safety and harm to the environment or remote character. I find the IDT deliberated these topics on each proposed connector (PR, Bk 1, Tab C-3).

With regard to how this decision can be effectively managed, the analysis and decision describe the design criteria to be put in place before implementation and the adaptive management strategy to monitor the effects of OHV use in a prioritized manner for both public safety and environmental protection (DN, Appendix C and Appendix D). With every decision there is a degree of uncertainty. The adaptive management strategy will enhance the Forest's ability to track the effectiveness of the design criteria used in this decision.

I find that the RO clearly considered the potential for user conflicts, safety concerns, and resource impacts, and determined that the design criteria and adaptive management strategy will ensure public safety and minimize effects on resources (DN, p. 9, 14-15, Appendices C and D).

**Issue 5:** Northwood Alliance asserts, "*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.*" (NOA p.4) "*The IDT 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).*" (NOA, p. 4)

**Response:** The Appellants did not raise this concern during the comment period on the Revised EA. On March 14, 2009 (not 4/19/2009 as stated by the Appellants), the Forest Law Enforcement Officer Steven Drake (Mr. Drake) submitted a written comment (PR, Bk 2, Tab E-32, p. 1-4) for the OHV Connector Route Project on the Forest. According to the response to Mr. Drake's comments prepared on March 26, 2010 (PR, Bk 4, Tab I-12A, 6 p.), he "requested that his input be handled as an internal communication, and not be combined with the formal response to comments documentation developed for public commenters."

On May 19, 2009, in a team meeting to review the comments received during the 30-day comment period for the original EA (PR, Bk 1, Tab C-39, p. 1-4), the IDT considered

Mr. Drake's comments and forwarded them to the Deciding Official for consideration in the decision making process. His comments regarding Routes C and G were, in particular, discussed in more detail by the team and a list of concerns regarding allowing all motorized use on these routes (as suggested by Mr. Drake) was created. His comments were further considered in the Summary of EA Comments document prepared on June 11, 2009 (PR, Bk 1, Tab C-42, p. 4-5) and in the IDT meeting to review concerns identified in public comments with the Deciding Official on June 18, 2009 (PR, Bk 1, Tab C-43, pg. 2-5). An email from the team leader (PR, Bk 1, Tab C-50, p. 2) identifies changes during development of the original 2009 EA to allowed vehicle use on two routes. Among the reasons for this change listed in the email is, it "would eliminate an unmanageable enforcement issue". This change was recommended by Mr. Drake to resolve a potential enforcement concern.

As stated in the response to Mr. Drake's comments (PR, Bk 4, Tab I-12A, 6 p.), several of his comments were incorporated into the Revised EA. Definitions for ATV, OHV, and UTV were more clearly explained. In addition,

"If the proposed routes are selected for designation, an additional signing effort would be implemented to clearly identify the authorized access allowable (2009 EA, p. C-1; 2010 Revised EA)."

"Based upon the best available information, each route has been verified as federal ownership."

"Based on Mr. Drake's concern with regards to unauthorized use by highway legal vehicles, in addition to OHVs, the revised EA also includes the adaptive management strategy to better address concerns regarding unauthorized use."

"Based on the concerns raised regarding speed limits, the Deciding Official did include the following design criteria in the first decision. This design criterion has been forwarded into the revised EA. "Post speed limit signs on Route C-Modified and Route G-Modified to encourage safe dual use speeds on the former railroad grades. The speed limit will be consistent with those limits imposed by the State of Michigan or county, as applicable."

I find Mr. Drake's comments from March 14, 2009 were, in fact, evaluated at various times throughout the planning process for the 2009 decision. They also were considered in the 2010 analysis and decision.

The Appellants, referring to the response to Mr. Drake's comments, state "*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).*" This response to comments document was dated April 26, 2010. There is nothing to indicate when it was included in the PR. However, the changes to the original and revised EAs clearly indicate that Mr. Drake's comments were considered at the appropriate times. Therefore I find no violation of law, regulation, or policy.

