



## DECISION NOTICE

And

### FINDING OF NO SIGNIFICANT IMPACT

### DRAKE 4C FEDERAL WELL DEVELOPMENT ENVIRONMENTAL ANALYSIS

**USDA Forest Service, Region 9  
Wayne National Forest  
Marietta Unit - Athens Ranger District**

**Benton Township, Monroe County, Ohio  
T2N, R5W Section 36**

***November 5, 2002***

This notice documents the agency's finding (40 CFR 1508.13) and project decision regarding the Surface Use Plan of Operations for the development of a well on an existing lease on federal minerals lying beneath the Wayne National Forest.

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#### ***1. Introduction***

Carlton Oil Corporation presented a Notice of Staking for the Drake 4C well site to the USDI Bureau of Land Management (BLM) on December 30, 2001. Carlton Oil provided the Forest Service with the proposed Surface Use Plan of Operations (SUPO) for consideration on February 4, 2002. BLM received Carlton Oil's Application for Permit to Drill (APD) on February 5, 2002. The Forest Service has analyzed the environmental and social impacts of the SUPO, a copy of which is available at the office of the Athens Ranger District in Nelsonville, Ohio. A Project File containing all documents collected during preparation of this analysis is also available. The United States Department of the Interior (USDI), Bureau of Land Management (BLM) has been a cooperating agency under the National Environmental Policy Act (NEPA) and was instrumental during the preparation of this analysis. Section 3 of the Project File contains copies of the APD and the Drake Lease.

## **2. Summary of Decision**

The USDA Forest Service has prepared an environmental assessment for the SUPO for the Drake 4C Federal Well Development project on the Marietta Unit of the Athens Ranger District, Wayne National Forest. The EA and its appendices document the environmental analysis that was completed, and disclose the environmental effects of the proposed action and the alternatives to the proposed action. Comments received during the Notice and Comment Period are discussed in the Response to Comments (Appendix B) to the EA.

### **DECISION**

District and Forest resource specialists analyzed the environmental effects of three alternatives. After a review of these effects, I have decided to select Alternative C, approve the Surface Use Plan with mitigations as recommended by the specialists. Alternative C was selected because it best meets the purpose and need to allow drilling of this well subject to mitigations that protect resources at the site. Some modifications were made to the mitigations in response to comments received during the Notice and Comment Period. No trees will be removed between April 15 and September 15. The operator will be required to remove the boles of woody debris from the site, but can lop and scatter or chip brushy material. The operator will be required to remove all pit contents and liner from the site. It is recommended, but not required, that the operator wash the drilling equipment before it reaches the site. The operator will cooperate with the Forest Service to monitor the re-establishment of trees on the well pad, and if natural regeneration is not successful, assist in planting the site with seedlings. The disturbed area will be allowed to seed naturally with herbaceous seeds.

### **Decision rationale**

I have reviewed public input from initial scoping and agency specialist input for threatened and endangered species, heritage resources, recreation, visual quality, water quality, and fisheries. I have reviewed comments submitted during the August 30 through September 30, 2002, Notice and Comment period for the Environmental Assessment (Project File Section 3 and EA Appendix B). I am satisfied that

- a) the intent of the National Environmental Policy Act has been satisfied through initial public scoping to determine if any significant issues existed with this project (EA, page 8). The following issues generated mitigations:
  - the impact that woody debris carried by flood waters might have on the floodplain habitats,
  - the visual impact of another well development visible within a retention zone and to the North Country Trail,
  - the impact of an opening that modifies the micro-climate in the floodplain forest to non-threatened wildlife and to plant habitat, and
  - the potential impact of contamination in the Little Muskingum River from having another pump jack within the 100-year floodplain.
- b) concerns about debris in the floodplain are mitigated by removing tree boles and the pit contents and liner from the floodplain site.
- c) the disturbed area will be returned to a more shaded and visually natural condition as quickly as possible by a combination of planting native tree

- seedlings and monitoring for natural regeneration on restored areas of the well pad.
- d) no threatened or endangered plant species have been found on the site and that seasonal tree cutting limitations will prevent the taking of Indiana bats during the roosting season.
  - e) the requirements of the Historic Preservation Act have been satisfied by an archaeological excavation prior to site disturbance and avoidance of an adjacent rock quarry site.
  - f) removal of pit contents and the pit liner during restoration of the drilling pit will allow re-establishment of tree cover on the site as quickly as possible.
  - g) Allowing the area to re-seed naturally with herbaceous material will limit invasion of non-native invasive species.

