



File Code: 1570

Date: March 18, 2013

Mr. Allan E. Smolinski
PO Box 9
Caspian, MI 49915-0009

RE: Appeal of the Decision Notice and Finding of No Significant Impact for the Eastern Off-Highway Vehicle Connector Route Project Environmental Assessment, Iron River, Kenton, and Ontonagon Ranger Districts, Ottawa National Forest, Appeal # 13-09-07-0015 A215

Dear Mr. Smolinski:

On January 28, 2013, you filed a notice of appeal pursuant to 36 C.F.R. Part 215 for the above referenced project on the Ottawa National Forest. The Decision Notice was signed by Forest Supervisor Anthony Scardina on December 12, 2012. The legal notice for the decision was published in *The Daily Globe* (Ironwood, Michigan) December 14, 2012.

I have reviewed the Project Record and considered the recommendation of the Appeal Reviewing Officer Timothy Dabney, Deputy Forest Supervisor, Superior National Forest, regarding the disposition of your appeal. The Appeal Reviewing Officer's review focused on the decision documentation developed by the Responsible Official for this project and the issues in your appeal. The Appeal Reviewing Officer's recommendation is enclosed and incorporated by reference. This letter constitutes my decision on your appeal and on the specific relief you requested.

FOREST ACTION BEING APPEALED

The purpose and need of this project is to determine which roads and trails would best serve to provide a connection between existing State of Michigan multi-use trails and other existing off highway vehicle (OHV) routes on the eastern portion of the Ottawa (east of US Highway 45). This would be accomplished through the use of existing forest roads and minor segments of new trail on National Forest System lands, as well as roads of other jurisdictions (i.e. county roads) that are currently open to OHV use. The Forest Plan includes emphasis on providing connections to existing designated public roads and trails and also provides direction to utilize existing corridors to the extent possible to minimize the need for new construction. The Final Environmental Impact Statement (FEIS) prepared for the Forest Plan noted that the selected alternative "would also include designating new north-south connector routes, primarily for ATV use, between the established State of Michigan east/west multi-use trails" (FEIS p 2-11). The FEIS estimated the selected alternative would call for 25-75 miles of new routes, with a priority of providing connections to existing trail systems. The Forest Plan and FEIS clearly established a need for north-south connector routes and an objective to achieve these connections.



APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer found no evidence the Responsible Official's decision violated law, regulation, or policy. He found the decision responded to the comments raised during the decision-making process and public comment period. In addition, he found the issues in the appeal were adequately addressed in the decision documentation. Based on this review, the Appeal Reviewing Officer recommended the decision set forth in the Decision Notice for this project be affirmed. Please refer to the enclosed recommendation letter, dated March 14, 2013, for further details.

DECISION

After careful review of the Project Record and your appeal, as well as the recommendation of the Appeal Reviewing Officer, I have decided to affirm the decision for the OHV Connector Route. I found no violation of law, regulation, or policy with respect to the issues in your appeal. The Appeal Reviewing Officer's recommendation is enclosed and incorporated by reference.

Pursuant to 36 C.F.R. § 215.18(c), this decision constitutes the final administrative determination of the United States Department of Agriculture. This decision may be implemented on, but not before, the 15th business day following the date of this letter (See 36 C.F.R. § 215.9(b)).

Sincerely,

/s/ Mary Beth Borst

MARY BETH BORST
Appeal Reviewing Officer
Deputy Regional Forester

Enclosure

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File Code: 1570

Date: March 14, 2013

Route To:

Subject: Appeal of the Decision Notice and Finding of No Significant Impact for the Eastern Off-Highway Vehicle Connector Route Project Environmental Assessment, Iron River, Kenton, and Ontonagon Ranger Districts, Ottawa National Forest, Appeal # 13-09-07-0015 A215

To: Appeal Deciding Officer, Regional Forester

This letter constitutes my recommendation for the above-referenced appeal by Mr. Smolinski. This appeal challenges the Eastern Off-Highway Vehicle Connector Route Project decision on the Ottawa National Forest (Forest). Forest Supervisor Anthony Scardina signed the Decision Notice and Finding of No Significant Impact on December 12, 2012 and the legal notice was published in *The Ironwood Daily Globe* (Ironwood, Michigan) December 17, 2012.

