

Middle Mountain Wildlife Savannah Project Decision Notice & Finding of No Significant Impact September 2007

Introduction

This Decision Notice and Finding of No Significant Impact (DN & FONSI) documents my decision regarding projects analyzed in the Middle Mountain Wildlife Savannah Project Environmental Assessment (MMWSEA). The following pages describe the location of the Middle Mountain Savannah project area, my decision, the activities selected for implementation, reasons for my decision, the public involvement process used, alternatives considered, findings required by laws and regulations, information regarding opportunities to appeal, and persons to contact about the analysis.

Background

The opportunity exists within the MMWSEA project area to enhance the forest landscape to better support wildlife native to the area. Currently, there is a very healthy population of wild turkey, white-tail deer, black bear, and other wildlife species that benefit from savannahs. However, with a low percentage of open grassy habitat, the area is not meeting its full potential for overall turkey habitat. While acorns are the primary food of wild turkey in fall, winter and into spring, eastern wild turkey and their young use grass/forb habitat to forage for insects in the late spring and summer months. Insects, herbaceous material and grass seed dominate the summer diet. The creation of additional open grassy habitat within the Middle Mountain area will be an important step toward meeting this overall habitat potential.

The MMWSEA project area is part of the Marlinton Ranger District of the Monongahela National Forest. The project area includes an estimated 486 acres of National Forest System lands. It is located about ten miles south of Minnehaha Springs, West Virginia, in Pocahontas County, within the Knapp Creek and Anthony Creek sub-basin watersheds (Vicinity Map DN-1).

The project area is two non-contiguous (northern and southern) sections of land along Middle Mountain Trail #408. The northern section is approximately 364-acres of National Forest Service (NFS) land between Douthat Creek and FR 962. This portion is in the Douthat Creek watershed. The southern section is approximately 122-acres, between FR 790 and the ridge along Middle Mountain. It is primarily within the Douthat Creek watershed, with 15-acres in the Upper Anthony Creek watershed (Map DN-2). Forest Road 790, a Designated Class Q Permit Road, is used to access both northern and southern sections of the project area.

The northern section is entirely within MP 6.1, where the primary purposes are “designed to use vegetation management to enhance the variety of wildlife habitat on the Forest. The improvements included in this prescription favor tree species and forest communities that are beneficial to wildlife, and focuses on restoration and management of fire-adapted oak-pine and oak-hickory communities” (2006 Forest Plan, p. III-30 through III-38).

The southern section is entirely within MP 6.2. This management prescription emphasizes a semi-primitive, non-motorized setting with opportunity for a variety of dispersed recreation activities, and a largely natural, undisturbed environment. Also emphasis is on restoration and maintenance of ecological communities and habitats, predominantly through natural selection processes (prescribed burning), management for wildlife habitat for species requiring a low level of disturbance, and protection of watersheds and soils (Forest Plan, pp. III-39 through III-44). There are limitations on the activities of man within MP 6.2, in order to protect the amenities and the remoteness of the Middle Mountain area.

Note: This project was initially developed considering management direction of the 1986 Forest Plan. Since then, the 2006 Forest Plan Record of Decision was signed. My decision, as documented in this DN/FONSI, will be made in consideration of and to be consistent with the 2006 Forest Plan.

Decision – Activities Selected for Implementation

I am the responsible official for the MMWSEA analysis and am authorized to make this decision. Based on my review of the MMWSEA, supporting information in the project file, and public comments received throughout the process, it is my decision to implement a modified Alternative 3 as described below and displayed on Map DN-3.

- Create five savannah units (units 3&4 combined, 5, 6, 7, 8) totaling about 45 acres by reducing stand densities by two-thirds. Excess trees will be removed through ground-based timber harvest. Hard mast trees such as oak and shagbark hickory greater than 13 inches DBH will be left within the savannah units. Other leave trees will include snags, cull/den trees, and small diameter soft mast trees in clumps (e.g., dogwood, serviceberry, etc.). Debris will be piled in all savannah units. Native grasses and forbs will be planted within the savannahs to create the desired mix of hiding cover and foraging opportunity. Stumps will be removed in savannah units 3&4 and 5, while stumps in units 6, 7 and 8 will be left. The soil will then be scarified, seeded, mulched, fertilized and limed (as needed) to establish grass and forb vegetation underneath the remaining tree canopy.
- Provide water sources for wildlife close to the savannahs, by restoring one existing water hole and creating two new water holes.
- Thin about 85 acres of stands surround the savannah units by reducing stand densities favoring retention of mixed oak and oak-pine species. Excess trees will be removed through ground-based commercial timber harvest.
- Use existing roads and skid trails and create about 1.1 miles of new skid trails without blading to facilitate removal of commercial timber. No new road construction is included in this decision.
- Prescribed burn the savannah units, surrounding thinning units and an additional area surrounding both for a total of about 423 acres to maintain the savannah habitat and retain the mixed oak and oak-pine forest types in the surrounding area. Burn treatments will be repeated every three to five years based on need as determined through monitoring. Burns will be contained by geographic features such as existing roads, trails, ridges and drainages but about 1.5 miles of dozer fire line will be constructed.

