



File Code: 1570-1

Date: September 13, 2004

Mr. Frank Jeff Verito
350-1/2 East Ridge Street
Marquette, MI 49855

RE: Appeal of the Decision Notice and Finding of No Significant Impact for the Thunderbird Project Environmental Assessment, Munising Ranger District, Hiawatha National Forest, Appeal 04-09-10-0028 A215.

Dear Mr. Verito:

On July 14, 2004, you filed a notice of appeal pursuant to 36 CFR 215.11. District Ranger Teresa Chase signed her Decision Notice and Finding of No Significant Impact on June 10, 2004, for the Thunderbird Project. The legal notice for this decision was published on June 15, 2004. My decision is based upon the Appeal Record and the recommendation of the Appeal Reviewing Officer (ARO) Allan Bier, District Ranger, Laurentian Ranger District, 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, Teresa Chase, and the issues raised in your appeal. The Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on the appeal and on the specific relief requested.

FOREST ACTION BEING APPEALED

The Thunderbird Project, encompassing approximately 11,347 acres of National Forest land, consists of various management activities including, but not limited to, thinning and harvesting of timber, prescribed burning, construction of temporary roads, and the reconstruction of existing roads within Management Areas 4.2 and 4.4.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer found no evidence that the Responsible Official's decision violated law, regulation or policy. He found the decision responded to comments raised during the analysis process and comment period and adequately assessed the environmental effects of the selected action. In addition, he found the issues raised in your appeal were addressed, where appropriate, in the decision documentation. Based on his review, the Appeal Reviewing Officer recommended the decision be affirmed.



DECISION

After review, I concur with the Appeal Reviewing Officer's analysis and findings regarding your specific appeal issues (e.g., impacts to old growth; inadequate public comment; failure to access cumulative effects; failure to respond to comments; failure to revise the Forest Plan; concerns about the fuels program, goshawk habitat, alternative design, soils/sedimentation, economics, white pine, and plantation management).

To avoid repetition, I adopt his rationale as my own and refer you to the enclosed Appeal Reviewing Officer recommendation for further detail.

It is my decision to affirm District Ranger Teresa Chase's Decision Notice and Finding of No Significant Impact for the Thunderbird Project on the Hiawatha National Forest.

Pursuant to 36 CFR 215.18(c) this decision constitutes the final administrative determination of the Department of Agriculture.

Sincerely,

/s/ Thomas A. Schmidt
THOMAS A. SCHMIDT
Appeal Deciding Officer
Forest Supervisor

Enclosure

cc:
Responsible Official, Teresa Chase
RO, Patricia Rowell



United States
Department of
Agriculture

Forest
Service

Superior National Forest
Laurentian Ranger District

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File Code: 1570-1
Route To:

Date: September 9, 2004

Subject: Appeal of the Decision Notice and Finding of No Significant Impact for the Thunderbird Project, Environmental Assessment, Munising Ranger District, Hiawatha National Forest, Appeal 04-09-10-0028 A215

To: Forest Supervisor, Hiawatha NF

This letter constitutes my recommendation for the subject appeal filed by Frank Jeff Verito for the Thunderbird Project on the Munising Ranger District of the Hiawatha National Forest (HNF). District Ranger Teresa Chase signed this Decision Notice on June 10, 2004. The legal notice of the decision was published on June 15, 2004.

My review was conducted pursuant to 36 CFR 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 concerns raised by the Mr. Verito and the decision documentation submitted by the Hiawatha National Forest. My recommendation is based upon review of the Project Record including but not limited to the scoping letter, public comments, Decision Notice, and the Environmental Assessment (EA).

On July 26, 2004, an offer to meet with District Ranger Teresa Chase to informally settle this appeal was declined by Mr. Verito.

Appeal Issues

It was difficult to ascertain Mr. Verito’s specific appeal issues. In many instances he recounted his personal experiences and opinions. Nevertheless, I summarized 13 different areas where Mr. Verito was concerned about the Thunderbird project or requested additional clarification. The Responsible Official addressed many of these same concerns in her “Response to Comments” to the Environmental Assessment (Volume 1, Book 1, Tab A).