My review has been conducted pursuant to 36 C.F.R. Part 215 – “Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities.” To ensure that the analysis and decision were completed in compliance with applicable laws, regulations and agency policies, I have considered the issues set forth by the Appellant in the Notice of Appeal (NOA) and have reviewed the decision documentation submitted by the Forest. My recommendation is based upon a review of the Project Record (PR), including but not limited to the scoping letter, public comments, Environmental Assessment (EA), Decision Notice (DN), Finding of No Significant Impact (FONSI), and the Response to Comments (RTC).

Background

The Eastern Off-Highway Vehicle (OHV) Connector Route Project seeks to designate additional OHV access on roads and trails managed under Forest Service jurisdiction, used in conjunction with other routes open to OHVs, to provide connections to the State Multi-Use trails. Connecting to other open routes (Forest Service and other jurisdictions) would improve the recreational riding experience and provide connections between communities nestled within the Ottawa. For this reason, the Forest Plan included emphasis on providing connections to existing designated public roads and trails (Forest Plan, pp. 2-4 and 2-14 to 2-15). The Forest Plan also provides direction to utilize existing corridors to the extent possible to minimize the need for new construction (Forest Plan, pp. 2-4).

Appeal Issues

The Appellant raised four general contentions in his NOA of the Eastern Off-Highway Vehicle Connector Route Project. The Appellant’s issues are addressed here in the order found in the NOA.



Informal resolution efforts with the Appellant was attempted at a meeting on February 7, 2013, however no appeal issues were resolved.

The Appellant's claim:

Issue 1: The analysis of noise impacts is not adequate (NOA, Pages 2-8).

- a) *What constitutes best available science is time dependent. In time, a study's applicability, comparability, and relevancy diminish. Identifying impacts, while relying on data pertaining to dissimilar vehicles, does not insure the scientific integrity of the analysis in the project EA.*
- b) *The analysis fails to describe a realistic distance that ATV noise can actually be heard, the distance impacting visitors' use of the Ottawa.*
- c) *A far greater area, used by Forest visitors seeking remote roaded recreation opportunities, will be affected by ATV noise than the IDT has identified.*

Response: The Appellant raised these issues in comments on the EA (PR, Document 140; for example, comment 8x on pages A3-31 to A3-34 and comment 8aa on page A3-36 to A3-37 and comment 8bb on page A-38).

The Council on Environmental Quality Regulations (CEQ) state that when an EA is prepared, environmental impacts of the proposed action and alternatives are disclosed and only a "brief discussion" is necessary (40 C.F.R. 1508.9). Additionally, the Forest Service Handbook (FSH) provides guidance for developing a framework for an environmental impact analysis. The handbook states:

- Define the standards of accuracy commensurate to the acceptable level of risk and to the availability of qualitative and quantitative data. Describe the relationship between risk and accuracy...
- Determine the depth or detail of the analysis. The depth or detail of analysis will depend on the important management and resource issues, and should be commensurate to the magnitude of the effect (Forest Service Handbook, 1909.15, Section 12.3).

The Forest considered and explained the availability of qualitative and quantitative data, the standards of accuracy necessary for the management context, and the depth or detail analysis necessary to complete a 'brief discussion' of environmental impacts in the EA for the management and resource issues and magnitude of effect for this project. First, the Forest acknowledges that noise produced from OHVs is a complex issue:

"Detection of OHVs noise on the non-motorized forest visitor is dependent on many factors such as, but not limited to, OHV speeds, terrain, vegetation, wind direction, distance between hiker to OHV activity, and surrounding natural forest noise (background noise)" (PR, Document 140; Comment 8x on pages A3-33).

The Forest searched for studies and literature that could be used for describing the impacts in the EA and identified two studies with relevant findings (Forest Service 1975; PR, Document 293 and Forest Service 1993; PR, Document 294) which were used in the analysis. The fact that these studies are older does not itself mean they do not contain relevant information to the

project. The studies do discuss motorcycles which are anticipated to have only minimal use on the proposed routes (PR, Document 140 page A3-10); however, jeeps are also discussed in the Forest Service 1975 document.

The EA refers to the data in these studies when disclosing that OHV sound may be audible within ½ mile of the proposed routes in the project (EA, page 19). The EA also includes the caveat that some OHV noise may be audible for greater distances (EA, pages 19-20; see also PR Document 140, page A3-37). The Forest also evaluated the applicability of literature submitted by the public, including the Appellant (PR, Document 142), during the public comment process for the project. However, none of the reference materials submitted contained an applicable audible distance for disclosing impacts, which is the indicator the Forest used to disclose impacts (PR, Document 140; RTC, 8bb page A3-38).