This decision is consistent with requirements as stated in the Record of Decision for the Environmental Impact Statement (EIS) for Amendment #8 to the Wayne National Forest Land and Resource Management Plan (Forest Plan) as follows:

- 1) the Surface Use Plan of Operations is consistent with lease stipulations and other federal laws. Stipulations and notifications are listed in Appendix D of the Final Environmental Impact Statement for Amendment 8 to the Forest Plan. Not all stipulations or notifications are applied to all leases.
  - a) Special Stipulation A in the Drake Lease (Project File #4-1) allows no surface use within 100 feet of the Little Muskingum River for the protection of the stream channel, riparian areas and associated floodplains. The Drake #4C well site is 120 linear feet from the Little Muskingum River (APD, Project File #4-2).
  - b) Stipulation A also disallows surface occupancy or use within 50 feet of an intermittent stream. Development at the intermittent stream where the well and tank battery for Drake #4 was present on the site when the Forest Service acquired the mineral rights in 1996. A tank for Well 4C is located more than 50 feet from the stream. Re-routing the drainage from an ephemeral stream at this site will occur as part of maintenance of #4 and 4B.
  - c) Stipulation C controls surface use within 20 feet of rock outcrops or cliffs. No outcrops or cliffs occur in the development area.
  - d) Stipulation C applies to situations in which the area of land has a visual quality objective of retention or can be seen in summer from the North Country Trail. A 1000-foot corridor along the Little Muskingum is considered a visual retention zone, however, specialist input has determined that wells are a typical scene along the Little Muskingum and that the re-establishment of trees on the well pad will minimize the visual impact of this development (EA, pages 21-22).
  - e) Notification #2 addresses activities proposed in floodplains or likely to affect a floodplain. This analysis meets the requirement that the public be notified and have an opportunity to comment (EA, page 7). The operator plans to design the casing to prevent damage from high water

and to raise the pump jack four feet above the 100-year floodplain (EA, page 20), both to protect the well head and to reduce the opportunity for contamination of the river in the event of flooding (see SUPO, Project File 4-3). This action plus mitigations including removal of large woody debris and re-planting trees on the disturbed area (EA, page 20), assure me there will be no significant impact on the floodplain.

- f) Executive Order 11988 for Protection of Floodplains requires that alternatives to floodplain development be examined. Alternatives were considered to directional drill from the #4 site and to place the pump jack on the bench above the site (EA, page 14). The operator investigated placing this well across the Little Muskingum River (Project File 4-2). None of these options was considered feasible or analyzed further.
- g) Notification #4 requires examination of lands for federal endangered or threatened species and Forest Species of Concern. The District Wildlife Biologist examined the project area and determined that Alternative C is not likely to adversely affect the Indiana bat, and would have no effect on the American burying beetle or the Bald eagle (EA, page 28-29). It was also examined by the Forest Botanist for Virginia spirea and Running buffalo clover. Though habitat exists, no individuals of these species were found on the site.

Alternative C may impact individuals but is not likely to cause a trend toward federal listing or the loss of viability for Regional Forester Sensitive Species including the black bear, river otter, bobcat, evening bat, Cerulean Warbler, timber rattlesnake, Wabash river cruiser, southern grizzled skipper, or regal fritillary (EA, page 29-31).

