

March 5, 2004

District Ranger Tracy Beck
Rambling Woods Resource Management
417 Forestry Drive NE
Blackduck, MN 56630

Re: Rambling Woods Resource Management Project EA

Dear Mr. Beck:

The North Star Chapter of the Sierra Club submits these comments in response to your February 6, 2004 letter regarding the environmental assessment and related documents for proposed activities in the Rambling Woods Resource Management (RWRM) project. Please include these comments as part of the Forest Service's official record for this project and add the Sierra Club to your mailing list (at the address above) to receive copies all future notices, announcements, and documents related to this project including the final EA/EIS, decision notice, and any bid announcements or contracts.

As you know, the Sierra Club is a non-profit environmental organization with over 21,000 members in Minnesota, who are concerned that Minnesota's national forest resources are adequately protected, especially with regard to recreational opportunities and ecological integrity. The Sierra Club supports an end to commercial logging on all federally owned forests, as well as logging programs that have an ecological purpose rather than commercial (*e.g.* restoring forest types toward RNV). We participate in the administrative process to provide

substantive comments on identified project areas as well as encourage the Forest Service to significantly reduce commercial logging in our national forests to better achieve long-term wildlife and habitat protection and sustained recreational opportunities.

The Sierra Club appreciates the considerable amount of time and work the Forest Service has already been devoted to this project. The Sierra Club identifies, however, the following issues of concern.

1) *The Forest Service has failed to perform an adequate alternatives analysis.*

a) *The agency has disregarded spirit and letter of NEPA regarding scoping and public input.*

The RWRM project raises concerns that the Forest Service is not sincerely engaging in the NEPA process. It appears as if the Forest Service is grudgingly going through the motions of NEPA without actually *employing* the process to analyze what needs to be done and to determine how best to do it.

Specifically, we are concerned that the agency had chosen its desired outcome at the very beginning, when it issued its original scoping letter for the Rambling Woods project.

When we read the scoping letter we were very worried that the solicitation of our comments (or any one else's) merely represented *pro forma* compliance with NEPA rather than a legitimate attempt to gather and analyze public input. Specifically, we are concerned about the unusual procedures that were adopted. The Forest Service provided a shortened period for public comment (three weeks as opposed to the normal 30 days) and identified in advance the issues of concern. **Before it had gotten any public feedback at all the Forest Service had already developed a proposed action and alternatives.**

Because of our concerns, we asked the Forest Service, in crafting its EA, to diligently develop an adequate range of alternatives and to rigorously explore those alternatives. Moreover, we made very specific suggestions about alternatives that we felt should be part of the EA analysis. Thus, we requested that the Forest Service include in its analysis management approaches that emphasize vegetative restoration and that deemphasize timber production. We asked that the Forest Service consider an alternative in which priority was placed on restoration of white pine and other conifers and on increasing the proportion of older trees within the Blackduck district. We asked for alternatives that, to the greatest extent feasible, eliminated the use of clearcutting and eliminate the construction of new roads in the project area, and alternatives that placed an emphasis on providing suitable habitat for wildlife species associated with older forest and interior areas.

Unfortunately, our concerns were confirmed when we read the EA for the RWRM project. Though many citizens submitted comments on the scoping letter, it appears that no comments were considered. The EA states that both alternatives changed prescriptions on only 11 acres between scoping and EA stages. (11 acres found unsuitable for thinning; scoping letter at 11; EA at 20) This emphatically suggests that the Forest Service had already settled on alternatives before it sent the scoping letter.

This is not the "hard look" that NEPA requires. The courts have consistently ruled that NEPA requires federal agency's to genuinely scrutinize and analyze a range of alternatives. The Forest Service is not allowed to simply go through the motions. If, as we fear, the Forest Service had a predetermined outcome when it began the Rambling Woods project "analysis" then it has violated NEPA's procedural safeguards.