The Appellant discusses the Red Top Survey as a reference to use in the impact analysis. While I agree with the Appellant that it would be most relevant to use a study that evaluates noise from All Terrain Vehicles (ATVs) since that is the primary vehicle that would use the routes proposed in this project (PR Document, 140 page A3-10), there were other reasons that the Forest chose not to use this reference in the EA and they documented in the PR their analysis of each reference submitted:

“This [Red Top Survey] is a case study on the effects of a loop trail on residential settings. The current project is a linear trail and we are evaluating impacts to a forested recreational setting. The studies applied in the EA are more relevant than this study for the current project. However, it is noted that some survey respondents to the survey did note that they could hear the trail up to 3 miles away (27%, or about 11 individuals responded that there was some noise impact). Of these very few (2 respondents) noted that the noise was intolerable or very intolerable. The EA does not claim that no noise will be heard beyond 0.5 miles. Instead the analysis is based on relevant literature that states less than 5% of the noise generated could be heard beyond 0.5 miles from the source in a forested recreational setting” (PR, Document 142, page 6).

Thus, while there is the advantage of evaluating ATVs in the Red Top Survey, there are other limitations that lessen the applicability of this research to the current project (not a linear route - in a residential setting). And the Forest discloses that ATV sound may be audible in a few cases beyond 0.5 miles, as found in the Red Top Survey.

The Forest also acknowledges that it would be possible to use different methods to predict audible distances such as with the Harrison, Clark and Stankey document provided by the Appellant (PR, Document 140; Comment 8x on page A3-33). The method described in the Harrison, Clark and Stankey study allows for a more specific characterization of the factors affecting sound propagation and may produce an estimate of audible distance with greater detail than the data used by the Forest in the EA. This method could specifically characterize the environmental conditions on the Ottawa (e.g. topography, vegetation, etc.) and the types of OHV vehicles that would be driven on the Forest (as opposed to jeeps and motorcycles). However, the Forest determined that the level of detail in such an approach would not be necessary. In a review of the applicability of literature received during the public comment process, the Forest states the following about the Harrison, Clark and Stankey reference:

“The general information provided in this publication is useful, though perhaps outdated. This tool could be useful in identifying important sound thresholds for sensitive receptors or sensitive recreational settings, however, given that the project area is a roaded natural recreation setting, there is limited change from the existing condition expected and that other literature exists that identifies the approximate distance sound could be anticipated to travel from the proposed routes; this analysis tool would provide a higher level of detail than is necessary for the Responsible Official to make a determination about the significances of the effects in presented in the EA. An EA need only present sufficient analysis for the Responsible Official to determine whether or not significant impacts would occur as a result of the proposed action” (PR Document 142, pages 1-2).

The EA describes the context for noise impacts in the areas affected by the project:

“The proposed OHV routes are within Forest Plan Management Areas that are classified as ‘Roaded Natural’ in the Recreation Opportunity Spectrum (ROS). The ROS classification of “Roaded Natural” means there is moderate evidence and interaction with other users, including sights and sounds. The classification also provides for motorized use. It is the most developed setting managed for on the Ottawa...” (EA, page 18).

“With the exception of about 0.1 miles of new construction, the proposed routes are on existing forest roads which are currently open to highway legal vehicle traffic. These forest roads connect to county roads which currently allow OHV traffic” (EA, page 18).

The DN also discusses this context in the rationale for the decision and further notes that the effects in the EA are consistent with what was anticipated in the Forest Plan FEIS (DN/FONSI, page 7). The Forest evaluated the depth of analysis necessary for the project. Because the impacted areas are ‘Roaded Natural’, where sights and sounds of motorized use are already present, and the specific routes which would receive added OHV use already have highway legal traffic, they determined that only a limited depth of analysis was necessary.

Based on my review of the Project Record, I find that the Forest carefully considered the references submitted by the public. They explained the limitations of the analysis, the reasoning for the analysis methods and why a more detailed analysis was not necessary. I find that the analysis methods and disclosure were appropriate. I find no violation of law, regulation or policy on this point.

Issue 2: Displacement (NOA, Page 8).

Issue 2 (a): Comments on displacement were provided to inform the IDT of the unforeseen consequences of this project. The comments and references were misunderstood, dismissed and there was a failure to apply this information to the project (NOA, Page 8).