- Treat with herbicides savannah units 6, 7, and 8 (about 18 acres) if prescribed burning does not accomplish the objective of maintaining the units relatively free of encroaching young woody stems of striped maple and black locust. The remaining estimated 28 acres of savannah units 3&4 and 5 will be maintained by mowing and prescribed burning.
- Maintain the savannahs and wildlife opening over time through a combination of mowing, prescribed burning, and herbicide treatments based on need as determined through monitoring.
- See Attachment A for mitigation measures and monitoring that will be implemented with this decision.

The original Alternative 3 sent out for 30-day public comment included several activities in the southern portion of the project area that I have decided to defer, including the following:

- Creating savannah units 1 and 2,
- Refurbishing one existing water hole, and
- Constructing one new water hole.

Reasons for My Decision

I have chosen to implement a modified Alternative 3 because, when compared to the other alternatives, this decision provides the best balance between meeting the desired condition for providing high quality wildlife habitat (Forest Plan, pp. III-30 through III-38) while responding to public concerns and protecting the other resources in an economically efficient manner.

1. The 45 acres of savannah creation will provide high quality habitat and foraging opportunities for wildlife species found in the area. The modified Alternative 3 will move the Middle Mountain area closer to the desired condition of a mosaic of trees stands and opening with a near optimum quantity and dispersions of the habitat elements that feature the wild turkey and black bear along with associated wildlife species. This will be accomplished by the manipulation of the naturally occurring tree species composition to optimize hard mast production, age class distribution, and ensure a continuous supply of mast.
2. The watering holes will provide water for the wildlife within and or adjacent to the savannah units. Water is not plentiful along the Middle Mountain the ridge, so providing water will encourage wildlife to use the savannahs more readily.
3. The 85 acres of timber stand thinning will help meet the desired future conditions of having a mosaic of stands of predominantly hardwood trees to help feather the edges of the savannah for wildlife cover. The thinned areas will provide habitat for bats that prefer openings to increase insect production and will provide more structure for migratory birds, like the Cerulean Warbler. Thinning makes the forest healthier by releasing desirable species that will produce more mast for wildlife like the wild turkey, white-tail deer, and the black bear. They will also help ensure the project area contains stands that vary in size, shape, height, and species.

4. The 423 acres of prescribed burning will prove an economically efficient means to maintain the savannahs, wildlife opening, and surrounding mixed oak and oak-pine forest types in a manner that mimics natural ecological processes.
5. I decided to modify Alternative 3 by deferring some activities, as described above, in order to better align my decision to the 2006 Forest Plan and to respond to public comments regarding activities in the southern portion of the project area. As noted in the introduction, the original proposal and all alternatives were developed while the forest management was under the 1986 Forest Plan. Since that time, the 2006 Forest Plan has come into effect. This resulted in a shift of management prescription boundaries in the project area for MP 6.1 and 6.2. Proposed savannah units 1 and 2 and associated waterholes were originally within MP 6.1 (where these activities would be appropriate), but are now within 6.2 (where these activities would not be appropriate). In addition, one public commenter expressed a desire to see the Forest Service avoid any management activities in the Inventoried Roadless Area that incorporated the MP 6.2 portion of the project area. Some organizations are promoting this area for wilderness designation and they would not want to see management activities in this area that would impact the wilderness character. In consideration of these factors, I am deferring development of savannah units 1 and 2, maintenance of the existing water hole and development of a new water hole in the MP 6.2 area. However, I am moving forward with prescribed burning activities in the MP 6.2 area. I acknowledge and have carefully considered the comments relating to effects of management activities on wilderness character. However, I have determined that prescribed burning as included in my decision will not alter the wilderness character of the Inventoried Roadless Area because it does not include any mechanical ground disturbance or vegetation manipulation and because as planned the prescribed burning will mimic naturally-occurring ecological processes. Because the wilderness character will not be altered, I have determined that prescribed burning activities will not preclude the Inventoried Roadless Area from Congressionally-designated Wilderness.