**Issue 6:** Northwood Alliance states, *“Although the Forest Supervisor agreed with our assessment that OHV travel can increase the spread of exotic plants, ... (s)he 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.”* (NOA, p. 4)

**Response:** The “first priority” wording that the Appellants refer to is contained in the Forest Non-native Invasive Plant Control Project (NIPCP) FONSI (p. 1). It refers back to the FS Manual: “FS Manual Section 2080 (USDA FS 1995) gives an overall objective to “use an integrated weed management approach to control and contain the spread of noxious weeds<sup>1</sup> on National Forest System lands.” Noxious weed prevention is to be scheduled in the following order: 1) First Priority: Prevent the introduction of new invaders, 2) Second Priority: Conduct early treatment of new infestations, and 3) Third Priority: Contain and control established infestations.”

Since the DN was signed for the NIPCP, the 2006 FP and subsequent establishment of the MVUM did make preventing the introduction of new invaders by OHVs a primary priority. As noted in the Plan ROD, the “direction in the 2006 Forest Plan will address the threat of unmanaged recreation use by prohibiting cross-country use of OHVs and requiring that OHV use occur only on roads or trails designated for such use. ... to protect soil and water resources, control the spread of invasive species, provide for public safety, and reduce conflicts with other multiple uses” (ROD, p. 11). Since continued cross-country use of the Forest by OHVs represented a “very high risk of introducing NNIS to uninfested areas” (FEIS, 3-92), the change from allowing cross-country OHV use on the Forest to restricting that use to designated roads and trails clearly met the priority of preventing new invasions.

The 2006 Forest Plan also includes standards and guidelines that outline a program for addressing threats from non-native invasive species and direct and prioritize non-native invasive species prevention and control (FP, ROD, p. 7). The EA for the proposed project is tiered to the 2006 FP (Revised EA, p.1), including implementation of all FP standards and guidelines (DN, p. 10, 13).

In summary, I find that “first priority” of preventing the introduction of new invasive species, as it relates to OHV use, was addressed within the 2006 FP, through prohibition of cross-country OHV travel and provision for a recreational designated OHV road and trail system. As noted by the Appellants, the RO acknowledged that OHV travel can increase the spread of non-native invasive plants, and the proposed project incorporates measures to meet the other priorities of noxious weed prevention (i.e., conducting early treatment of new infestations, and containing and controlling established infestations) through incorporating the FP standards and guidelines and project-specific design criteria, monitoring measures and adaptive management strategy (Revised EA, Appendix B, p.59). Thus, the Appellants’ claim is not supported by my review of the PR.

**Issue 7:** Northwood Alliance claims, *“The Forest Supervisor erred in evaluating the intensity of the actions.”* (NOA p. 4) *“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.”* (NOA, p. 5)

**Response:** Executive Order 13112 requires that “Each Federal agency whose actions may affect the status of invasive species shall, to the extent practicable and permitted by law ..... (3) not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species ... unless, pursuant to guidelines that it has prescribed, 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 measures to minimize risk of harm will be taken in conjunction with the actions.”

While the DN does not specifically discuss Executive Order 13112, the potential spread of non-native invasive plants (NNIP) as a result of OHV use was clearly addressed in the project file, including the DN (Appendix G, p. G-19 and G-29), Revised EA (p. 49), botanist specialist reports (PR, Bk 1, D-2 and Bk 4, I-33), and the FP FEIS (p. 3-93). A site-specific design criterion was added to the Revised EA to treat a known garden valerian infestation (Revised EA, p. 59). Responses to comments from the Appellants and another commenter, highlight that the potential for spread of NNIP will be minimized through use of existing roads and trails for most connector routes and implementation of FP standards and guidelines, the adaptive management strategy, and the programmatic NNIP Plant Control project (DN, Appendix G, p. G-19 and G-29).