Response: The Appellant raised this issue in his comments on the project. The Appellant raised the concern that OHV noise would impact Forest users participating in non-motorized recreation activities. Noise from OHVs and its potential impacts to non-motorized forest recreation opportunities were identified by the Interdisciplinary Team as an issue to be analyzed in detail.

In the EA, the Forest characterized the displacement that could occur with the change of use that would result from the project and they identified areas where more primitive opportunities exist:

“Forest visitors choose recreational activities to meet their expectations. Expectations are a function of people’s values; they can influence what people define as acceptable or unacceptable. Thus, a person’s expectations are used to judge the importance of an event or feeling and assist one to assign values, such as the importance of solitude or privacy. People that seek solitude in a forested setting or engage in non-motorized activities can be affected by the use of OHV’s. One effect could be the displacement of some users seeking solitude, such as hikers, mountain bikers, backpackers, primitive campers, bird watchers, and some hunters. This anticipated displacement is generally attributed to sound that can be generated from OHV’s, as it can be disturbing for recreationalists engaging in non-motorized activity, particularly in isolated or secluded areas.

The proposed OHV routes are within Forest Plan Management Areas (MAs) that are classified as Roded Natural in the ROS. The ROS classification of “Roded Natural” means there is moderate evidence and interaction with other users, including sights and sounds. The classification also provides for motorized use. It is the most developed setting managed on the Forest and the majority of the Forest is managed for a Roded Natural setting. When compared to other MAs outside of the proposed routes, approximately 18 percent of the Forest is managed with ROS classifications of “semi-primitive motorized” and “semi-primitive non-motorized.” These areas of the Forest are managed for more limited motorized uses and to provide non-motorized recreation experiences” (EA, pages 17-18).

The Forest reviewed the comments and references submitted and clearly acknowledged their applicability in the current analysis. Herbert Kariel’s 1990 paper entitled “*Factors Affecting Response to Noise in an Outdoor Recreation Environment*” was mentioned as one that could be applied to the OHV Connector EA, and indeed, the principles used in the paper were considered in the Forest’s evaluation. However, the point the commenter was making could not be justified based on the analysis in the paper. The Forest responded:

“The commenter referred us to this article in relation to nighttime campground noise. This topic is only briefly addressed in the article, which states that depending on the type of camping the user is participating in, they may be more or less annoyed with various noises (ex. those in a tent may be more sensitive). This is a relevant conclusion that could be applied to this project; however, the study does not indicate that the slight increase in motor vehicle noise, which is already part of the existing condition in the campgrounds, would displace a significant portion of campers” (RTCs, pages A3-15-16).

The Forest considered displacement and clearly considered the comments submitted by the Appellant. However, the Forest came to a different conclusion than the Appellant. The Forest clearly addressed the comments and references; therefore, I see no violation of law, regulation or policy with this issue. The Appellant simply does not agree with the Responsible Official’s conclusion.

Issue 2(b): In response 8g, the Team disqualifies campers from being non-motorized users based on means of access. The overwhelming majority of non-motorized users access the

Ottawa via highway vehicles regardless of their actual Forest use. They don't access the interior by foot or bicycle, yet use the Forest in a non-motorized activity (NOA, page 8).

Response: The Appellant commented and asked the Forest to disclose the reasonably foreseeable effects of nighttime OHV noise on the campgrounds' use/occupancy rate, disclose any mitigation for this impact that the Forest will implement and whether these remedies will be in place prior to route opening.

The EA acknowledges that forest visitors seeking a non-motorized recreational environment may be displaced by increased presence of OHVs (EA, page 17). However, it also notes that campgrounds have ongoing motorized use and thus are not considered a non-motorized recreation opportunity (EA, page 18):

“The campgrounds in the area of the OHV Connector Routes (located within 0.5 miles of the proposed routes), include the Lake Saint Kathryn campground and the Lower Dam dispersed camping site. The Lake Saint Kathryn campground is a developed site (provides facilities and water). It is adjacent to the Winslow Lake Road (Iron County Jurisdiction) which is already open to OHVs. The Lower Dam dispersed camping site is a decommissioned campground that is open for camping but provides no services to campers. The Lower Dam site is located in very close proximity to the FR3500, which is currently open to highway vehicles only, and is accessed by a short road which is only open to highway vehicles. This proposal does not include allowing OHVs to use either of the roads that directly access these campgrounds/campsites.