1. Mr. Verito states, “... *too small a percentage of HNF remains in old growth condition to sacrifice any more.*” (NOA, p. 1).

Response: Mr. Verito did not raise this concern during the 30-day comment period.

I find Mr. Verito’s allegation as unsubstantiated. There are two very small patches of old growth (59 acres within the project area boundaries – p. 31 - Thunderbird Environmental Assessment, Table 3.2.5; Vol. 1, Book 3, Tab 1-Vegetation Management, I-2). The Record



clearly shows, “The team decided not to make any change to the present old growth in the project area.” (EA, p. 31).

2. Mr. Verito claims, “*Public issues were not adequately addressed. To claim the decision complies with public comments and concerns that were raised is blatantly untrue.*” (NOA, p. 1) “*Viable public input is not incorporated into HNF’s Forest Plan.*” (NOA p. 2).

Response: Mr. Verito raised this concern during the 30-day comment period.

My review of the Project Record clearly indicates adequate public involvement, contrary to Mr. Verito’s assertion. The project was first identified in the July 1999 issue of “Project Planning,” the HNF’s quarterly “Schedule of Proposed Actions”. The project was also posted on the HNF Internet site in 2001. Scoping began in May 2001 with approximately 518 letters being sent to landowners in the project vicinity, interested citizens, local governments, federal agencies, tribes, organizations, and industry, explaining the project and requesting comments on the proposed action. An open house was held in the spring 2001 at the Munising Ranger District Office to further inform the public and to provide a forum for commenting. Team members interacted by phone and e-mail throughout the scoping period. Under each subsection of the “Affected Environment and Environmental Effects” section of the EA, the issues identified during scoping were addressed in direct, indirect, and cumulative effects discussions. In addition, the EA became available for a 30-day public comment period in May 2004. Three comment letters were received.

The District Ranger considered three alternatives in detail and selected Alternative 3 for her decision (DN). She based her decision on the decision criteria including the purpose and need, compliance with the Forest Plan, and how well the alternative resolved public issues. Reasons for selection included but were not limited to: 1) it reduces the risk of wildland fire by cutting over-mature jack pine stands; 2) it improves transportation conditions for user safety and access across the project area; and 3) it provides high quality habitat for Kirtland’s warbler, grouse, and other species.

The assertion that viable public input is not incorporated into the HNF’s Forest Plan is unclear, and in any event is outside the scope of this project. Public input is a NEPA-based requirement for every “major federal action.” That requirement applies to the current project as well as the promulgation of the Forest Plan. With regard to the current project, public input was sought, accepted, and incorporated into the environmental analysis and decision as set forth above. The promulgation of the Forest Plan in 1986 also entailed the extensive solicitation and use of public input.

3. Mr. Verito states, “*We continue to argue over the validity of HNF publications, which I consider contestable on every timber sale.*” (NOA p. 1). “[The] *HNF has no business operating on this outdated Plan.*” (NOA p. 3). “[There is] *no excuse for a revised or amended plan to be this delinquent. Values have changed greatly since 1986, as have the numbers of citizens who depend on the forest for activities other than logging.*” (NOA, p. 4).

Response: I find Mr. Verito's assertions unfounded. A Land and Resource Management Plan (LRMP, or "Forest Plan") does not simply expire. There are no expressed requirements in the National Forest Management Act (NFMA) or its regulations to halt management activities if a Forest cannot meet the 15-year target in the statute. Also, the President of the United States on November 10, 2003 signed the Department of the Interior and Related Agencies FY 04 Appropriations Act, H.R. 2691, P.L. 108-108. Section 320 states:

"Prior to October 1, 2004 the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1604 et seq.) or any other law."