I find the RO did consider the potential harm caused by invasive species in making her determination. She states (DN, p. 13) that she considered both beneficial and negative effects and determined that there would be no significant adverse impacts. The proposed project is also clearly “tiered” to the FP, which was determined to be consistent with Executive Order 13112 (ROD, p. 34), and incorporates FP standards and guidelines and additional design features that are intended to reduce or eliminate potentially adverse effects of the proposed project, including the spread of NNIP. Thus, I find the RO complied with the intent of the Executive Order 13112.

**Issue 8:** Northwood Alliance states, *“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.”* (NOA p.6) *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.* (NOA p.6)

**Response:** I reviewed the FP and associated documents to determine if the Plan prohibits designating local community connector routes. The selected alternative for the FP (Alternative 3-Modified) allows designation of OML 1-3 roads and 25-75 miles of new trails as part of the Ottawa’s OHV system, with a priority on connecting existing public designated trail systems (Plan FEIS, Vol. I, p. 2-17).

The FP (p. 2-4) contains two objectives for recreation management that specifically address designating ATV and OHV routes:

- (c) Designated ATV recreational trail systems are established through connections to existing recreational trail systems.
- (d) Designated routes for OHV (including ATVs) are established on Forest roads.

Page 2-15 of the FP provides specific direction for designated ATV Recreation Trails:



1. Provide connections to existing designated public roads and trails.
2. Utilize existing corridors when feasible before considering new trail construction.

The ROD (p. 15-16) states that the selected alternative “allows for the development of new recreational connector trails for ATV use” and designation of trails in addition to OML 1-3 roads for OHV use when such designations are consistent with protecting physical and biological resources and compatible with the desired recreation setting.

As disclosed in the 2010 Revised EA (p. 2), the proposed local connector routes would connect existing recreational trail systems and, aside from Route D and minor amounts of trail construction, all routes would be located on established Forest Roads. Route D, when constructed, will connect a future reroute of the Pioneer Trail to the State of Michigan Multi-Use Trail (Sidnaw to Bergland grade). The analysis for constructing the re-route of a portion of the Pioneer Trail was included in the Ridge Vegetation and Road Management Project as explained in the Revised EA (p. 12).

I find that designating new connector routes, as described in the Revised EA (p. 2) is consistent with FP direction. The current FP and its associated FEIS/ROD provide clear direction for designation of roads and trails for OHV use (including recreational riding). It specifically addresses and analyzes connections to existing designated public roads and trails and the utilization of existing corridors to the extent possible to minimize new construction. Therefore a FP amendment is not necessary to provide additional miles of OHV routes for recreational riding other than on OML 4 roads (see below).

**Issue 9:** Northwood Alliance asserts, “*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.*” (NOA p.6)

**Response:** As the Appellants indicate, this decision does not include designation of Route E, but it does not exclude it from future consideration. The RO states, “It is important to note that my decision to defer implementation of Route E does not preclude it from being designated for OHV access in the future as analyzed in the 2009 EA and 2010 Revised EA.”

The Revised EA addressed the Appellants’ concern fully in the response to comment 2j (Revised EA p. G-27 to G-28). A site-specific amendment to allow OHV use on FR 630 in MA 6.1 is part of Alternatives 2 and 3 (Revised EA p. 14). If a decision is made to designate Route E for use by all motorized vehicles, that decision would include the site-specific FP amendment to exempt that trail from the current FP direction on SPNM areas. Therefore I find that consistency of Route E with the FP was considered by the RO when she deferred a decision on this part of the selected alternative.

**Issue 10:** Northwood Alliance claims, “*The ONF must develop an effective monitoring system that includes adequate staffing and financing prior to opening any new roads/trails.*” (NOA p.4) “*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.*” (NOA p. 6)

**Response:** The Revised EA Appendix B (DN Appendix C), identifies site-specific monitoring needs for Routes A, C and H Modified and Route F. These routes were identified in the Soil and Water Specialist Report for the 2009 EA (PR, Bk 2, D-9, p. 43). Identified routes would be monitored for erosion. According to the DN (Appendix C), “(a)dditional design criteria or mitigation measures may be established if erosion issues are identified following designation of motorized use on proposed routes.”