Since these areas are already motorized environments (with highway vehicle traffic) and no changes are proposed within the campgrounds, we would not anticipate a large number of campers to be displaced. However, there may be some instances where the slight increase in noise due to additional motorized vehicles causes campers to be displaced to a non-motorized environment (found in other areas of the National Forest). Similar developed recreation opportunities without an adjacent OHV route are available within 5 miles (Perch Lake Campground - 4 miles, Norway Lake Campground - 5 mile).

Alternatively, the proximity of the Connector Routes, which would provide access to the State of Michigan Multi-Use trails and other motorized recreation opportunities nearby the campgrounds, may increase use of these facilities by those seeking that type of recreation experience. We currently do not have sufficient information to predict with reasonable certainty the specific changes to the amount and patterns of use in the campgrounds, but since the changes in noise level and frequency are expected to be slight, we do not anticipate large changes in the occupancy of these campgrounds. In addition, we know that Lake Saint Kathryn is already adjacent to open OHV routes in county jurisdiction (Winslow Lake Road) and still has consistent visitation. Therefore, mitigations are not necessary” (RTCs, pages A3-16 and 17).

The Forest considered displacement of non-motorized users and did state they do not have sufficient information to predict changes but did state they did not anticipate large changes. While the Appellant may not agree with the conclusions reached, the Forest has again clearly

displayed their reasoning and met the intent of the NEPA. I find no violation of law, regulation or policy with this issue.

Issue 2(c): The Proposed Connector will reverse this shift, with non-motorized users displaced to areas where non-motorized users already are, resulting again with visitors' perception of crowding. The Ottawa management has not contemplated this foreseeable impact, and is not contemplating increasing opportunities for quiet and remote experience in SPNM areas or other areas (NOA, page 9).

Response: The Appellant states the Forest is not contemplating increasing opportunities for quiet and remote experience in semi-primitive non-motorized (SPNM) areas. The amount of land available for remote opportunities does not change with the implementation of this project. As noted above, the area was designated as Roded Natural within the Recreation Opportunity Spectrum classification in the Forest Plan. The use may increase some but the classification remains as Roded Natural. In a roded natural setting, users can expect to see and hear other users and vehicle noise.

Increasing the amount of SPNM or primitive non-motorized on the Forest is not the within the purpose and need identified for this project. It is simply beyond the scope of the proposed action. The Forest responded with direction for the Ottawa Forest Plan and survey results from the National Visitor Use Monitoring report:

“It should also be noted that since the 2006 Forest Plan and the implementation of the 2005 Travel Management Rule (with first publication of the MVUM in 2007), the physical area of the Ottawa that is open to OHVs has been substantially reduced due to the prohibition of cross-country motor vehicle use. At the same time, the area of the Forest specifically designated for non-motorized use has not changed substantially (see Appendix B of the Ottawa Forest Plan - “generally, the character of the Ottawa has remained mostly unchanged since the 1986 Forest Plan.”). In addition, National Visitor Use Monitoring Results indicated that the visitor perception of crowding in the General Forest Area (GFA) shifted to less crowded between 2003 and 2009 (Ranging from 6-10 in 2003 down to a 1-6 in 2008, with 10 being “overcrowded” and 1 being “hardly anyone here”)” (USDA Forest Service 2008).

Based on my review of the PR, I find that the Responsible Official has adequately addressed the issue of displacement (see also the answer to Issue 2(b) above) and that the issue of increasing remote opportunities is beyond the scope of the proposed project.

Issue 2(d): The IDT has not even acknowledged the foreseeable crowding or motorized users along the Connector and intersecting designed roads and trails, and has under-stated the impacts of increased use and increased noise (FEIS, pages 3-204-205). While managers largely estimate that a small percentage of users are displaced, they admit they have no data to back up these assertions. Indeed, lack of data is a problem for understanding how common displacement really is (NOA, page 10).

Response: This issue is answered in the responses to Issues 1 (a-c), 2(a and b) above.

Issue 2(e): The IDT fails to acknowledge that displacement of non-motorized users on the Project Area (that will be an impact of designating the Connector) will not indicate a decrease in demand for non-motorized opportunities. This mistaken perception of a decrease in demand was not predicted in the Plan or the FEIS, was not analyzed for responding to the Comment, and will not be incorporated into monitoring and evaluating the impact of implementing increased OHV use, if it remains unacknowledged. The reference continues, "Land managers who observe a site with ORVs and no pedestrians plan additional sites for ORVs." Thus, designation creates more designation unless all effects are understood and factored into evaluating and analyzing designation correctly (NOA, page 10).