Alternative 3, as modified, is consistent with 2006 Forest Plan objectives, and Forest-wide and management area standards/guidelines for wildlife management in management prescription areas 6.1 and 6.2 (pp. III-30 through III-44).

Public Involvement Process & Issues Identified

Chapter 2 of the MMWSEA describe the process used to solicit and employ internal and public comments, the proposed action that was submitted to the public for review and comment, and alternatives considered for implementation. Opportunities to comment were provided prior to development of the proposed action, after development of the proposed action, and following identification of the issues and alternative development. The following is a summary.

1. This project was first announced in the Schedule of Proposed Actions in June 2006 and has remained in this publication since that date.
2. The Forest conducted a field trip for members of the public in January 2006. The purpose of this trip was to meet with local and state agencies, groups, and contractors in collaborating on project development and implementation. (Project File (PF) Section A-2, A-4, and B-5)

3. A News Release was placed in *The Pocahontas Times* (newspaper of record for this decision) in January 2006 requesting comments during scoping period for this project (PF, C-1).
4. A scoping letter, along with maps, was mailed to interest parties and state agencies (PF, Section B-3) on January 9, 2006. Two issues were identified during scoping that were used to develop alternatives and drive the analysis. They were related to construction of savannahs in MP 6.2 and not moving close enough towards desired condition. These issues are discussed in further detail in the EA on pages 2-2 and 2-3.
5. Following identification of the issues and development of the alternatives related to this project, the Forest initiated an official 30-day comment period to provide the public an opportunity to provide input on the proposal and the alternatives being considered (PF, Section M-1). The comment period was initiated with a Legal Notice in *The Pocahontas Times* on June 22, 2006 and the same Legal Notice was published in *The Pocahontas Times* on June 29, 2006 (PF, Section M-8). A packet, including coverletter, chapters 1 and 2, and maps 1-1, 1-2, 2-1, and 2-2 was sent to members of the public and state agencies that commented during the scoping efforts (PF, Section M-2) on June 23, 2006.
6. All internal and public comments were reviewed and considered in my decision. Comments relevant to the decision to be made were used to define the issues and alternatives that are displayed on page 2-3 through 2-6 of the EA (e.g. "Move the project to another location other than the Middle Mountain Area"). Comments were also used to identify environmental effects as described in Chapter 3 of the EA.

Alternatives Considered But Dropped From Detailed Study

In addition to the selected alternative, I considered one other proposal/alternative to respond to internal and public issues regarding the Proposed Action. Moving the project to another location other than the Middle Mountain Area was considered but eliminated from detailed study/analysis. This proposal/alternative would construct the savannahs further north of FR 790 and/or on Beaver Lick Mountain west of Neola. This alternative was considered to respond to the issue related to savannahs in MP 6.2 areas.

This alternative was not considered in further detail because it was outside the scope of the project area and concept of the project. After a survey of the Middle Mountain area, I determined the area would support savannah development due to the topography, vegetation composition, and timber value. There is also an existing wild turkey, black bear, and associated wildlife species in the Middle Mountain area that would respond to the creation of savannahs. The existing savannahs in Middle Mountain have proved to be very productive for the wild turkey population. Therefore, the areas suggested by the commenters were not considered for savannah development in this project. However, my decision addresses the issue of savannah development in MP6.2.

Other Alternatives Considered for Implementation

In addition to the selected alternative, I considered three other alternatives to respond to internal concerns and public recommendations, regarding the Proposed Action. The following three alternatives were analyzed in detail, in the Environmental Assessment:

Alternative 1 - No Action

The National Environmental Policy Act (NEPA) requires that an EA include a “no action” alternative to serve as a baseline to compare action alternatives. The no action alternative is based on the premise that ecosystems change, even in the absence of active management. This alternative provides the decision-maker with a clearer basis for a reasoned choice among the alternatives studied in detail.

With the “no action” alternative, the proposed action or the other action alternatives analyzed would not be implemented. Management activities such as road maintenance, fire suppression, and routine maintenance of facilities would continue to occur within the planning area. This alternative would not address the need for a mosaic of forested stands; consequently, not moving the project area closer to the desired future condition. Therefore I did not select this alternative.

