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WESTERNLANDS.ORG

November 17, 2011

Anthony V. Scardina, Forest Supervisor,
Ottawa National Forest
E6248 US 2
Ironwood, Michigan 49938

Dear Mr. Scardina:

Western Lands is a non-profit, membership organization conducting research, outreach, and advocacy for responsible federal land exchange policy. We also scrutinize a broad range of projects that propose to sell, give away, or relinquish public control of public lands. Although our work primarily involves federal lands in the eleven Western states, we have many members in Michigan and Wisconsin and occasionally scrutinize projects proposed for federal lands in the Midwest. This letter constitutes our comments on the revised environmental assessment prepared for the Delich land exchange proposal.

The Forest Service should have considered additional alternatives.

"Any proposed federal action involving . . . the proper use of resources triggers NEPA'S consideration of alternatives requirement, whether or not an EIS is also required." *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223 (9th Cir. 1988), *cert denied*, 489 U.S. 1066 (1988). "NEPA requires that in the EA an agency must evaluate a reasonable range of alternatives to the agency's proposed action, to allow decision-makers and the public to evaluate different ways of accomplishing an agency goal." Pacific Marine Conservation Council, 200 F. Supp. 2d at 1206. Accordingly, courts have frequently rejected attempts by agencies to exclude reasonable alternatives from an EA. *See, e.g., id* at 1206-07; *People ex rel. Van de Kamp v. Marsh*, 687 F. Supp. 495, 499 (N.D. Cal. 1988).

With the Delich land exchange proposal the Forest Service should have considered the alternative suggested by the public that would have withheld from the exchange three National Forest parcels that contained rare or declining resource values on the Ottawa National Forest. The rationale provided by the Forest Service in not evaluating such an alternative is faulty -- that the old growth found on the 3 parcels is not contiguous with other stands on National Forest lands does not justify trading away the little old growth remaining on the Ottawa National Forest. The Forest Service should have evaluated the benefits of retaining the old-growth stands as refugia for species dependent on old-growth and decadent stands. With proper management, such refugia can serve to

maintain relict populations until additional forest matures sufficiently to provide further habitat.

Thank you for the opportunity to comment on this proposal. Western Lands Project supports the no action alternative if the Forest Service is unwilling to consider alternatives that would not trade away important old growth habitat.

Sincerely,

A handwritten signature in black ink that reads "Christopher J. Krupp". The signature is written in a cursive style with a large initial "C" and "K".

Christopher J. Krupp, Staff Attorney