Federal regulations are quite clear on this point. First, the agency must genuinely involve the public in the NEPA process. NEPA procedures require agencies to make environmental information available to the public "*before* decisions are made and *before* actions are taken." (C.F.R. § 1500.1) Second, the agency must engage in real and thoughtful analysis. "Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." (C.F.R. § 1500.1)

Given NEPA's fundamental purpose, it is essential for the Forest Service to solicit scoping comments *before* alternatives have been crafted. The most critical stage of any NEPA analysis is the beginning, when the issues are framed. The purpose of soliciting public commenting is to help the Forest Service to identify important issues and to help it develop an adequate range of alternatives. According to federal regulations, the purpose of scoping is "determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." (C.F.R § 1501.7)

The agency is obligated to study, develop and describe all reasonable alternatives. We believe that by rejecting without any serious consideration the no-clear cutting alternative (dismissed with a single paragraph), the agency has failed to meet this obligation.

b) The EA illegally rejects alternatives that would accomplish goals without clearcutting.

As stated above, the agency is obligated to study, develop and describe all reasonable alternatives. The no-clearcutting alternative is both viable and reasonable. Such an alternative would help to mitigate the effects of habitat fragmentation, which is detrimental for many forest species. Effects on threatened, endangered, and other sensitive species are of special concern, but are currently unknown due to the inadequate studies performed (and not performed) in conjunction with this proposal. Management activities which may benefit exotic species should not pre-empt action that benefits threatened, endangered or sensitive species. Further, a no-clearcut alternative is viable because thinning forests, coupled with burning or other mechanical site preparation, has the potential to provide for adequate regeneration of light intolerant birch and conifers. The fact that the proposed action intends to implement this technique on a number of stands is evidence of the viability of this technique.

2) *Forest Service accounting problems should not be a barrier to appropriate management.*

On page 29, the EA states that budget restrictions limit burning to 56 acres out of 3000 treated, in an area where much of forest is fire dependent. On page 156 the EA responds to comments, “Alt C would only generate a certain amount of funds for restoration...” We doubt that all Forest Service projects are funded by receipts from the same NEPA project. Forest Service and the Forest Plan direct the agency to manage our federal forest land. If the agency must generate commercial logging revenue before undertaking appropriate management activities, please explain which Forest Service directives govern this decision.

Perhaps it would be appropriate to transfer funds from auction administration and road-building accounts for this important management. Or, to limit timber sales to those that have a net benefit large enough to cover required mitigation and restoration.

3) *An EIS is required because the proposed action will significantly impact wildlife species in the Chippewa National Forest.*

a) *Fragmentation of large patches destroys sensitive species habitat.*

On page 46, we see that Alternatives B and C break up two of the four large patch forests. From communication with the NEPA Administrator, we understand that all four will be treated with some clear-cutting for “aspen management and as part of the Hunter Walking Trail System management”. Given the importance of large patches to bird species this project purports to protect, it would seem imperative to protect the few patches that are

left. Dropping the parts of the project that break up the largest patches would cut costs by requiring fewer roads.

Forest Service should manage the forest for recreational uses, including deer and ruffed grouse hunting. In fact, we are very disappointed that the economic benefits of these and all recreational uses are not included in the economic analysis (EA at 128). But the agency must resolve conflicts between young-forest recreation and interior-forest wildlife habitat goals without sacrificing one or the other.

i) The EA must discuss edge effects and nest parasitism and provide evidence to support the analysis.

The RWRM EA contains no analysis of edge density, and makes no effort to restore large patches of interior forest. If this project increases edge density, it moves the forest away from the management direction in the revised LRMPs (Forest Plan Revision Draft EIS at 3.2-70), which will probably be finalized before the RWRM project. The draft revised forest plan mandates that Chippewa National Forest management reduce upland edge density by 25% in the first 20 years.

Increase in fragmentation may lead to extinction of threatened, endangered, and sensitive species. See *From Fragmentation to Extinction*, Wilcove (editor), Natural Areas Journal (1987); *Ecology and Management of Neotropical Migratory Birds*, “Impacts of Siliculture: Overview and Management Recommendations, Oxford Univeristy Press (1995), and *Effects of Within-Stand Habitat and Landscape Patterns on avian Distribution and Abundance in Northeastern Minnesota*, Pearson, Niemi, IBFRA Assn. (1997). Further study and an EIS must be performed, and a wider range of alternatives studied.

A study in the Chippewa National Forest found clear evidence that a decline in nesting success is directly associated with the edge effects that result from timber harvest. An EA for the Upper Bowstring project in Chippewa National Forest concluded that “in general, we do not yet have a good understanding regarding the potential ecological effects of human induced habitat fragmentation in northern Minnesota.” (Upper Bowstring EA at 81) Without an adequate understanding of these effects, it is impossible to conclude that implementation of this proposal will not lead to a significant environmental impact. This uncertainty is the purpose of requiring further study in an EIS. The EIS should provide a comprehensive review of the literature on habitat fragmentation, which is quite extensive, and should enable the agency to have a “good understanding.”

ii) Other Forest Service districts defer large patches to protect habitat.