Alternative 2- Proposed Action

Alternative 2 – Proposed Action proposed to create five savannah units, totaling about 27 acres. Commercial timber harvests would be used to reduce stand densities in these units by two-thirds (66%). Hard mast trees such as oak and shagbark hickory greater than 13 inches diameter would be left within the savannah units. Other leave trees would include snags, cull/den trees, and small diameter soft mast trees in clumps (e.g., dogwood, serviceberry, etc.). Stumps would be removed and debris would be piled. Native grasses and forbs would be planted within the savannahs to create the desired mix of hiding cover and foraging opportunity. Water sources would be provided for wildlife close to the savannahs, by restoring two existing water holes and creating two new water holes.

About 82 acres surrounding the savannah units would receive an intermediate harvest treatment (thinning). About 442 acres (savannahs, thinned areas and adjacent lands) would receive a prescribed burn treatment every 3 to 5 years to maintain the savannahs as grassy openings and retain the surrounding stands in mixed oak and oak-pine forest types.

This alternative did not create enough open area for wildlife habitat, hence not moving the project area closer to the desired future condition. This alternative also included savannah and waterhole development in MP 6.2 of the 2006 Forest Plan and I have determined these activities would not be appropriate in this area. Therefore, I did not select this alternative.

Alternative 3

Alternative 3 proposed to create eight savannah units totaling about 56 acres. This would include removing trees through commercial timber harvest and piling debris. Stumps would only be removed in savannah units 3, 4, and 5, while stumps in units 1, 2, 6, 7 and 8 would be left. The soil would then be scarified, seeded, mulched, fertilized and limed (as needed) to establish grass and forb vegetation underneath the remaining tree canopy. An additional 83 acres surrounding the savannah units would receive an intermediate harvest treatment (thinning). About 432 acres would receive a prescribed burn treatment every 3 to 5 years to maintain the savannahs as grassy openings and retain the mixed oak and oak-pine forest types in the surrounding area. Over the years, the savannahs would be maintained through a combination of mowing and prescribed burning.

This alternative proposed using herbicides on about 27 acres of savannah units if prescribed burning does not accomplish the objective of maintaining savannah units 1, 2, 6, 7, and 8

relatively free of encroaching young woody stems of striped maple and black locust. Savannah units 3, 4, and 5 would be maintained by mowing and prescribed burning.

The existing water hole in the southern boundary would remain. In the northern boundary, the existing water hole would be restored and a new water hole would be created. Under this alternative, there would be a total of two watering holes restored and one new watering hole (Map 2-2, MMWSEA).

Alternative 3 did create more open area for wildlife habitat. This alternative moved the project area closer to the desired future condition. However, this alternative also included savannah and waterhole development in MP 6.2 of the 2006 Forest Plan and I have determined these activities would not be appropriate in this area. Therefore, I did not select this alternative.

Finding of No Significant Impact

After considering the environmental effects described in the Middle Mountain Wildlife Savannah Project Environmental Assessment (MMWSEA), I have determined that implementing Alternative 3, as modified, will not have a significant effect on the quality of the human environment (40 Code of Federal Regulations (CFR) 1508.27). Therefore, an Environmental Impact Statement is not needed.

To determine significance, I considered both the context and the intensity of these actions.

Significance of an action is to be considered in several contexts such as society as a whole, the affected region, affected interests, and the locality, depending on the setting of the proposed projects. This DN/FONSI is for a set of projects that are site specific in nature and their effects were analyzed as such.

Intensity refers to the severity of the impact. I based my determination of intensity of impacts on the following (40 CFR 1508.27):

1. Impacts that may be both beneficial and adverse. As described in Chapter 3 of the EA, both beneficial and adverse impacts to the human environment may result:

Some soil disturbance will occur as the project is implemented over the next several years, particularly in the northern portion of the project area. Effects are expected to be minimized through the application of the mitigation measures included in this decision. Based on the analysis, the impacts to the soil resource are within the thresholds set by the Forest Plan and the Regional soil standards. (EA, pp. 3-24).

It is possible that some sediment may reach the streams from skid trails, landings, and haul roads. Douthat Creek, Knapp Creek, and Anthony Creek are expected to experience sediment delivery during harvest but there should be a reduction in chronic sediment over time. The overall cumulative effects of this alternative on riparian areas are expected to be extremely small. (EA, 3-46).