- 2) the APD (including the SUPO) is consistent with the Forest Plan 4-15 through 4-46), which has standards and guidelines recommending:
  - visual mitigation (re-establishment of trees at the site),
  - protection of the corridor of the Little Muskingum River (SUPO specifies location of pump jack at 125 feet from the River),
  - the removal of any logging debris from permanent waters (removal of tree boles and lopping of brushy debris),
  - and maintenance of the trail corridor (re-establishment of trees).
- 3) The APD meets or exceeds the requirements of 36 CFR 228.108 in regard to effects on surface resources, notice of operations, drainage of facilities, cultural resources, historical resources, fire prevention and control, fisheries, wildlife and plant habitat, reclamation, safety measures, wastes and watershed protection. The operator's compliance with the notice of operation, fire prevention, reclamation, safety measures and waste disposal is covered through regulations administered by BLM and the Ohio Division of Minerals. All other resource protections are reviewed in Chapter 3 of the EA.
- 4) The APD is acceptable based on a review of potential environmental consequences. The well development site was examined by each of the specialists and the APD was reviewed by the ID team for the inclusion of mitigation measures as required by the Forest Plan. Environmental consequences

were analyzed (EA pages 15-38). Recommendations were made to add mitigations, as described on page 2 of this document.

- 5) A biological evaluation was completed (Project File 5-1,5-2,5-4,6-1).
- 6) No new information surfaced during preparation of this analysis that was in conflict with the EIS for Amendment 8 to the Forest Plan.
- 7) An environmental assessment on the activities proposed was completed with public involvement (EA, page 7).

### 3. Alternatives

Three alternatives were analyzed, the No Action Alternative, approving the SUPO as submitted by the operator, and approving the SUPO with mitigations.

<b>Alternative A</b>	<b>No action alternative SUPO would be disapproved. This alternative denies the operator the opportunity to develop an existing lease of federal minerals.</b>
<b>Alternative B</b>	<b>Approve SUPO as submitted <u>without</u> mitigations as prescribed by Forest specialists.</b>
<b>Alternative C</b>	<b>Approve SUPO <u>with</u> mitigations as prescribed by Forest specialists.</b>

#### Consideration of No Action Alternative and Reasons for Not Selecting It

The No Action alternative is available to the Responsible Official if environmental consequences from development of the well site cannot be satisfactorily mitigated. Review of specialist and public input for this proposal produced mitigations that satisfied the environmental issues. These mitigations will be added to the Forest Service letter approving the SUPO.

I did not select Alternative A because it would not meet the purpose and need of this proposal. I did not select Alternative B to approve the SUPO as submitted because I was concerned about the development of a well in the floodplain of the Little Muskingum River and that specialists concerns and public issues needed to be mitigated.

I selected Alternative C because it included mitigations as detailed above to protect sensitive floodplain habitat, visual quality and water quality in the River and satisfied all federal requirements for protection of resources in the floodplain.

#### Alternatives Considered but Not Analyzed in Detail

Alternatives were considered which would have moved the well outside the floodplain. These included locating the well across the Little Muskingum River, placing the well on a bench above the floodplain, directional drilling, and reducing the footprint of the well pad. These alternatives were either not economically or legally feasible, or their environmental consequences were not acceptable and these alternatives were not analyzed further (EA, page 14).

### **3. Public Involvement and Issue Identification**

I have reviewed the 43 comments received during initial public scoping and the 8 comments received during the 30-day Notice and Comment Period. Public comments supported well development in the Marietta area as a source of economic development. One commenter was concerned with the impact of the well on the North Country Trail. Recreation specialist input clarified that the trail was placed on the well access road and trails already utilize other mineral access roads and pass numerous wells (EA, page 22). Re-establishment of trees on the well pad and the operator's plan to paint all facilities forest green are adequate mitigation for this issue.

### **4. Finding of No Significant Impacts (FONSI)**

Based on this environmental analysis, the effects of implementing Alternative C will not significantly affect the quality of the human environment, and therefore, do not constitute a major federal action, individually or cumulatively, requiring the preparation of an environmental impact statement.

#### **Rationale for FONSI**

Provisions of 40 CFR 1508.27(b) indicate project significance must be judged in terms of the project context and intensity. Based on a review of these provisions, I have determined that the alternatives analyzed in the Drake 4C Federal Well Development EA will not significantly affect the quality of the human environment, and therefore, are not a major federal action, individually or cumulatively, requiring the preparation of an environmental impact statement.