The Hiawatha National Forest has completed yearly monitoring and evaluation reports and assessed changing conditions. The Forest is currently assessing this information along with new input from concerned citizens in preparation for its Plan revision (scheduled for completion in 2005). Likewise, the Hiawatha National Forest has maintained its existing Forest Plan through adoption of 23 separate amendments. Many of these amendments incorporate new direction which reflects changing resource demands (e.g., Visual Quality Objectives; Wilderness; Research Natural Areas; Wild and Scenic Rivers; Threatened, Endangered and Sensitive Species; Semi-Primitive Areas; Roads; Below Cost Sales; First Decade Harvest; Second through Fifth Decade Harvest; Aspen Management; Even Age Versus Uneven Age Management of Northern Hardwoods; and Old Growth from the Original Forest Plan). Mr. Verito presents no specific claim that the existing plan direction used in the development of this project was inadequate. Evidence in the Project Record supports the fact the Forest Plan has not remained stagnant.

4. Mr. Verito contends, "*Impacts from the decision are not unique to this project, as previous projects have had similar activities and effects.*" "*This suggests a cumulative effect...*" (NOA, p. 2) "...*HNF jumps onto the next sale with no regard for the impact caused by the previous sale, which cannot yet be determined.*" (NOA, p. 4).

Response: Mr. Verito raised this concern during the 30-day comment period. My review shows the EA addresses cumulative effects at length with narrative and numerous tables, contrary to Mr. Verito's allegation. Examples of cumulative effects discussions include:

- Past, Present, and Reasonably Foreseeable Future Actions Table, that forms a baseline for the analysis of cumulative effects (p. 27);
- Cumulative Effects Analysis for Various Resources:
 - Vegetation Management, including a 20-year harvest acre projection and a table detailing harvest activities since 1986 (pp. 37-41);
 - Flora, (pp. 49-52; 54-55);

- Wildlife, including an extensive table showing cumulative effects on Management Indicator Species (MIS), and a substantial narrative regarding federally listed species, Regional Forester Sensitive Species, and State special concern species (pp. 75-93);
- Soils (pp. 99-100);
- Water Quality and Riparian Areas (pp. 106-108);
- Recreation (pp. 113-114);
- Transportation Management (p. 118);
- Fire (pp. 125-128); and
- Environmental Justice (p. 132).

The above cumulative effects analysis for the various resources are fully supported in the Project Record (Volume 1, Books 3-6) and BE (Appendix D). This analysis indicates the effects of past and reasonably foreseeable future activities will not be significant in nature, and the proposed management activities when taken in their entirety are likely to have similar, insignificant effects. This supports the “Finding of No Significant Impact”.

I find the claim that the “... *potential impacts from the Bay timber sale have not yet been determined*” to be untrue. One cannot conclude that the fact the Bay project is under appeal and has not yet been implemented implies its potential impacts are unknown. The Bay project underwent a rigorous environmental analysis as required by NEPA. The result was an EA that set forth, at great length, that project’s potential direct, indirect, and cumulative impacts to the human environment.

5. Mr. Verito asserts, “*Many concerns in the Ranger’s response to comments were not addressed* [i.e., not providing a due date for comments]....” (NOA p. 3).

Response: Mr. Verito raised this concern during the 30-day comment period. Of the various comments received, two were answered with “Comment Noted,” because they presented the commenters’ opinions rather than substantive, fact-based issues that could be addressed. All other comments were answered substantively.

The allegation that we did not address the comment about our inability to provide a concrete due date for comments is clearly false. The Responsible Official referenced the applicable Code of Federal Regulations that specifically prohibit the Forest Service from establishing a particular due date:

- ✓ “Providing this date in documents provided to the public is prohibited under 36 CFR 215.5 (b) (iv) (see below). Portions of the Forest’s legal obligations for publishing legal notices are listed below.
- ✓ 36 CFR 215.5 (a) The Responsible Official shall: (2) Publish a legal notice of the opportunity to comment on a proposed action as provided for in paragraph (b) (2).

- ✓ 36 CF 215.5 (b) (iv) For a proposed action to be analyzed and documented in an environmental assessment (EA), a statement that the opportunity to comment ends 30 days following the date of publication of the legal notice in the newspaper of record (§215.6(a) (2)); legal notices shall not contain the specific date since newspaper publication dates may vary.”

