



## **DECISION NOTICE**

**And**

### **FINDING OF NO SIGNIFICANT IMPACT**

### **LISK CHANEY 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 35  
Grandview Township, Washington County, Ohio  
T2N, R5W Section 28**

***August 6, 2004***

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 Chaney #2 and Lisk #1 and #2 well sites to the USDI Bureau of Land Management (BLM) on November 14 and December 24, 2003, respectively. Carlton Oil provided BLM with the Application for Permit to Drill (APD) and the proposed Surface Use Plan of Operations (SUPO) for consideration on February 5, 2004. 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 has been a cooperating agency under the National Environmental Policy Act (NEPA) and was instrumental during the preparation of this analysis. Section D of the Project File contains copies of the APD and the Lisk and Chaney leases.

## **2. Summary of Decision**

The USDA Forest Service has prepared an environmental assessment (EA) for the SUPO for the Lisk #1 and #2 and Chaney #2 Federal Well Development project on the Marietta Unit of the Athens Ranger District, Wayne National Forest. The EA documents the environmental analysis that was completed, and discloses 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 Chapter 1 of the EA.

### **DECISION**

District and Forest resource specialists analyzed the environmental effects of two alternatives, the No Action and the development of these three wells with mitigations. After a review of these effects, I have decided to select Alternative B to approve the Surface Use Plan with mitigations as recommended by the specialists. Alternative B was selected because it best meets the purpose and need to allow drilling of this well and to protect resources at the sites. No trees will be removed between April 15 and September 15. It is recommended, but not required, that the operator wash the drilling equipment before it reaches the site. Equipment should be inspected for dirt and vegetations debris when first entering the site.

### **Decision rationale**

I have reviewed public input from the 30-day Notice and Comment Period, per 36 CFR 215.5 a(2) and b(iv) and agency specialist input for threatened and endangered species, heritage resources, and recreation. I am satisfied that the intent of the National Environmental Policy Act has been satisfied through public scoping to determine if any significant issues existed with this project (EA, page 5). This project generates minimal impacts and no issues were determined to be significant.

No threatened or endangered plant species have been found on the site and seasonal tree cutting limitations will prevent the taking of Indiana bats during the roosting season. The requirements of the Historic Preservation Act have been satisfied by an archaeological excavation prior to site disturbance.

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 (see Project File D-1 and D-2). Following are the stipulations applied to these leases.
  - a) Special Notification #1 requires operations under this lease to be consistent with the standards and guidelines found in the Wayne National Forest Land and Resources Management Plan (1988), as amended. Forest Plan standards and guidelines include restrictions on location, timing and methodology of oil and gas lease operations, and

requirements for special surveys that provide for protection of National Forest land and resources.

- b) Stipulation #2 disallows surface occupancy within 100 feet of cliff faces or rock shelters to protect habitat for northern monkshood and other locally sensitive species. Cliff faces located near Lisk #1 are more than 300 feet from the well site.
- c) Stipulation #3 disallows surface occupancy within riparian areas. None of these sites are located within a riparian area.
- d) Stipulation #4 disallows surface occupancy in forest openings. The Chaney #2 well site is several hundred feet from the old field. The old field had never been added to the District opening management program.
- e) Special Stipulation #5 disallows surface occupancy on slopes in excess of 55% to protect soil and water from erosion. No development is planned for steep slopes.
- f) Special Stipulation #6 disallows cutting of potential roost trees, except during the hibernation season. This mitigation has been applied at Lisk #1 and Chaney #2.
- g) Special Stipulation #7 allows mitigations to be applied for the cerulean warbler breeding season. This was not an issue for these projects.
- h) Special Stipulation #8 restricts surface occupancy on ridge tops where Olympia marbles could occur. No Olympia marble sites exist in this project area.
- i) Special Stipulation #9 allows surface occupancy where there may be timber rattlesnakes, with mitigations. No rock outcrops will be disturbed in these projects.
- j) Special Stipulation #10 protects all super-canopy trees for bald eagles. There is no bald eagle habitat in this project area.
- k) Special Stipulation #11 requires the least amount of ground disturbance from road construction. All roads in these projects are ridge top and generate minimum ground disturbance.
- l) Special Stipulation #12 allows oil and gas activities on 35-55% slopes on a case by case basis. There is no development planned on steep slopes in these projects.
- m) Special Stipulation #13 requires that the structural integrity of potential old growth be protected when development sites are located. No old growth was identified.