There will be no additional haul roads for this project. The Middle Mountain Trail # 408 will be used to haul timber unto FR 962 and FR 790. Existing skid trails from previous timber sales will be used, along with 1.1 miles of new skid trails. To lessen the affects to riparian areas and soils, the new skid trails will be developed without using a bulldozer blade to construct the trails (EA, pp. 3-34).

Impacts to wildlife and botany vary depending upon the species. These impacts are discussed in the EA (EA, p. 3-71 thru 3-95).

This decision is expected to have a positive impact on the local and regional employment (EA, p. 3-98).

2. The degree to which the proposed actions affect public health or safety. Public health and safety will not be significantly affected by modified Alternative 3 projects:

Public health is not expected to be adversely affected. As stated above, all Forest-wide standards and guidelines (including those related to public safety) will be followed and are incorporated in this decision. In addition, specific mitigation measures are included in this decision that is designed for public safety. These include visitor and/or operator road-use restrictions and signing (See the mitigation measures attached to this DN.) Also, a prescribed burning plan will be developed for every burn implemented in the project area. Within the burn plan is a “Smoke Management and Air Quality” section.

3. Unique characteristics of the geographic area.

There will be no significant impact on unique characteristics of the geographic area. Historic and cultural resources are discussed below and in the EA (EA, pp. 3-16 through 3-18). There are no coastal zones areas, research natural areas, state or national parks, conservation areas, mapped or known wetlands, floodplains, or prime farmlands or other ecologically critical areas adjacent to or present in the MMWSEA project area (EA, p.1-4).

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

Controversy in this context refers to cases where there is substantial dispute as to the size, nature, or effect of Federal action, rather than opposition to its adoption. None of the issues within the scope of this analysis are believed to be highly controversial within the scientific community (EA, p. 2-2 thru 2-3 and PF, Section E and Section R).

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The prescribed burning and related management activities included in my decision have been implemented on similar soil types and in similar watersheds in the past. Thus, possible effects on the human environment are not highly uncertain nor do they involve unique or unknown risks. Also, mitigation that will be implemented as part of this decision has been implemented in various areas of the Forest, and, when applied properly, has been effective at minimizing adverse resource effects. See Table 3-1: Past, Present, and Reasonably Foreseeable Actions within or around the MMWSEA project area.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

Prescribe burning and related activities, as authorized by my decision, have been implemented on the same soil types and in the same watersheds in the past. No other actions are expected in the project area or the watershed that will cause selected projects to establish a precedent for future actions with significant effects (see Cumulative Effects sections throughout Chapter 3 of the MMWSEA and Reasonably Foreseeable Future Project descriptions, pp. 3-1 through 3-2). All projects in Alternative 3, as modified, are within the scope of the Forest Plan and associated EIS (EA, pp. 3-1 and Forest Plan Consistency sections throughout Chapter 3).

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

Table 3-1 of the EA (EA, pp. 3-1 thru 3-2) describes the past, present, and reasonably foreseeable future actions that may have bearing on the cumulative effects of the MMWSEA projects. The “Scope of Analysis” sections throughout Chapter 3 of the EA identify the area and rationale used to assess the cumulative effects of various resources. The “Cumulative Effects” sections throughout Chapter 3 explain why no alternatives analyzed would have cumulatively significant impacts. In addition, this project is not connected to a larger project that could result in significant cumulative effects.

8. The degree to which actions may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.

Surveys for heritage resources were conducted as part of the analysis (EA, p. 3-99 through 3-104, and records in Forest and Marlinton-White Sulphur District files). Using mitigations described on pages 2-8 of the EA and in Attachment A in this decision, heritage resource sites will be avoided and are not expected to be impacted by modified Alternative 3 projects because they are not expected to be impacted with Alternative 3 (EA pp. 99-104) and my decision is impacting fewer acres. The West Virginia Division of Culture and History concurs with these findings (PF, K-1). There are no Native American concerns associated with the proposed activities or minority and low-income populations that will be adversely affected.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

This decision will implement a modified Alternative 3 by deferring implementation of activities, listed on page 2 in this document, in the southern section project area; thus, reducing the quantity of activities and effects on the resource in the MMWSEA project area. As supported in the MMWSEA Biological Evaluation and Assessment (EA, Appendix A), implementing Alternative 3 (modified Alternative 3) will have “no effect” on Virginia Spiraea, shale barren rock cress, or running buffalo clover. Alternative 3 (modified Alternative 3) “may affect, not likely to adversely affect” West Virginia northern flying squirrel, bald eagle, Cheat Mountain salamander, Virginia Big-eared bat, and small whorled pogonia. Alternative 3 (modified Alternative 3) “may affect, likely to adversely affect” Indiana bat.