On the Virginia Forest Management Project, the agency deferred treatment for all large mature patches over >300 acres. That area of Superior National Forest has land use patterns, dominant forest types, and large-patch-dependent Regional Forester Sensitive Species in common with the Blackduck District. While we believe that all large patches >100 acres deserve protection, the Blackduck District should at least do the same as the Virginia project.

iii) Old and succeeding aspen forests serve important ecological functions.

On page 152, the agency responds to comments criticizing pervasive aspen regeneration. While aspen is not high-quality interior forest because it is short-lived, letting very old aspen succeed to intermediate forests immediately creates snags, fallen trees, and multi-aged forest habitat that can meet many goals, at no cost to the agency.

We also note that the EA counts 40-to-50-year-old aspen as old forest in the discussion on patches (EA at 57 and 66) to count towards satisfying habitat requirements (EA at 66) and public demand (Table 3.1.2.B.4.1.b).

The work of Lee Frelich is described in the EA for the Upper Bowstring project in Chippewa National Forest, which concludes that forest succession initiates approximately 75-80 years after a stand replacement event. At this point, the stands begin to naturally achieve compositional and structural complexity and develop multiple canopy layers, snags, and large downed woody debris. Stands older than 75 years should be encouraged to regenerate and achieve diversity naturally, rather than through thinning or other logging techniques.

iv) Long-term impacts of large patch creation with clearcuts must be analyzed before projects use this management.

On page 158, a commenter suggests using clearcut and regeneration to create large patches. We might agree with this commenter **if existing mature patches were preserved**, because this would provide wildlife habitat while the forest matrix matures. But considering the subdivision and chipping away of **all** 300+ acre patches in this project, developing large patches through timber harvest will leave a 40-to-80-year gap with insufficient interior forest. Sensitive species more often inhabit large mature patches than large patches of young forests. To reduce forest fragmentation, the USFS should focus on preserving and regenerating large patches of forest interior, rather than harvesting small patches.

v) Cumulative impacts missing newly available data

Table FSP-1 in the draft forest plan EIS projects 23% of large mature patches will disappear in the first decade of the new plan (Alt E), and interior forest acreage will drop 13%. Please include this figure in the analysis of cumulative impacts.

vi) Wildlife dependent on patches to be lost

Red-shouldered hawk needs mature patches >250 acres. This project reduces habitat in the project area by 18% (EA at 80).

The black throated blue warbler similarly needs large patches. Alt B would reduce habitat by 23%; Alt C would reduce habitat by 11.5% (EA at 80). Why is there no 10-year estimate for this species, as there is for the hawks?

Neither of these species is given the assurance that their habitat will recover, as is afforded the goshawk (EA at 79). These large patches will be gone forever. How much stress does this put on the population? Are populations expected to drop proportionally, and what population would constitute a significant negative effect?

The Forest Service fails to preserve the large patches that mean so much to so many of Chippewa National Forest's sensitive species. The EA provides no evidence that large-patch habitat will be restored, and that habitat reductions will not cause loss of species viability. Habitat destruction of this scale is very significant, and requires the development of an EIS.

b) The EA fails to adequately consider the effects on TES, sensitive species and MIS.

i) Species viability

The Forest Service is required to maintain biological diversity and viable populations of forest fauna and flora. 36 C.F.R. Section 219.26 requires the Forest Service to gather and keep data, and 36 C.F.R. Section 219.19 mandates the Forest Service specifically monitor MIS.