The finding is based on the following factors:

#### **A. Context**

There are over 5000 wells within the proclamation boundary of the Wayne National Forest, approximately 1100 of them on federal land (EIS, Amendment 8, pg 4-30). The amount of development occurring from leasing of available Federal oil and gas is expected to be small (EIS, pg 4-30).

While oil and gas activity occurs forest-wide, the effects of individual development activities are localized in nature with implications for only the immediate area when considering the greater context of the environment. This analysis tiers to cumulative effects and reasonably foreseeable future actions of past management in the EIS for Amendment 8 (Page 4-30). Over 100 other wells have been developed on privately owned minerals in the floodplain of the Little Muskingum River with few known consequences.

#### **B. Intensity**

1. Both beneficial and adverse effects have been considered. Alternative C benefits the community by providing economic development opportunity and contributing to the flow of energy resources (Amendment #8 pp 4-27-28). With mitigations as described, Alternative C will not have a significant effect on the quality of the human environment.
2. Given the controls that govern the development and operation of all wells in Ohio per Chapter 1509 of the Ohio Revised Code and 36CFR 228.108-109 that specifies agency control over surface use impacts (Project File 10-5, 10-6), I

believe that Alternative C will not have a significant effect on public health and safety.

3. Alternative C is in close proximity to the Ring Mill site and a rock quarry that may have been a rock source for the mill site, but will have no impact on either resource. It is not in close proximity to park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
4. The Notice and Comment period for this project elicited 8 responses from interested parties. The minimal effect on the quality of the human environment, however, does not generate scientific controversy and therefore is not considered to be highly controversial.
5. Based on input provided by specialists in mineral development, fisheries, wildlife, visual quality hydrology and botany, it is evident that the effects of Alternative C are limited to the site-specific project area and do not involve uncertain, unique or unknown risks.
6. The implementation of the Proposed Action (Alternative C) will add one .6-acre well pad and access road in a county which presently has 8000 wells. Amendment #8 analyzed cumulative impacts and determined (p. 4-40) that, in a cumulative sense, the effect of any of the [analyzed] alternatives is very small. If people were able to visit the Forest in the year 2040 after implementation of each of the alternatives, they would not detect any difference in soil, water, recreation or wildlife resources from the proposed activities. No cumulatively significant impact is anticipated from development of individual wells on federally-owned mineral leases.
7. There are no National Register sites impacted by Alternative C.
8. Threatened and endangered species: Alternative C would not likely adversely affect Virginia spirea, running buffalo clover, or Indiana bat, and will have no effect on the American burying beetle and the bald eagle (EA Chapter 3, Page 23 and 28-29).
9. Alternative C does not violate any Federal, State, or local laws or requirements imposed for the protection of the environment.

## **Findings Required by Law**

### **Forest Plan Direction**

Management of each administrative unit of the National Forest System is governed by a Land and Resource Management Plan (Forest Plan). In January 1988, the United States Department of the Agriculture (USDA), Forest Service (FS), released the first Land and Resource Management Plan for the Wayne National Forest (the Plan). The Wayne Forest Plan was based on an environmental analysis documented in the Final Environmental Impact Statement (FEIS) and Record of Decision (ROD), signed on January 4, 1988. The ROD included the statement that: "Oil and gas extraction will continue on USA-owned leases."

In 1992, an Amendment to the 1988 Wayne Forest Plan was completed that further defined the process by which oil and gas leasing would be considered on the Wayne National Forest. USA-owned (federal) oil and gas leases are authorized under the Mineral Leasing Act of 1920, as amended, and the Mineral Leasing Act of 1947, for Acquired Lands. Carlton Oil acquired a federal lease when the private minerals, already leased by Carlton, reverted to federal ownership in 1996.