All alternatives will have no effects beyond those previously disclosed and addressed in the Forest Plan Revision Biological Assessment for Threatened and Endangered Species (USFS 2006) and the Programmatic Biological Opinion (BO) for the Monongahela National Forest 2006 Forest Plan Revision (USFWS 2006). The anticipated effects from the proposed project are similar to those anticipated in the programmatic BO (USFWS 2006). With regards to sensitive species, the Middle Mountain Savannah Project EA Biological Evaluation documents that implementing Alternative 3 (modified Alternative 3) will have “no impacts” or “may impact individuals but is not likely to cause a trend to federal listing or loss of viability” (EA, Appendix A, BE; EA, pp. 59-80). Alternative 3 (modified Alternative 3) will not result in a loss of viability for any species or associated habitat within the MMWSEA project area.

The U.S. Department of Interior Fish and Wildlife Service (USFWS) has been consulted regarding this project and concurs with the findings in the Middle Mountain Wildlife Savannah BA and BE (EA, Appendix A, 8/3/2006 USFWS correspondence). Mitigation attached to this decision will be followed to help reduce the potential for adverse effects to threatened, endangered, and sensitive species. If any federally-listed endangered or threatened species are found during project design or implementation, activities within that area will cease until additional consultation with USFWS has been concluded.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

No Federal, State, or local laws (e.g. the Clean Air Act, Clean Water Act, Endangered Species Act, various heritage resource laws, Multiple Use Sustained Yield Act, Wild and Scenic Rivers Act, WV Best Management Practices, etc.) will be violated (EA, Chapter 3 and information in the project file).

Findings Required by Other Laws and Regulations

It is my finding that the actions described in this decision comply with the requirements of the National Environmental Policy Act (NEPA), the Endangered Species Act of 1972, the National Forest Management Act (NFMA) of 1976, and the NFMA implementation regulations in 36 Code of Federal Regulations (CFR) Section 219.

1. Forest Plan Consistency (16 USC 1604(i)).

The purpose and need for the proposed action in the Middle Mountain Wildlife Savannah EA is consistent with the management direction in 1986 Forest Plan. However, all actions implemented as part of the modified Alternative 3 are consistent with management direction identified in the 2006 Forest Plan (pp. III-30 through III-44). Approved activities will comply with Forest-wide standards and guidelines; Management Prescription 6.1 and 6.2 purposes, standards, and guidelines; Appendix C, Roadless Area Inventory and Wilderness Evaluation; Appendix D, Terrestrial Species Viability Evaluations; Appendix E, Aquatic Species Viability; and Appendix H, Biological Assessment for T&E Species.

2. Environmental Justice.

I do not believe any groups will be disproportionately affected by this decision to implement the modified Alternative 3. Environmental Justice is discussed in detail in the EA on page 3-98.

Administrative Review and Appeal Opportunity

This decision is subject to administrative appeal. Appeals must meet the content requirements of 36CFR 215.14, and may be filed by persons or non-Federal organizations or entities that provided comments or otherwise expressed interest in the proposed action by the close of the comment period. This decision will be published in the *Pocahontas Times*, which is the "Paper of Record" for this decision.

In accordance with 36 CFR 215.15(a)(b), a written Notice of Appeal must be postmarked and submitted to the following Appeal Deciding Officer within 45 calendar days after the date the notice of this decision is published in the *Pocahontas Times*: Clyde Thompson, Appeal Deciding

Officer, Attn: USDA, Forest Service, Monongahela National Forest, ATTN: Clyde Thompson, Appeals Deciding Officer, 200 Sycamore Street, Elkins, WV 26241.

A Notice of Appeal may also be faxed to Attn: Appeals Deciding Officer, (414) 944-3963 or hand-delivered to the above address during the normal business hours of 7:30 A.M. to 4:00 P.M., Monday through Friday. If submitted electronically, appeals should be directed to appeals-eastern-regional-office@fs.fed.us. They should be in TXT, RTF, DOC, PDF or other Microsoft Office-compatible formats. In cases where no identifiable name is attached to an electronic message, a verification of identify will be required.