- 2) the APD (including the SUPO) is consistent with the Forest Plan 4-15 through 4-46).
- 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 pages 2 and 3 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

Two alternatives were analyzed, the No Action Alternative (A) and approving the SUPO with mitigations as recommended by specialists (B).

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| <b>Alternative A</b> | <b>No action alternative<br/>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<br/><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 selected Alternative B to approve the SUPO with mitigations because I was satisfied all federal requirements for protection of resources were met.

#### **Alternatives Considered but Not Analyzed in Detail**

No other alternatives were analyzed.

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

I have reviewed the 25 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 comment objected to drilling wells on federal land. This is a Forest Plan-level decision and is not within the scope of this project. One comment requested that spills and the cumulative effects of wells on the District be addressed. These issues have been covered in the EA on pages 5 (spill plan) and 13 (cumulative effects).

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

Based on this environmental analysis, the effects of implementing Alternative B 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 Lisk and Chaney 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 40 other wells have been developed on private and federal minerals within one mile of the project area with few known consequences (see Project File J-2).

#### **B. Intensity**

1. Both beneficial and adverse effects have been considered. Alternative B 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 B 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, I believe that Alternative B will not have a significant effect on public health and safety.

1. Alternative B is not in close proximity to park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
2. The Notice and Comment period for this project elicited 24 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.
3. Based on input provided by specialists in mineral development, wildlife, visual quality, hydrology and botany, it is evident that the effects of Alternative B are limited to the site-specific project area and do not involve uncertain, unique or unknown risks.
4. The implementation of the Proposed Action (Alternative B) will add three .6-acre well pads and 3000 feet of new access road in an area 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.
5. There are no National Register sites impacted by Alternative B.
6. Threatened and endangered species: Alternative B may affect the Indiana bat, but the anticipated effects are minimal and similar to those anticipated for mineral activity in the Biological Opinion of the US Fish and Wildlife Service submitted in 2001. This project will have no effect on the American burying beetle. No habitat exists for the bald eagle, northern monkshood or Virginia spiraea, the pink mucket pearly mussel or the fanshell mussel. The project is not likely to adversely affect small whorled pogonia or running buffalo clover (EA pages 14-15). Alternative B 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 in “Decision Rationale” on pages 2 and 3 of this document.

### **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 B may affect the Indiana bat, but the anticipated effects are minimal and similar to those anticipated for mineral activity in the Biological Opinion of the US Fish and Wildlife Service submitted in 2001. This project will have no effect on the American burying beetle. No habitat exists for the bald eagle, northern monkshood or Virginia spiraea, the pink mucket pearly mussel or the fanshell mussel. The project is not likely to adversely affect small whorled pogonia or running buffalo clover (EA pages 14-15). Alternative B does not violate any Federal, State, or local laws or requirements imposed for the protection of the environment.

### **National Historic Preservation Act**

The Forest Archaeologist reviewed the project site in July of 2004. A contract survey had been completed in 1992, and no sites were identified in the project area.

**APPEAL RIGHTS**

This decision is subject to appeal pursuant to Forest Service regulations at 36 CFR 215.7. Any written appeal must be postmarked (or fax date imprinted) on or before 45 days from the day after publication of this decision in the Athens Messenger, Athens, Ohio. Appeals must meet the requirements of 36 CFR 215.14. Appeals must be submitted to:

Mary O. Reddan, Appeal Deciding Officer  
Attn: Appeals and Litigation  
USDA Forest Service, Eastern Region  
626 E. Wisconsin Avenue  
Milwaukee, WI 53202

Electronic appeals should be directed to [appeals-eastern-regional-office@fs.fed.us](mailto:appeals-eastern-regional-office@fs.fed.us). Electronic appeals should be in TXT, RTF, DOC, PDF or other Microsoft Office-compatible formats. Fax No. (414)944-3963. Appeals must meet the requirements of 36 CFR 215.14. 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.

**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**

Dan B. Kincaid, Athens District Ranger, Wayne National Forest

**DOCUMENT WAS PREPARED BY AND FOR MORE INFORMATION CONTACT**

Marsha Wikle, NEPA Coordinator  
Athens Ranger District - Wayne National Forest  
13700 US Hwy 33  
Nelsonville, OH 45764  
740/753-0101

/s/ Dan B. Kincaid 8/9/04  
**DAN B. KINCAID** **Date**  
**District Ranger**  
**Athens Ranger District**  
**Wayne National Forest**