On page 148, we agree with agency response to comments, and think all parties will agree the agency should not manage rare, declining, and sensitive species to a point of crisis. Exactly for this reason, we think the USFS must take affirmative steps to preserve and restore forest patches containing forest interior habitat.

ii) Lynx

With regard to Canada lynx in particular, it is clear that more research is required to ensure that impacts to this species will not occur. On page 71, lynx requirements limit treatment on land made unsuitable within ten years, but the EA's cumulative impacts analysis only goes back to 2002. The analysis must include timber sales since 1994 in this analysis. We are anxious to see the U.S. Fish and Wildlife Service's evaluation of the impacts of this project on the lynx. We expect that a full biological opinion will be issued before any irreversible commitment of resources.

iii) Goshawk

Cumulative analysis for lynx considers all ownerships (EA at 71), but goshawk analysis does not (EA at 79). NEPA requires an analysis of the cumulative impacts on wildlife. the EA's analysis of goshawk viability is deficient because it lacks study of suitable habitat on state and county land.

iv) Plants

On page 84, EA should provide a reference that says 250 foot and 70% canopy outside that buffer is enough to sustain and promote populations of rare plants? Without scientific evidence on the sufficiency of this approach, we suggest a more precautionary approach. The EA's analysis of RFSS is deficient because it does not consider protecting RFSS plants or reproducing forest floor habitat after management activities.

v) Golden-winged warbler

Given that Minnesota is at the very edge of the golden-winged range and that golden-winged productivity in Minnesota is comparable to other locales, it is reasonable to question the use of this species as indicator or as disingenuous attempt to find biological justification for clearcutting.

vi) Deer

Finally, the EA does not adequately consider the impact the proposed action's deer management will have on the forest. White-tailed deer is one species that has benefited from fragmentation. With deer densities at historic highs, forests are experiencing severe impacts from over-browsing (Forest Too Deer: Edge Effects in Northern Wisconsin, Alverson, Waller, Solheim, Conservation Biology, 1988).

Additionally, high deer densities contribute to the spread of diseases. With the discovery of chronic wasting disease (CWD) in South Dakota, Wisconsin and Minnesota, there are fears that the disease will soon find its way into free-ranging deer populations in Minnesota (Lein 2002, attached). Reducing high deer densities is one way to limit the spread of CWD, yet the LRMP for the Chippewa National Forest still emphasizes management favorable to deer. As part of its focus on managing for game species, this EA must discuss the effects that deer have on plant abundance, regeneration, and distribution, as well as incorporate the concern over CWD and assess how the proposed action will affect the current situation.

The EA must address these known problems by estimating management activity impact on deer population density and quantifying anticipated consequences for the forest.

c) Conversion to conifer

On page 29, the EA states that burning is limited to 56 acres out of 3000 treated, in area where a large majority of forest is fire dependent. On page 92, the EA suggests 53 acres of jack pine conversion in a project area that has 10% of its historic coverage is adequate protection for species that prefer this forest type. While we appreciate the restoration activities the EA proposes in Alt C and would certainly prefer this management direction over Alt B, they do not meet the standard set in NEPA or NFMA.

Federal regulations at 36 C.F.R. § 219.27(g) requires the Forest Service to “preserve and enhance the diversity of plant and animal communities. . .so that it is at least as great as that which would be expected in a natural forest.” NFMA regulations require the Forest Service to deal with diversity on a comprehensive basis, rather than limiting its focus to the issue of forest conversion and monoculture.

This points toward building management projects around restoration measures as a way to achieve management goals. Alt C is evidence that Forest Service is aware of this necessary action, but simply planning a clearcut and then considering adjustments to restoration goals is not enough. If the 1986 plan includes limits on necessary restoration, and this restoration is necessary to maintain species viability, these limits are illegal and should be amended for this project.

d) Again: old and succeeding aspen forests serve important ecological functions.

On page 120, we note there are 469 acres of 80+year old aspen in these stands, and the RWRM project will cut 60% of it. These stands will succeed to other forest types in a few years. Forest Service should let this age group go, thereby providing the snags, downed wood, young fir/other, and mixed forest that would count toward MIH and RFSS habitat, as purported in the purpose and need statement (EA at 15). This could displace replanting

the EA proposes under Alt C, freeing funds the EA states are lacking for prescribed burns and surveys.

The frequency of clearcuts in the project area should be significantly reduced in favor of minimizing fragmentation and increasing species diversity through the use of plantings and fire. The Sierra Club can support the concept of limited thinning coupled with prescribed burn to the extent that this technique is necessary to restore plantations and other single aged areas to historical conditions that contain within-stand structural and species diversity. Where thinning is deemed to be necessary to the restoration of forest ecosystems, it should always be the preferred alternative to clearcutting.

e) Contrasting desired condition in near-final forest plan

In the draft forest plans, the areas around and between Pimushe and Moose Lakes are proposed for longer rotation in Alt. E. The clearcuts proposed in this project appear to move those areas further from the draft revised desired future condition. If Forest Service plans to move in the opposite direction mandated in the new plans by further decimating interior forests and increasing edge density, the agency should account for these impacts in the final LRMP EIS, because draft restoration measures in the new plans are not designed to recover from the impacts of this project.

f) Tables indicate old-growth white pine will be lost.