Implementation Date

The appeal period for this decision begins the day after notice of this decision is published in the *Pocahontas Times*. Those wishing to file an appeal must do so within 45 calendar days after the legal notice is published. If an appeal is not filed, implementation may begin on, but not before the fifth business day from the close of the appeal-filing period (36 CFR 215.9(a)). If an appeal is received, implementation may occur on but not before the fifteenth business day following the date of appeal disposition. In the event of multiple appeals, the date of the disposition of the last appeal controls the implementation date (36 CFR 215.9(b)).

Responsible Official and Contact Person

For more information concerning this decision, contact O'Dell E. Tucker at voice/TTY at 304-799-4334 or by writing to the Marlinton Ranger Station Office, P.O. Box 210, Marlinton, WV, 24954. A copy of the Middle Mountain Wildlife Savannah Project EA can be obtained from the Monongahela National Forest website at www.fs.fed.us/r9/mnf/ under "Forest Planning", by emailing comments-eastern-monogahela-marlinton@fs.fed.us, writing or calling O'Dell Tucker at the address or phone number above, or by contacting Rondi Fischer at Marlinton District Office, PO Box 210, Marlinton, WV, 24954 or phone (304) 799-4334. Records that support the conclusions of the EA and that were used to make this decision are available for review at the Marlinton District Office from 8 AM to 4:30 PM Monday through Friday.

/s/ Rondi L. Fischer

September 28, 2007

Rondi L. Fischer
District Ranger

Date

USDA Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

DECISION NOTICE-ATTACHMENT A

MIDDLE MOUNTAIN WILDLIFE SAVANNAH

PROJECT MITIGATION MEASURES

AND MONITORING REQUIREMENTS

Herbicide Use - Triclopyr and glyphosate will not be applied within 50 feet of any continuous stream channel, spring, or seep. Herbicide will not be applied during periods of precipitation, or when the soil is saturated. Use of triclopyr and glyphosate will be strictly according to label instructions, and supervised by a certified applicator as required by West Virginia State law. Rates of application will not exceed, on the average, 1 lb/ac for Garlon 3A, and 4 lb/ac for Garlon 4. Treatment of individual stems by hand treatment methods will help limit the quantity of herbicide actually used. None of the savannahs is near a functioning stream channel. All five savannahs will have wide filterstrip areas between potential areas of herbicide use and the nearest stream channel. The forest floor and filterstrip width will effectively trap herbicides from movement downslope, and facilitate herbicide degradation within the soil.

Prescribed Burning - All prescribed burns will comply with a Prescribed Burning Plan approved by the Responsible Official. Control lines constructed for the prescribed burn, that expose mineral soil will have drainage structures (waterbars or dips) installed to limit soil loss. Spacing of the drainage structures will depend on the slope and proximity to a stream channel. Maintain an unburned buffer along Douthat Creek of at least 100 feet. Restrict dozer fireline construction within the filterstrip of Kline Hollow on both sides of the hollow; use hand fireline construction within the filterstrip. Incorporate soil and water monitoring into a monitoring plan for the prescribed burn activities, to document any erosion and sedimentation effects of repeated watershed burning.

Recreation – The section of the Middle Mountain Trail common to the project area will be temporarily closed to public use during active harvest operations and construction activity. Closure signs will be posted at entry points along the trail, and public notices will be posted at trailheads. Efforts will be made to avoid scheduling harvest activities during the spring turkey and fall buck hunting seasons, to avoid disruptions to hunters. The District Ranger may temporarily close FR 790 and FR 962 to Class Q hunting if management activities will threaten public safety. This hunting opportunity could be temporarily relocated to FR 300, Marlin Mountain, if needed.

Within savannah areas, slash piles will be located away from the trail corridor to reduce visual concerns. Contractors will be required to remove slash from the trail corridor, and to buck and scatter slash adjacent to the trail. Rutting of the trail will be repaired as soon as possible after harvest or construction activities are completed. Efforts will be made to re-vegetate the Middle Mountain Trail #408 surface as soon as practical.

Cultural Resources: Known cultural resource sites will be marked and avoided during project implementation. Avoidance could occur through either directional felling away from the site or a buffer comprising the height of the nearest possible fell, plus one-half the height.

As the timber is cruised and marked, and during the course of project implementation, Forest Service staff should be aware of the potential for locating additional historic and prehistoric sites in the project area. If a site is located, the Forest Archaeologist will be notified and an appropriate avoidance strategy determined.