Response: Please reference RTC 2(a), as it also relates to displacement and crowding. It appears that the Appellant anticipates a larger displacement impact than the Forest anticipates. The Forest was clear in their RTCs:

“The EA acknowledges that there may be a slight increase in the amount and frequency of noise along the proposed route if opened to OHVs, when compared to the existing condition. The EA also notes that some non-motorized users may be displaced by OHVs (see also Response 8n). The number of non-motorized users that use the general forest area (undeveloped or dispersed areas) adjacent to the proposed routes (within the 0.5 mile distance to which the majority of the noise impact would occur) is unknown. We cannot predict how many of this unknown number of Forest visitors would be impacted by the noise to the level where it causes them to be displaced. Some visitors may simply adjust to the slight increase in noise through rationalization or product shift as described in Yankoviak 2005:

1. Rationalization-The user changes his/her perception of the experience to essentially convince him/herself that the experience was pleasurable.
2. Product shift-The user adapts his/her expectations to meet the actual experience.

Given that this area is not a non-motorized setting, but rather a roaded natural setting where sights and sounds of motorized use are already occurring, we could even presume that most of the users would adjust to slight increase in noise levels.

If forest visitors seeking a non-motorized experience are displaced by the slight increase in the level and frequency of noise, there are ample opportunities to find a more primitive recreation opportunity nearby within the Forest. There is an area designated as SPNM just west of Forest Highway 16 approximately 7 miles from the proposed routes. On the northern portion of the proposed routes, there is semi-primitive motorized and SPNM area in the vicinity of the Sturgeon River Gorge approximately 2.0 and 5.0 miles respectively, from the proposed route” (RTCs, page A3-27).

The area of disagreement between the Appellant and the Forest is clear but the Forest explained the rationale, which is what NEPA requires. The Interdisciplinary Team and the Responsible Official clearly followed the laws, regulations and Forest Service policies.

Issue 2(f): The decision to implement this project was premature due to insufficient analysis of the range of effects on non-motorized Forest users (NOA, page 11 and 12).

Response: The Appellant commented that the Forest did not consult documents referenced as Blich, dated 1988; USDA 1975, and 1993, while authoring the Forest Plan and the Final Environmental Impact Statement (FEIS) while analyzing the effects on non-motorized users. This comment was addressed in the RTCs:

“The recommended analysis and review regarding the balance of motorized/OHV and non-motorized recreation on the Ottawa National Forest was determined at the Forest Plan level. The proposed routes are in compliance with Forest Plan objectives, standards and guides regarding miles of routes, location of routes, and recreational settings. Therefore, this reference has minimal application at the project level. However, the EA does evaluate the potential impacts to the non-motorized user of this particular project.

It should be noted that the Forest Plan and the Alternatives proposed comply with current Forest Service OHV policy – the 2005 Travel Management Regulations (36 CFR. 212) and NEPA” (RTCs, page A3-27).

In addition, 17 documents were cited in Appendix 2- Literature Cited, of which USDA 1975, and USDA 1993, are listed. See page 36 of the EA for the Eastern OHVC Project. The Forest clearly researched this issue and documented the reasons leading up to the decision. My review shows that the Forest did consider the impacts on non-motorized users and concluded that the impacts would be minimal (see also the answers to 2 (a and e). Again the Appellant does not agree with the analysis but the rationale and explanation are quite clear. I see no violation of law, regulation or policy.

Issue 3: Increased Use

a) As stated in my Comment (8v), the Proposed Connector would introduce noise produced by increased OHV presence on many square miles of the Ottawa. While the IDT repeatedly attempted to confine the impacted area to the dual-use road vicinity, the intersecting roads and trails, will also have increased use, and the noise will extend far into the Forest (NOA, Page 12).

The Appellant brings up the issue of an increase in noise impacts in additional areas of the Forest due to additional use on National Forest System Objective Maintenance Level 1 and 2 roads and trails that intersect the routes to be opened in the project. The Forest considered the potential for an increase in OHV use from the project and identified that the County Roads that are being connected by the routes opened by the project would receive increased use (EA, page 15, see Analysis Framework and Assumptions). The EA states on page 20:

“OHV traffic may increase on county roads due to the establishment of open forest roads which provide a connection between the two grades. Since the county roads are currently open to OHV travel, the frequency of noise (not necessarily the level of noise) may increase on county roads.”

