



United Four Wheel Drive Associations, Inc.

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National Forests in Florida
ATTN.: Appeals Deciding Officer
325 John Knox Road, Suite F-100
Tallahassee, FL 32303-1160

February 8, 2006

RE: Access Designation in Restricted Areas on the Ocala National Forest
Rick Lint, District Ranger, Responsible Official – Seminole Ranger District
Jerri Marr, District Ranger, Responsible Official – Lake George Ranger
District
Decision Notice: January 17, 2006 *Ocala Star Banner*

Dear Sirs,

This appeal is being filed for the above-reference project pursuant to 36 C.F.R. 215. (36 CFR 215.11).

APPELLANTS INTEREST

The United Four Wheel Drive Associations has been retained to represent the Appellant Florida Four Wheel Drive Association. The Florida Four Wheel Drive Association is a non-profit organization with its principal office in Fernandina, Florida. Its mission is to promote responsible land use, safe vehicle operation, proper user ethics, and protection of natural resources through conservation practices.

As can be seen, appellants appreciate and enjoy the resources of the Ocala National Forest and use the area for recreational activities. Appellant's appreciation and enjoyment of the Ocala National Forest will be permanently and significantly impaired by the Access Designation decision, specifically the closure of one-thousand seven hundred thirty-five miles of roads and the elimination of sixty (60) of the sixty-one (61) concentrated use areas on the forest.

REQUEST FOR RELIEF

To eliminate the need to pursue further administrative and legal remedies, appellants request the following relief:

1. That the Record of Decision for Access Designation in Restricted Areas on the Ocala National Forest be amended or withdrawn.
2. That the agency prepare a new Final EIS or supplement to the FEIS to analyze a range of alternatives, one or more of which considers more areas than the Rodman Pit Area as open to cross-country travel, including consideration for retaining all or some of the 60 concentrated use areas closed by this decision.
3. That the agency prepare a new Final EIS or supplement to the FEIS to analyze the likelihood of significant adverse impacts to soil, water, vegetation, wildlife and fish, and heritage resources caused by the drastic increase and concentration in use on the remaining open routes.
4. That the Record of Decision refrain implementing a closed unless signed open policy and promulgate a motor vehicle use map in compliance with 36 C.F.R. 212.

STATEMENT OF REASONS

I. THE DECISION MAKER ERRED IN FAILING TO CONSIDER AREAS OPEN TO CROSS-COUNTRY TRAVEL SUCH AS CONCENTRATED USE AREAS:

The purpose and need of the project improperly limited the scope of the project to identifying a system of roads and trails, and not AREAS, needed for access to the forest.

Alternative B states, "This alternative was developed and analyzed, and the Draft EIS released, before new national Forest Service policy on OHV direction was finalized. The nationwide policy is for all OHV use to be on designated trails or areas; this alternative would not comply with this direction".¹

Further, the FEIS states, "Analyzing potential large OHV cross-country areas (greater than 1000 acres) is beyond the scope of this project. The purpose and need of this analysis is to identify a system of roads and trails that provide needed access to the forest while protecting forest resources".²

¹ Final Environmental Impact Statement (FEIS) for the Access Designation On the Ocala National Forest, December 2005, page 2-4

² FEIS, page 1-15

This statement in the FEIS misstates the nationwide policy for OHV use, particularly regarding cross-country travel. The nationwide policy, now codified at 36 CFR 212, states in relevant part, "*Purpose*. This subpart provides for a system of National Forest System roads, National Forest System trails, **and areas on National Forest System lands** that are designated for motor vehicle use (emphasis mine)".³

It is clear from the statement in Alternative B that the agency failed to consider a system of **areas** for the Ocala National Forest, indicating that Alternative B was not considered in detail pursuant to NEPA, particularly pertaining to **areas** designated as open to cross country travel. Rather, all study of designation of areas open to cross country travel was summarily dismissed in violation of NEPA and the CEQ implementing requirements which direct the agency to rigorously explore and objectively evaluate all reasonable alternatives and to devote substantial treatment to each alternative considered in detail."⁴

For these reasons a new Final EIS must be prepared with meaningful analysis on a range of alternatives, one or more of which considers more areas than the Rodman Pit Area as open to cross-country travel, including consideration for retaining all or some of the 60 concentrated use areas closed by this decision.

II. THE DECISION MAKER ERRED BY JUSTIFYING A DECISION ALREADY MADE:

The Final EIS violates NEPA which requires an EIS to "serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made".⁵

None of the alternatives evaluates the environmental impact of keeping unclassified roads open. It lacks evaluation of environmental impact both in terms of effect on the human environment for more open routes as well as economic analyses⁶ for closed routes and thus reduced motorized opportunity.

The FEIS states, "'...during the [EA] analysis it was determined that all action alternatives would have beneficial effects to the physical and biological resources due to the high amount of unclassified roads that would not be designated. Because of the significance of these beneficial effects, it was decided to do an EIS".⁷

³ 36 C.F.R. 212.50

⁴ 40 C.F.R. 1502.14(a) and (b).