Mr. Verito also contends, “*On Page 3 of public comment my concern on item (2) (g) Page 7 of the EA, wasn’t answered.* (NOA, p. 3)

Response: The response to this comment was “Comment Noted.” My review indicates the Responsible Officials reply was based entirely on the fact that Mr. Verito provided an opinion, without the support of factual data. A substantive response was not possible.

Further, Mr. Verito states, “*‘Most of the ‘overmature’ timber [i]s jack pine and aspen.’ ‘How about the part that isn’t ‘most of’ the Thunderbird sale, as well as the higher percentage of hardwoods in the Bay Sale? My most important concerns are ignored.’* (NOA, p. 4).

Response: The Bay sale is not at issue in the environmental analysis for the Thunderbird project, except insofar as it relates to cumulative impacts. Those cumulative impacts were exhaustively analyzed, as discussed above (Item 4).

With regard to not addressing other hardwoods in the analysis, I find Mr. Verito’s statement unfounded. The “Vegetation Management Affected Environment and Environmental Effects” section of the EA (§3.2) discusses all of the harvested species, as well as the potential impacts of that harvest. These species include red pine, white pine, Norway spruce, paper birch, hemlock, red maple, sugar maple, red oak, yellow birch, and white spruce. Any inference that these species and the effects of harvesting were not discussed in the EA is false.

6. Mr. Verito states, “*The fuel reduction program isn’t applicable to HNF, except maybe near Munising.*” (NOA, p. 4).

Response: Mr. Verito did not raise this concern during the 30-day comment period.

Mr. Verito’s concerns regarding the fuels reduction program in the project area are unfounded. The Environmental Analysis sufficiently discusses the fuels program in detail. The fuels reduction program is applicable since the principle purpose of the program is to reduce hazardous fuel through treatments to overmature fire-prone species, such as jack pine, and reduce fire hazards in stands adjacent to private lands with special attention to “at risk communities” as defined by the Healthy Forest Restoration Act of 2003 (EA, p. 7). Failing to reduce fuel will result in increased fuel loading making these stands vulnerable to uncontrolled fires. Uncontrolled wildfire will place at risk homes and camps on private

property near the project area. I note that failing to reduce fuels will not meet the purpose and need to reduce the risk of an uncontrolled fire (EA, p. 10).

One objective of fire management is to reduce the amount of fuel available so that, if a fire starts, it will burn with less intensity. Reduction of the extremely flammable jack pine fuels, through timber sales and post sale treatment, reduces fire intensity. Low intensity fires have a positive nutrient affect on soils. A high intensity fire, where the heat source is present for a longer period, has a negative affect on the organic layer of the soil (EA, p. 119).

7. Mr. Verito contends, “...*HNF is accused of eliminating too much goshawk habitat to maintain viable populations. Independent observers need to verify this allegation before any more cutting occurs.*” (NOA, p. 5).

Response: Mr. Verito raised this concern during the 30-day Notice and Comment period.

The main portion of the project area is not considered suitable habitat for goshawk. The majority of management in this area is jack pine clearcut. Jack pine is not used for nesting by goshawk most likely due to the small size canopy of jack pine. Management actions in this portion of the project area will have little effect on Northern goshawk. (Wildlife Biological Evaluation, Appendix E p. 29)

The project area contains two main forest types, hardwood and conifer. Conifer stands other than jack pine that include deciduous and conifer species would be suitable for goshawk nesting. An existing goshawk nest is in a red pine stand that also has deciduous trees. This stand was originally proposed for harvest but removed from the proposed action. In addition, stands 22, 27, and 50 in C-50 were previously in the proposed burn area, and are within the postfledgling area for the existing goshawk nest. These stands were removed from the proposed burn area and will be mechanically scarified outside of the nesting season. It’s unlikely there will be any direct impacts to the goshawk from any proposed activity since harvest and burning will not occur in the area where the current goshawk nest occurs. (Wildlife Biological Evaluation, Appendix E, pp. 27-30).