Thus, the EA does disclose the impact of increased noise on other roads most affected by the proposal, which are the county roads. The purpose of the project is to provide a connection for

OHV travel between the County Roads (not the OML 1 and 2 roads and trails that intersect the connector routes opened by the project). It is reasonable to conclude that the County Roads would experience the primary increase in use with the opening of the connector routes.

The intersecting level 1 and 2 roads and trails that are open for OHV use are identified in the Motor Vehicle Use Map (EA, page 15; see also PR, Document 140 RTC 8c), and this project does not change those designations. Further, the Forest has a strategy to minimize any illegal access on intersecting and other routes closed to OHV (EA, page 16).

The EA (page 20) discloses that existing OHV and motor vehicle use would continue to occur on open Forest routes under Alternatives 2 and 3 (including the OML 1 and 2 roads and trails intersecting the connector routes). While it is *possible* that the intersecting OML 1 and 2 roads and trails open to OHV that intersect the connector routes may receive increased use as a result of this project, it is reasonable for the EA to focus the noise impact analysis on where this effect is reasonably likely (the County Roads). Even if there is some increased use on the intersecting OML 1 and 2 roads and trails, such an effect would be expected to be a slight change from the existing condition since the routes are already open to OHV (PR, Document 140 RTC 8n page A3-24).

I find that the disclosure impact was adequate and focused on where effects are most likely to occur. I find no violation of the NEPA or other law, regulation or policy.

Issue 3: Increased Use

b) The Response (8z) indicates the IDT did not evaluate the impacts of congregated OHVs as described in my Comment. The IDT provided incomplete misleading analysis relating to increased use (NOA, page 13).

RTC, 8z states that the information used in the EA to disclose noise impacts included measurements of groups of OHVs (PR, Document 140 page A3-36). As stated in the RTC, the Forest Service 1975 study (PR, Document 293) indicates that the study evaluated multiple OHVs traveling at the same time (PR, Document 293 pages 3 and 7), that a doubling in traffic volume produces only a small change in sound level (2-3 dBA), and that the OHVs did not operate as a point source. This same study which considers groups of OHVs makes the conclusion that OHV may generally be audible within ½ mile (PR, Document 293 pages 9 and 10). Therefore, I find that the analysis adequately considered the possibility of impacts from groups of OHVs in indicating that OHV noise may generally be audible within ½ mile of the proposed routes. Please see the Response to Issue #1 (Noise) for further discussion on the noise analysis. I find no violation of the NEPA or other law, regulation or policy related to this issue.

Issue 4: It is unclear if mitigation measures will occur prior to opening the proposed route (NOA, page 15). “Seeing that the IDT could have disclosed this information in their responses, but did not, I can only conclude that the mitigation measures that Soil and Water Specialists expected to be completed prior to Route designation will not be implemented. It does not appear that the RO could have reached an informed decision using the analysis provided involving these roads” (NOA, pages 15-16).

***Issue 4a:** Responses 10a and 10 b do not clarify whether or not concerns of Soil and Water Specialists will be mitigated prior to route designation. It appears that the mitigation measures that Soil and Water Specialists expected to be completed prior to Route designation will not be implemented. It does not appear that the Responsible Official could have reached an informed decision using the analysis provided involving these roads. FR 1100 and 1460 road work needs were documented in 2008. FR 1300 was also included with these two roads with concerns in the Soil and Water Specialist Report of 2008. All remain unrepaired in 2012.” (NOA, page 15).*

Response: The Appellant brought this issue up during the comment period and the Forest responded in their Interdisciplinary Team’s RTCs received for the EA. Both the EA (p. 11) and the DN (p. 4) state that the list of design criteria would be utilized to address any potential resource concerns related to implementation of the selected actions and would be applied to all action alternatives or selected actions. These include items such as, rehabilitation of roadside ditches, road resurfacing and rehabilitation, and spot surfacing. The response also references the DN, Appendix 4 - Summary of Dual Use Analysis Recommendations, Estimated Costs, and 5-year Reconstruction Strategy. Within this Appendix, Tables 1 and 2 (pp. A4-3-5) list recommendations for types of use, needs, costs, and the maintenance and reconstruction strategy for project roads.