Once a lease is issued, exploration and development requires filing of a Surface Use Plan of Operations (SUPO) with the Forest Service and an Application for Permit to Drill (APD) with the BLM. The two agencies will conduct a site-specific environmental analysis of the drilling proposal and the SUPO. The environmental analysis will identify the necessary mitigation measures to eliminate or reduce any environmental effects resulting from the surface disturbing operations. Site-specific conditions necessary to protect sensitive natural resource values will be identified and documented through this analysis. The approved SUPO and APD will incorporate these conditions of approval as appropriate.

Development of this EA is in accordance with the requirements of NEPA, the National Forest Management Act (NFMA), and the Council on Environmental Quality regulations at 40 CFR 1500-1508.

I have reviewed the applicable federal and state laws on the leasing and development of energy minerals in Forest Service ownership. I have ascertained consistency with the 1988 Wayne National Forest Land and Resource Management Plan, including the Record of Decision for Oil and Gas Resources (Amendment #8). The Record of Decision (see Amendment 8, pages 23-24) clearly outlines the process for Forest Service review of the Surface Use Plan of Operations, including the appointment of an interdisciplinary team to conduct a site-specific environmental analysis

As prescribed in the Record of Decision for Forest Plan Amendment #8 (pages 23-24), the ID team and District Ranger must determine that the Surface Use Plan of Operations is consistent with lease stipulations and other federal laws. Lease stipulations are summarized here:

<b>Stipulation</b>	<b>Requirement</b>	<b>Resolution</b>
<b>A</b>	No surface use within 100 feet of Little Muskingum	APD and SUPO place pump jack 125 feet from River
<b>A</b>	No surface occupancy w/in 50 feet of intermittent streams	Location of tank battery 50 feet from an unnamed intermittent stream was in place prior to reversion of mineral ownership to the Forest Service in 1996.
<b>C</b>	Controlled surface use w/in 20 feet of rock outcrop	Exposed rock on slope adjacent to site may have occurred when rock was quarried for Ring Mill site. Project will have no impact on quarry site.
<b>Notification</b>	<b>Requirement</b>	<b>Resolution</b>
<b>2</b>	Public must be notified about development in the floodplain.	Public notification in EA scoping process meets this requirement (EA, page 7).
<b>4</b>	Requires examination of lands for threatened, endangered of species of concern.	Project was evaluated, see EA, Chapter 3, pages 15-21 and 22-31.

**Endangered Species Act**

Evaluations were conducted by Forest biologists and reviewed by the US Fish and Wildlife Service for both plant and animal species. It was determined that Alternative C was not likely to adversely affect Virginia spirea, running buffalo clover, or Indiana bat, and would have no effect on the American burying beetle and the bald eagle

**National Historic Preservation Act**

The Forest Archaeologist surveyed the project site in June of 2002. The quarry site was noted and is potentially eligible for the National Register of Historic Places. An excavation was done for pre-historic evidence, and no evidence of historic properties was found. The State Historic Preservation Office concurred with this determination on August 15, 2002 (Project File Section 8-5).

**APPEAL RIGHTS**

This decision is subject to appeal pursuant to 36 CFR 215.7. A written Notice of Appeal must be postmarked (or fax date imprinted) on or before 45 days from the day after publication of a legal notice announcing this decision in the Athens Messenger, Athens, Ohio. Appeals must meet the requirements of 36 CFR 215.14. The written Notice of Appeal must be submitted to:

USDA Forest Service, Eastern Region  
Randy Moore, Regional Forester  
Attn: Appeals Deciding Officer  
310 West Wisconsin Avenue  
Milwaukee, WI 53203

**IMPLEMENTATION DATE**

If no appeal is received, implementation of this decision may occur on, but not before, 5 business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.

**RESPONSIBLE OFFICIAL**

Myra L. Williamson, Athens District Ranger, Wayne National Forest

**FOR MORE INFORMATION CONTACT**

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<i>/s/Max E. Norris</i>	<i>11/06/02</i>
<b>for MYRA L. WILLIAMSON</b>	<b>Date</b>
<b>District Ranger</b>	
<b>Athens Ranger District</b>	
<b>Wayne National Forest</b>	