If additional nest sites are found in the project area during implementation, the “Recommendations for Avoiding, Minimizing Effects or Conservation Measures” would apply to protect the goshawk.

Because there is limited habitat for the goshawk within the project area and harvest/burning have been removed as project activities within the stands where the goshawk nest and fledging areas occur, the project will not have long-lasting effects on the species. The proposed action is not likely to cause a trend to federal listing or loss of viability for the goshawk. I find the Responsible Official adequately evaluated the effects on the goshawk.

8. Mr. Verito states, “*Page 16 demonstrates HNF’s pattern of designing two destructive alternatives, and choosing the slightly less destructive of the two.*” (NOA, p. 5). “*The*

comparison of Alternatives 2 and 3 show no rhyme of reason, ...” (NOA, p. 5). “Although the tables could be handy, they aren’t” (NOA, p. 5).

Response: Comments from project scoping help Interdisciplinary Teams develop alternatives. Mr. Verito did not respond to initial scoping of the Thunderbird project. Consequently, his concerns were not available to assist in developing the alternatives for this NEPA analysis [Vol. 1, Book 2, Tag G, G-1 Scoping Letter sent to Public May 8, 2001; Vol. 1, Book 2, Tag G, G-2 Scoping Mail List].

In response to both internal and external scoping, six alternatives were considered for analysis (EA, p. 16). The Interdisciplinary Team determined three of these contained specific activities (e.g., no temporary road construction, limiting clearcuts to 40 acres, and no under-burning) that did not meet the purpose and need for the project and therefore not considered for detailed analysis (EA, p. 16). The remaining three alternatives, analyzed in detail, included the “no action”, the proposed action and an alternative designed to address several specific issues [i.e., creating permanent openings adjacent to forested wetlands, opening of closed roads, and the effects of fire and short rotation timber management on soil productivity (EA, p. 13)].

NEPA does not require any particular range of alternatives, but gives agencies the discretion to determine appropriate alternatives based upon the purpose and need of the proposal. Further, NEPA does not require an agency to examine every conceivable alternative, but only those that are reasonable [40 CFR 1502.14, 1508.26(b)]. An environmental document only needs to set forth alternatives sufficient to permit a reasoned choice. There is no requirement to consider alternatives that are impractical or infeasible. NEPA’s regulations simply require that a range of alternatives be analyzed [40 CFR 1502.14, 1508.26(b)]. In reviewing Forest Service decisions similar to this project, the courts found the range of alternatives may be limited to those alternatives meeting the purpose of the proposed action [see: e.g. *Krichbaum v. Kelley*. 844 ‘F. Supp. (W.D. VA 1992)]. A forest does not need to consider a “no logging” alternative that does not meet forest plan goals [*Sierra Club v. Robertson*, 810 F. Supp. (W.D. Ark. 1992), affirmed, 28 F. 3d 753 (8th Cir. 1994), (NEPA does not require an agency to consider alternatives that do not achieve the purpose of the proposed action)].

Mr. Verito also appears to find difficulty in using the tables comparing alternatives. For a full understanding of the documents, one must use all of the tables, maps, environmental analysis and Finding of No Significant Impact narratives in conjunction with each other. No one portion can stand-alone. I find when used together, the alternative maps and both Table 2.4.1 – Comparison of Alternatives (EA p. 16) and Table 2.4.2 – “Summary of Effects by Alternative” (EA p. 17) clearly displays the alternatives.

9. Mr. Verito states, *“Any exploitive activity along a waterway is unacceptable. Despite past, unanswered complaints, HNF continues to propose such activities, such as shelterwood cutting ... just east of FR 2496.”* (NOA, p. 6). *“The consequences of sedimentation, fluid spill and mitigation of invasive species are exacerbated along waterways.”* (NOA, p. 6).

“The Alternative 3 map is further confusing, in that in several spots the compartment boundaries are hard to distinguish from water bodies.” (NOA, p. 6).