⁵ 40 C.F.R. 1502.2(g)

⁶ 40 C.F.R. 1501.2(b)

⁷ FEIS, page 1-3

This statements demonstrates that the agency had already determined, prior to analyzing alternatives meeting the purpose and need of the project, to close “high amounts” of unclassified roads.

The FEIS further supports this contention:

“The purpose of the project was to decide, “how many miles of unclassified roads should be added to the Forest Transportation System as a mixed use classified road...”⁸

“The purpose and need of this analysis is to identify a system of roads and trails that provided needed access to the forest while protecting forest resources”.⁹ “The transportation system necessary to protect, develop, and use resources on the ONF is **essentially in place and complete** (emphasis added)”.¹⁰

There are 1,047 miles of unclassified roads within the restricted areas of the ONF.¹¹ It is not a mere coincidence, based upon language in the FEIS cited above, that there are “1,197 miles of unclassified roads in the restricted areas not designated by the preferred alternative D”.¹²

There are 72 miles of unclassified roads designated for use by the decision.¹³ However, none of these unclassified roads are designated for use by licensed vehicles.¹⁴

Finally, the FEIS states, “The Preferred Alternative eliminates 1558 miles of existing access (mostly smaller unclassified roads)...”¹⁵

As demonstrated, the Final EIS violates NEPA which requires an EIS to “serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made”.¹⁶

For this reason a new Final EIS must be prepared with meaningful analysis on a range of alternatives, one or more of which considers the consequences of leaving some or all of the unclassified roads open.

III. THE DECISION MAKER ERRED IN FAILING TO ANALYZE THE ENVIRONMENTAL CONSEQUENCES OF CONCENTRATING USE:

⁸ FEIS, page 1-11

⁹ FEIS, page 1-15

¹⁰ FEIS, page 3-20

¹¹ FEIS, page 1-11

¹² FEIS, page 4-2 at table 4-2

¹³ FEIS, page 4-5; page 4-4 at table 4-4; page 4-8 at table 4-7;

¹⁴ FEIS, page 4-55 at table 4-41

¹⁵ FEIS, Summary

¹⁶ 40 C.F.R. 1502.2(g)

Closing 1,197 miles of unclassified roads will result in more concentrated use.¹⁷ Eliminating 1558 miles of existing access will more than double the concentration of use on those roads remaining open to the public. Approximately 176,400 visitors to the National Forests in Florida identified OHV travel as their primary recreational activity.¹⁸ Furthermore, “forest managers estimate roughly 60 percent to 70 percent of total OHV users on the Ocala NF list OHV activity as their primary recreational activity”.¹⁹

However, the FEIS did not analyze the environmental consequences of the increased concentration of use on physical, biological, or anthropogenic factors. Mere closure of access points does not equate to a reduction in use, in fact the FEIS states, “levels of use would be relatively static”.²⁰ Rather, the same amount of use will be concentrated to half as many routes, potentially increasing the likelihood of significant adverse impacts to soil, water, vegetation, wildlife and fish, and heritage resources. Yet, in contradiction to the requirements of NEPA requiring a discussion of the environmental effects of alternatives, no qualitative or quantitative analysis was conducted on the potential of significant impact to the human environment caused by the increased concentration of use.²¹

For these reasons the a new Final EIS must be prepared with meaningful analysis considering the likelihood of significant adverse impacts to soil, water, vegetation, wildlife and fish, and heritage resources caused by the drastic increase and concentration in use on the remaining open routes.

IV. THE DECISION MAKER ERRED IN LIMITING TRAVEL TO ROUTES POSTED OPEN.

Of utmost concern are situations where maps generated by the agency are not specific enough in topography or location as to make clear to a user whether a route on the ground (which is not marked closed) is the same route as appears on the map.

Furthermore, analyzing a policy for access management which directs all routes closed unless posted open was done in violation of 36 C.F.R 261 which requires orders closing or restricting use of a road or area to be posted closed. The analysis for this FEIS was conducted at a time when 36 C.F.R 261 was in effect.

In contrast, the decision was rendered after 36 C.F.R 212 became effective November 9, 2005.

¹⁷ FEIS, page 4-82

¹⁸ FEIS, page 4-81

¹⁹ FEIS, pages 4-81 to 4-82

²⁰ FEIS, page 4-82

²¹ 40 C.F.R. 1502.16

In light of the more than thousand miles of routes closed by this decision such a user mistake in identifying the road on the ground as a road identified on the map as open is highly likely to occur. Of equal concern is the damage that may be done to the environment when such mistakes are made. These mistakes can be avoided simply by expending money to post roads closed rather than posting them open.