The Forest responded to the Appellant’s comment:

“Some segments of road (high risk areas) proposed for dual use require reconstruction prior to designation and would not be open to OHV travel until the required recommendations have been implemented (Forest Roads 3500, 2127, and 3660). Other roads proposed for dual use require maintenance prior to designation, and would involve roadside mowing, brushing, and branch trimming as well as the installation of “Share the Roads” signs (Forest Roads 1100, 1300, 1460, 2009, and 3270)” (EA, Appendix 3-RTCs, p. A3-52).

The response to the Appellant’s comments and the DN appendix adequately describe when recommendations and design criteria related to dual use safety would be implemented. Some of these design criteria would need to be implemented before the routes would be open. The answer is clear and specifically identifies which roads fall into each category.

Additionally, Chapter 4 of the EA also describes the monitoring strategy in place for this project. This includes pre-opening and post-opening monitoring. Pre-opening monitoring occurred through the fall of 2012 (EA, p.28) and was used to identify types and amounts of current use, presence and effectiveness of signs and closure devices, and resource damage.

Furthermore, as described in the EA on p. 27, existing routes in the project area have small amounts of sedimentation to adjacent water resources, and although use would likely increase with the proposal, “the integrity of the decision area’s water and riparian features would be maintained and water quality would remain in good to excellent condition” (EA, p.27). Response 10b continues to state that the EA describes Appendix 4 and how the “Reconstruction Strategy” was created for reducing safety concerns and has the additional benefit of further reducing the soil and water impacts resulting from increased motor vehicle use on the proposed routes” (EA, Appendix 3, p. A3-51).

Based on the water and soil resource analysis which found minimal effect to these resources from project implementation, the decision to implement design criteria and mitigation measures, the response to comments, and the project record, the Responsible Official had sufficient information to make an informed decision.

Issue 4b: *“This project includes a 5-year Reconstruction Strategy that is funded only to 9/30/13. Given the documented current policy of deferred maintenance, it is reasonable to assume that resource protection and safety concerns will be deferred beyond a five year time frame. With the addition of OHV impacts and increased use on the Connector roads and trails, maintenance and mitigation needs will be compounded, competing with the scheduled required mitigation measures. All identified mitigation measures need to be implemented prior to opening the Connector Project.” (NOA, page 15).*

Response: It is true that implementation of the project will be influenced by the availability of funding. As stated in the response to Issue 4a, there are certain measures that would be implemented before some routes could be opened. Additionally, design criteria would address potential resource concerns related to project implementation (DN, p. 4). Moreover, “these criteria will be in addition to all Forest Plan direction and other applicable laws and regulations” (DN, p.4). Appendix 4, Table 2 of the DN lists the proposed activities and costs of the 5-year maintenance and reconstruction strategy. As stated in this appendix and in the response to comments, this work has been prepared to phase in based on the highest priority safety concerns and resource needs. Finally, pre-opening monitoring (EA, Ch.4, p. 28) occurred through the fall of 2012, and identified areas where OHV use may be causing resource damage. These areas would be prioritized based on evidence of unauthorized use or resource damage. In this chapter, the Forest also described an adaptive management approach that focuses on improving areas of unauthorized use or resource damage; taking measures to fix problems quickly.

Subsection 3.3 of the DN (p. 15) expands on the design criteria that, “will be implemented as soon as feasible (pending availability of funding) to ensure safety.” To address the availability of funds issue, the “Decision Rationale” section on p. 7, states that the Forest has shown its commitment to improving travel management and will continue to do so within the appropriated and other available future funds. The deciding official also states in the DN that, “Finally, I have considered the cost of implementing the proposed routes in relation to the benefits of the proposal. I have determined that these costs are warranted given the need for motorized recreation opportunities.....Partner organizations and volunteers have already shown their commitment to help reduce the costs of providing a safe recreational opportunity...” (DN, p. 9).

In summary, the Forest clearly identified mitigation measures (design criteria) in both the EA and DN that will be implemented to the OHV routes and are committed to funding the decision for public safety concerns, improved recreation needs, and the protection of resources to the best of their ability.

Recommendation

After reviewing the Project Record materials for the Eastern OHV Connector Route Project on the Ottawa National Forest and after reviewing and considering the concerns raised by the Appellant, I find no merit in this appeal. I recommend that the decision for this project be affirmed.

/s/ Timothy A. Dabney
TIMOTHY A. DABNEY
Appeal Reviewing Officer
Deputy Forest Supervisor

cc: Patricia R Rowell