Response: The claim that activity along a waterway is unacceptable is rooted in Mr. Verito’s opinion. He presents no factual evidence to support his case.

The EA fully analyzes potential impacts to waterways, and sets forth the applicable and necessary water-related mitigation measures in the “Mitigations and Monitoring” section (§2.5), the “Soils Environmental Effects” section (§3.5.3), the “Water Quality and Riparian Areas” section (§3.6.3) and the “Thunderbird Project Roads Analysis” (Appendix F). These measures, developed by the Forest Service and the Michigan Department of Natural Resources, protect soils and water bodies in the project area. Monitoring will further evaluate the effectiveness of implementing these soil and water mitigation measures (EA §2.5).

Documentation of site-specific soil information, specific actions and effectiveness is included in the EA, appendices and Project Record. As stated in the EA, project design included applicable guidelines from the Forest Plan, FS Manuals/Handbooks, and from the Michigan Department of Natural Resources Best Management Practices (BMPs).

Site-specific information regarding soil types, location, erodibility, and mitigations is contained in the Project Record (Volume 1, Book 4, Tab P, Documents P-1, P-2, P-3, P-9, and P-17). The “Thunderbird Transportation System Improvements Report” (Appendix F of the EA) was also used to identify transportation-related needs including opportunities for restoration. Additional water quality information and soil information pertaining to water quality is contained in the project Interdisciplinary Team meeting notes (Volume 1, Book 2, Tab C). The EA and the Project Record (Volume 1, Book 4, Tab P, Documents P-8, P-10, P-12, P-13, P-14, P-15, P-16, P-18 through P-27) are replete with references to scientific water and soils studies and reports.

With regard to sedimentation, the “Water Quality and Riparian Areas” section of the EA (§ 3.6.2) states that “...[N]o streams occur on the project area. No critical fish habitat occurs on the project area.... There are no floodplains within the Thunderbird Project Area.” The EA (§ 3.5.3.4) also states, “Due to the limited surface area on the project area, the depth of soils and the high infiltration rates, no short-term or long-term cumulative effects to water quality are expected as a result of implementation of any of the alternatives.

Both the “Flora Environmental Effects” section of the EA (§3.3.3) and the BE (Appendix D) assess the potential impacts from non-native invasive species. A non-native species evaluation was completed for the Thunderbird project, and is located in the Project Record (Volume 1, Book 3, Tab J, Document J-10).

The aforementioned BMPs, which are contained in the Project Record, are specifically designed to mitigate impacts on waterways from invasive plant species, fluid spills, etc. BMPs represent the best scientific techniques currently available, and have proven successful in past projects at reducing or eliminating the potential adverse effects of management

activities. I find that protection of waterways is well covered by the EA and the Project Record. Further, I find that when used together, the maps and narratives very clearly indicate the location of water bodies and compartment boundaries a concern of Mr. Verito's.

10. Mr. Verito states, "*Page 119 shows a comparison of estimated costs, which don't appear to include the costs of document preparation and mailing. The \$157,965 projected for the treasury is a drop in the bucket compared to the deficit, and doesn't include the social costs to a public who will not have a natural appearing forest, when the need becomes most apparent.*" (NOA, p. 6).

Response: Mr. Verito raised this concern during the 30-day comment period.

Page 119 of the environmental analysis is the discussion of fire within the "Affected Environment and Environmental Affects" chapter. The economics discussion is on page 130. I find Mr. Verito's concerns regarding the Project's economics unfounded. It is true the cost of production, mailing, etc. is part of the total project cost, however, adding it to the over all cost will not portray true differences because it is the same cost in all alternatives. The Responsible Official designed the economics analysis to determine if there were any substantial differences in the economic efficiency of timber harvest by alternative. She employed a simple, direct cost and revenue process.

The costs of document preparation/mailing and other costs common to all alternatives is a "sunk cost." This is a commonly used economics term referring to unavoidable costs already incurred. It is a cost that has already been "sunk" into a particular activity. Sunk cost can be used to represent the sum of all past costs incurred, including embedded costs and capital costs; it does not include labor, rental, maintenance or other ongoing charges for things required in the present.