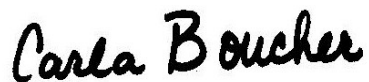
The agencies major emphasis should be on a decision that can be successfully implemented on the ground by the agency and by willing users. A closed unless posted open and an open unless posted closed policy both fail in this regard. Instead, the decision should clearly indicate that travel is limited to routes identified on the maps accompanying the Record of Decision. The agency should then use its monitoring responsibilities to sign roads as needed, including signs and other physical barriers indicating a route is closed, signs indicating a route is open, confidence marker signs, and/or signs discouraging or encouraging use on particular routes, as the case may be. A policy of prohibit, allow, encourage, and discourage works for the users, the agency, and for the land.

Finally, pursuant to 36 C.F.R 212, a policy of closed unless posted open will be rendered obsolete upon the issuance of a motor vehicle use map.²² The motor vehicle use map should have been issued concurrently with the Record of Decision for economical and environmental expediency.

For these reasons, the Record of Decision should refrain from implementing a closed unless signed open policy and promulgate a motor vehicle use map in compliance with 36 C.F.R. 212.56.

The above cited errors indicate those portions of the decision where the decision maker failed to consider the substantive comments submitted by the Florida Four Wheel Drive Association in response to the Draft EIS, attached hereto as "Exhibit A".

Respectfully submitted,



Carla Boucher, Attorney
United Four Wheel Drive Associations on behalf of its client
Florida Four Wheel Drive Association

²² 36 C.F.R 212.56.

EXHIBIT "A"

December 1, 2004

Will Ebaugh
325 John Knox Road, Suite F-100
Tallahassee, FL 32302

RE: DEIS for the Ocala National Forest Access Designation

Dear Mr. Ebaugh:

My name is Raymund Woo, I live in Gainesville Florida, and own a 1983 Jeep Cherokee and a 1998 Jeep Wrangler. I am 37 years old, and have had the privilege to enjoy motorized offroad recreation for the last 21 years in places like Silver Lake State Park in Michigan, Las Cruces in New Mexico, and the Tellico Off Highway Vehicle (OHV) area in the Cherokee National Forest in North Carolina. I am a member of United Four Wheel Drive Association, Blue Ribbon Coalition, and Tread Lightly. I am also the past president of the Ocala Jeep Club of Florida, and the current president of the Florida Four Wheel Drive Association.

The FL4WDA is a statewide association of OHV users and enthusiast clubs with an annual membership of approximately 1500 members. Our goals include the preservation of motorized access on public lands, elevating public awareness of the issues which threaten the delicate environments within these lands and their effect on public access, and educating OHV users in the responsible use of forest resources. We have developed the Volunteer Ranger Program in the Ocala National Forest Seminole district to help further these ideals, and have volunteered thousands of hours working closely with local forest rangers to repair, replant, and maintain areas within the Ocala National Forest which have been impacted. The Ocala National Forest is one of the largest areas of public land which remains open to motorized vehicle recreation, and is the most popular location in Florida for OHV recreation. Our members visit the Forest almost every weekend, and enjoy the solitude and beauty that it affords. We are also responsive and sensitive to the environmental impact that motorized traffic can potentially have on Forest ecology. Our members were key spokesmen in the public workshop series of the Access Designation Process that was the precursor to the Draft Environmental Impact Statement (DEIS) for the Ocala National Forest Access Designation

It is therefore with great interest that I read the DEIS. However, my analysis suggests that **none of the listed alternatives are fully acceptable.**

Although Alternative A represents the consensus of the motorized user groups it does not provide for Concentrated Use Areas. Only Alternative B provides for this, but the limitations of B prevent it from being a realistic solution. Concentrated Use Areas are a reasonable objective to include because it will allow motorized recreation access in those areas which are already highly used due to accessibility and desirable terrain, while lessening the impact on the remaining sections of the forest. ATV, dirt bike, and extreme 4X4 activities can be assigned to a designated play area that spares other regions from high impact use. However, the USFS needs to be able to confine these activities to the Concentrated Use Area – perhaps by utilizing abandoned mining pits that are currently posted off limits. This is a viable long term solution, but support needs to be maintained for access to routes requiring high clearance 2 or 4 wheel drive that appeals to the growing majority of the general public that is looking to get off the paved road into a semi-secluded spot.

As preferred by the USFS, Alternative D appears to be favorable, yet still significantly decreases the amount of motorized trails more so than Alternative A. With the growing popularity of motorized off road recreation, more visitors are using the Ocala National Forest than ever before. To significantly decrease the number of trails in the face of increased use would mean an increase in the overall

impact to the sensitive ecological environments within the forest. Alternatives C and E are even more restrictive, and would magnify the above problem.

Therefore, among the five proposed alternatives, I find that **no single choice** fully describes my position on Access Designation in the Ocala National Forest. My preferred alternative would be to address Alternative D as modified by incorporated elements of A to increase the miles of motorized trails, and to provide for Concentrated Use Areas as in B. This would provide the best balance of user access with protection of the sensitive forest biology.

Thanks for listening. If these comments aren't in an appropriate fashion, or if I can be of further help please feel free to contact me.

Regards,

/S/ Raymund Woo

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