Riparian Zones: Wildlife water holes should be located well upslope of the tops of functioning (ephemeral) stream channels. Ponds will be located as close to the ridgetops as is practical, considering other factors such as soil depth and water-holding capacity (see Soils recommendations). This recommendation is to reduce the risk of ponds capturing too much concentrated runoff in stormflow or snowmelt conditions, and then overtopping with pond breaching and channel erosion below. Protect riparian resources of all perennial, intermittent and ephemeral streams by applying the riparian buffer protection measures. Perennial streams will have a minimum no harvesting buffer of 100 feet, intermittent streams 50 feet and ephemeral streams 25 feet along both sides of the stream channel.

Soils: Skid routes should be located to minimize soil and filterstrip disturbance, avoid functioning stream channel crossings, utilize existing old skid routes, and avoid the steeper and wetter areas within the units and areas of disturbance to the maximum extent practical. Overland skidding should be used wherever practical, especially in those areas of the more gentle terrain when soil and wetness conditions will support it.

- Rip severely compacted areas expected to grow future biomass (primary skid trails, log landings).
- Gravel will be an accepted source of mulch that helps to prevent erosion and road bed failures that result in rutting- this has been observed on a regular basis across the forest.
- Gravel approaches to stream channels on roads.
- Skidding/hauling suspended during periods where soils are 1) saturated due to high levels of precipitation when air temperatures are above freezing; 2) thawing during winter months after periods of being frozen; 3) and under any other conditions that will occur that soils will appear to be saturated.
- Seed and mulch all disturbed soils that are disturbed into the mineral horizon. Seed will be native and/or annual grass; mulch will be relatively weed free.
- Lime and fertilizer will be applied where needed. Soil testing may be done to identify rates of application.

Timing Restrictions - There will be no timber harvest operations for the first week of deer gun season (normally the week of Thanksgiving) in any commercial timber harvest unit without prior written permission from the Timber Sale Contracting Officer and/or the District Ranger.

Decision Notice Attachment B

Implementation Monitoring for the 2006 Middle Mountain Savannah Decision

(EA, pp. 2-10 thru 2-14 and Appendix A)

ENVIRONMENTAL DOCUMENT/TIMBER SALE CONTRACT CERTIFICATION

Sale Wide Mitigation or Management Requirements	
Sale Wide Mitigation or Management Requirement	Matching Contract Clause/ Responsible Official Signature
Water Quality	
Triclopyr will not be applied within 50 feet of any continuous stream channel, spring, or seep. Applications of herbicide will not be made during periods of precipitation, or when the soil is saturated. Use of triclopyr will be strictly according to label instructions, and supervised by a certified applicator as required by West Virginia State law. Rates of application will not exceed, on the average, 1 lb/ac for Garlon 3A, and 4 lb/ac for Garlon 4. The proposed method of treatment is by hand tools and backpack sprayers. No mechanized equipment or broadcast spraying will be employed.	
Soils	
TES plants and NNIS plants	

<p>A protective buffer should be designed around known populations of rock skull cap. Seeds of invasives can penetrate forest edges for a distance of about 80 meters (Cadenasso & Pickett 2001). This mitigation measure will also provide room to expand, in order to remain viable. The populations should be monitored before and after harvest. Since habitat appears restricted to sandstone boulders, plants are not likely to expand into forest buffer if no surface rock is present.</p>	
<p>A buffer will be placed around known populations of white monkshood based on site recommendations by the forest ecologist.</p>	
<p>Prescribed Fire</p>	
<p>All prescribed burns will comply with a Prescribed Burning Plan approved by the Responsible Official. Control lines constructed for the burn that expose mineral soil will have drainage structures (waterbars or dips) installed to limit soil loss. Spacing of the drainage structures will depend on the slope and proximity to a stream channel.</p>	
<p>Recreation/Visuals</p>	
<p>Trails will be posted during any harvesting activities to inform trail users of any potential safety concerns.</p>	
<p>Heritage</p>	
<p>Known heritage sites will be marked and avoided during project implementation. Avoidance could occur through either directional felling away from the site or a buffer comprising the height of the nearest possible fell, plus one-half the height. The project file identifies known sites needing protection.</p>	
<p>As the timber is cruised and marked, and during the course of project implementation, Forest Service staff should be aware of the potential for locating additional historic and prehistoric sites in the project area. If a site is located, then the Forest Archaeologist will be notified and an appropriate avoidance strategy determined.</p>	