Both EAs and the DN clearly include road and trail improvement and maintenance activities (2009 EA, p. 9-10, Appendix B; Revised EA, p. 13, Appendix A; DN p. 7). The costs of this work were address in the 2009 EA (p. 22-25). The project record (Bk 1, Tab C-33) includes a proposal to get funding for required signs, so funding was clearly being considered. The DN (p.7) indicates that some of that work was accomplished in 2009 with funding received through the American Recovery and Reinvestment Act, reducing the cost of implementing this connector route project.

The intention of the RO is clearly to implement the route improvement and maintenance, site-specific monitoring, and adaptive management strategy identified in the DN. Funding, staffing, and scheduling are administrative functions that cannot be accomplished prior to a decision. The project record states that implementation costs were considered and that route designation would be delayed until improvement and construction work is completed (PR, Bk 1, Tab C-36). Only two routes will be added to the next MVUM. Delayed implementation of several routes will result in phased implementation of this decision as funding and staffing permit and allow for monitoring on routes C-Modified and G-Modified, which could identify concerns or opportunities that could affect the remaining routes. I therefore conclude the Appellant’s concern regarding monitoring, maintenance, and repair will be satisfied, and I find no violation of law, regulation, or policy.

**Issue 11:** Northwood Alliance states, “*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.*” (NOA p. 7)

**Response:** My review of the DN, Revised EA, and PR indicate the RO carefully considered the potential for adverse effects from this project. As discussed for previous issues, the potential for negative impacts was described in the 2009 EA and Revised EA for non-motorized users, soils, water resources, non-native invasive species, and heritage resources. The DN/FONSI specifically acknowledges some of these negative effects (DN p. 14, 15, 17) and more broadly states, “I have given careful consideration to both the beneficial and negative impacts. I have determined that these impacts are not significant.” (DN, p. 13)

The context for the analysis of impacts from OHVs should be noted. About 80 percent of the Forest is within ¼-mile of a system road. Therefore, the vast majority of the Forest is currently accessible by motorized vehicles (Plan ROD, p. 11). The Revised EA (p. 27) and Recreation Supplemental Analysis (PR, Bk 4, Tab I-37) indicate most of the proposed routes are on existing Forest Service System roads open to highway vehicle traffic. Therefore the potential already exists for many of the negative impacts of designating OHV routes (noise disturbance, NNIS spread, easy access for illegal use). The analysis appropriately analyzes the effects of adding OHV use on roads that currently have highway vehicle use and on the few miles of trail that are currently not available for motorized use of any type.

The IDT developed design criteria and monitoring requirements for the project to minimize the risks to public safety and impacts to resources (DN, Appendix C). The RO concluded that these design criteria “will reduce or eliminate potentially adverse effects during implementation of selected actions (see Appendix C).” (DN p. 7) In addition, the decision includes implementation of an adaptive management strategy to address uncertainty in the effects of unauthorized use (DN Appendix D). This strategy states that “If resource concerns or safety issues develop, steps will be taken to resolve issues, such as through closing routes to motorized vehicles.” (DN, Appendix D p. D-2)

The RO clearly considered both positive and negative impacts of the project. The analysis led to inclusion of design criteria and an adaptive management strategy to minimize adverse impacts. Thus, the Appellants’ claim is not supported by my review of the project record.

### **Recommendation**

After reviewing the Project Record for the Ottawa National Forest Off-Road Vehicle Connector Routes Project, and considering the Appellants’ issues, I recommend further analysis and disclosure related to illegal cross-country use (Issue 2). For that reason, I recommend Forest Supervisor Susan Spear’s Decision Notice of December 17, 2010, be remanded.

*/s/ Thomas G. Wagner*  
THOMAS G. WAGNER  
Appeal Reviewing Officer  
Forest Supervisor

cc: Patricia R Rowell