It is true the projected dollars to the treasury is small when compared to the deficit; further, it is extremely difficult, if not impossible, to quantify the social costs or the benefits (such as: What is the cost of an environmental benefit if that benefit is at the expense of another environmental benefit?).

I find the Ranger appropriately weighed numerous factors in making the decision, including, but not limited to, compliance with Federal and State laws, environmental impacts on the social, economic and biological environment, and the public comments and concerns that were raised during project analysis (FONSI, p. 16).

11. Mr. Verito contends, "*HNF ought stop planting in rows, and return our forest to a natural condition.*" (NOA Pg.3). "*Plantations ought to be phased out, but not at the expense of species that have grown dependent on the canopy,...*" (NOA, p. 5). "*The EA maps don't make clear enough which cuts are on plantations versus hardwoods.*" (NOA, p. 5).

Response: Mr. Verito did not raise this concern during the 30-day comment period.

The analysis states that red pine and jack pine stands, regenerated by planting, will have a systematic or row like appearance. It also states that naturally regenerated or seeded stands will have a more random uneven appearance (EA, p. 3). Further, the Responsible Official clarified (“Response to Comments”, Volume 1, Book 1, Tab A) that these stands will be treated to provide natural regeneration along with supplemental planting. This provides a more natural appearance. In addition, other species of trees such as white pine, red oak, and white birch, will be left to provide a seed source to increase diversity mitigating Mr. Verito’s concerns.

In response to Mr. Verito’s concern over the inability of the maps to adequately portray cut units on plantations versus hardwoods, I find his claim unfounded. As discussed above (Item 8), tables, maps and environmental analysis narratives must be used and reviewed in conjunction with each other for a full understanding of the project. I find that when used together, the maps and narratives very clearly make this distinction.

12. Mr. Verito claims, “*There are too few stands of large white pine across the forest. HNF proposes to destroy the largest of these pines, denying future generations of natural opportunities.*” (NOA, p. 6).

Response: Mr. Verito’s allegation, that the Forest is destroying the largest of the white pines, is unsubstantiated. As discussed in Item 1, there are only two very small patches of old growth within the project area’s boundaries. The Responsible Official decided not to make any change to the present old growth in the project area (EA, p. 31). Under Alternative 3, only 484 acres of white pine are proposed for harvest, all using the shelterwood method (EA, p. 16). Large disease free white pine will be left as a seed source. In addition, the project proposes the conversion of 53 acres of jack pine to white pine (EA, p. 13). The under planting of white pine occurs throughout the project. One objective is to retain and enhance the white pine component in existing stands (“Response to Comments”, Volume 1, Book 1, Tab A).

13. Mr. Verito requests, “*Make certain [an] EIS....*” (NOA, p. 6).

Response: Following Forest Service Handbook (FSH) direction, which sets forth agency NEPA guidance, the Responsible Official must prepare an EIS if it is determined that the proposed action may have a significant effect on the quality of the human environment. Absent that finding, he/she is directed to prepare a FONSI (FSH §1909.15(43)(1)). Further, Council of Environmental Quality regulations compel the Responsible Official to prepare a FONSI rather than and EIS if the proper basis exists within the EA (40 CFR 1501.4(c, e)).

The Responsible Official for the Thunderbird project decided a FONSI was warranted in this instance. That decision was based upon the supporting data and analysis contained in the EA, which in turn, is bolstered by the extensive Project Record. Preparing an EIS would be unnecessary in this case.

RECOMMENDATION:

After reviewing the Project Record for the Thunderbird Project, and considering each concern raised by Mr. Verito, I recommend District Ranger Teresa Chase's Decision Notice of June 10, 2004 be affirmed.

/s/ Allan Bier
ALLAN BIER
Appeal Reviewing Officer
District Ranger

cc:
Responsible Official, Teresa Chase
RO, Patricia Rowell