On page 57, we note that old growth white pine is reduced from 168 to 132 acres. Please explain this reduction. To meet the NFMA diversity mandate, there should be no cutting of old-growth white pine.

4) Jobs figures are misleading and inadequate.

On page 129, the EA should acknowledge that the restoration and timber stand improvement done by USFS creates jobs and economic activity, as well as timber sales do. This economic activity is much more accountable than timber and paper jobs; Forest Service should translate the cost estimate into FTEs needed for different management alternatives, and include these in the jobs table comparing alternatives. The EA should also recognize the jobs dependent on non-consumptive uses of the forest, such as recreation and tourism.

5) Any decision made based on an Environmental Assessment that is tiered to the outdated Environmental Impact Statement associated with the 1986 Chippewa National Forest Plan is arbitrary, capricious, and a violation of federal law.

Both the 1986 Forest Plan and its accompanying Environmental Impact Statement (EIS) are nearly twenty years old. As a result, the decision to tier this Environmental Assessment (EA) to the 1986 forest plan and its accompanying EIS is not permissible, as this would violate both the National Forest Management Act (NFMA) and the National Environmental Policy Act (NEPA). Instead, the agency must complete an EIS on this project that reflects current science and policy.

a) The EA and any decision stemming from the EA violates the National Forest Management Act.

The NFMA requires each National Forest to revise land and resource management plans (LRMPs) *at least* every 15 years. 16 U.S.C. § 1604(f)(5). These requirements are reiterated and amplified in forest planning regulations at 36 C.F.R. § 219.10(g) and the Forest Service Handbook (FSH) at 1922.6.

The LRMP for the Chippewa National Forest has expired. Thus, there is no legally adequate LRMP or EIS that the project can be tiered to. There have been no rulings by any federal courts, no legislation passed by Congress, and no directives issued by the National Headquarters of the U.S. Forest Service authorizing the forest to continue implementing its outdated LRMP. Until the Forest Service develops a new LRMP for the Chippewa National Forest, implementation of individual actions, including this project, must be suspended.

The suspension of this project is necessary because the goals, objectives, standards, and guidelines contained in a nearly twenty-year old, expired LRMP are no longer relevant or defensible in light of significantly changed resource demands by the public, significantly changed environmental and economic conditions, and significant changes in Forest Service management direction. The significant changes have also been well documented in the scientific literature as well as many other publications prepared by federal, state and local agencies (including the draft EIS performed in conjunction with the revision process for the forthcoming Chippewa National Forest Plan). To not consider such scientific information in making a management decision that affects over 3,000 acres of national forest is arbitrary and capricious.

b) The EA and any decision stemming from the EA violates of the National Environmental Policy Act.

Continued implementation of the original, expired LRMP not only violates the NFMA, but also violates NEPA because the Forest Service has failed to correct, update, revise, amend, or supplement the final environmental impact statement prepared nearly 20 years ago for the LRMP, and continues to tier project decisions to this environment impact statement despite the fact that it is woefully outdated, inaccurate, and obsolete.

The Forest Service's regulations implementing NEPA clearly recognize that EISs that cover program and project activities over an extended time need regular updating. Since the LRMP is long expired, the EIS that analyzed its impacts used data that is now over 20 years old. New projects are allowed, of course, before the new LRMPs are finalized; they must simply perform a full EIS that recognizes new science and conditions. Much new science has been adopted by the Forest Service in these years, that this EA does not recognize.

While previous RODs have said that the Forest Service keeps the forest plan dynamic with amendments, the amendments made since 1989 have had to do only with BWCAW management and fuel reduction in blowdown areas. If amendments have addressed the issues brought up in these comments, please cite them specifically.

Finally, if actions suggested in these comments are not within the scope of the RW project, Forest Service should perform such wider-scale actions before making a significant impact on the environment.

Thank you for helping us acquire information related to this proposed action, as well as your consideration in reviewing these comments. We look forward to working with you as this project progresses.

Sincerely,

Joshua Davis

Conservation Organizer, Sierra Club North Star Chapter