

DECISION MEMO
OHIO DEPARTMENT OF TRANSPORTATION
Phase II Subsurface Investigations

USDA Forest Service
Athens Ranger District - Wayne National Forest
Sections 1 & 7, T13N, R16W, Green Township; Sections 6 & 12, T12N, R16W, Starr
Township; and Sections 13, 19, 25 & 31, T13N, R15W, Ward Township; Hocking County, Ohio
and
Sections 11, 17 & 18, T12N, R15W, York Township, Athens County, Ohio

DECISION:

After review of the project file, it is my decision to issue an amendment to Ohio Department of Transportation's existing special use permit dated 6/20/02 to conduct additional subsurface investigations along the proposed route corridors being considered for the improvement of U.S. Route 33 Nelsonville by-pass project in the vicinity of Nelsonville, Ohio. Subsurface investigations will involve drilling approximately 436 holes (up to 192 holes within the National Forest property) using a small auger and core drill to bore into the subsurface strata. The depth of drilling will range from 10 feet to 280 feet. If water filled mine voids are discovered during drilling, monitoring wells will be installed and maintained to allow for mine water sample collection and water level measurement.

The project area that coincides with properties of the Wayne National Forest is located in Sections 1 & 7, T13N, R16W, Green Township; Sections 6 & 12, T12N, R16W, Starr Township; and Sections 13, 19, 25 & 31, T13N, R15W, Ward Township; Hocking County, Ohio and Sections 11, 17 & 18, T12N, R15W, York Township, Athens County, Ohio

Management Requirements:

1. Maximize the use of existing roads and trails.
2. No removal of trees greater than 4 inches dbh. Tree cutting will be allowed from September 15 to April 15. Any needed cutting of trees over 4 inches in dbh after April 15 will require prior approval of District Wildlife Biologist and possible reinitiating of consultation with the Fish and Wildlife Service
3. Locate drill holes out of drainage ways that may capture surface water and divert it underground.
4. Permanently plug all drill holes to avoid entry of air into underground spaces.
5. Obtain drilling water only from sources with the volume and recharge capacity sufficient to avoid any local seasonal shortages and prevent seasonal drying.
6. Minimize soil disturbances and all disturbed areas will be reclaimed; erosion control measures installed where needed, and seeded with the Wayne National Forest Seed mix and mulched.
7. If black bear, bobcat or timber rattlesnakes are encountered, individuals will be allowed to pass without being harassed in any way.
8. Equipment operators will be instructed to look for and recognize timber rattlesnakes and avoid running over or disturbing them. Large rocks and downed logs will be avoided

- where possible to reduce impacts to potential basking, foraging and resting habitat.
- 9.
 10. Use existing roads and trails to the maximum extent possible and limit off-road actions in the area of potentially suitable habitat for the southern grizzled skipper. Drillers will be informed on site where known populations are in reference to nearby boreholes. At drill sites #7852 through #7858 and access routes to these sites, add native members of the Rosaceae family [e.g. cinquefoil (*Potentilla canadensis*), prairie rose (*Rosa setigera*), wild strawberry (*Fragaria virginiana*)], Blueberries (*Vaccinium* sp.), and violets (*Viola* sp.) to the seed mix to re-vegetate all disturbed soils.
 11. For the whole project, to avoid or reduce the impacts from NNIS (Non-Native Invasive Species), drillers will be required to clean equipment of all mud, soil, and vegetation debris prior to entering forest service lands. This will be accomplished off forest lands using a high-powered water hose. The equipment will be inspected for compliance prior to entering the forest.
 12. Access to drill sites will require the construction of new, eight foot wide trails, where existing roads and trails do not extend. The new access trails will be positioned to avoid trees, such that no trees greater than 4 inches dbh will require cutting. The drill rig and other equipment will be maneuvered between trees.
 13. The drill sites will be approximately 15 feet by 15 feet. the skid mounted drill rig will be transported off existing roads by a John Deere 550 dozer or equivalent.
 14. Water needed for drilling will be pumped from ponds and approved sources on Wayne National Forest land or pumped from locations on adjacent private property and hauled in by tanker truck or pumped to the drill site from a tanker truck.

PUBLIC INVOLVEMENT:

Scoping was done to insure that all resources were considered and that interdisciplinary input was achieved. Scoping included internal consultation with the Forest Staff, as well as the Department of Transportation project team, to ensure threatened and endangered species habitat protection and heritage resource protection. Public scoping included a scoping letter dated 9/16/2003 sent out to interested parties and a legal notice published in the Athens Messenger on 9/21/2003.

Comments were received from two interested parties. One party stated only his preferred selection on a route which is not part of this analysis. The other interested party opposed the granting of the proposed permit and the actual construction itself. Construction of the highway is not part of this analysis. As part of the NEPA process for the construction of the highway, opportunity will be provided for public comment at a later date. Another concern was the drilling of unnecessary drill holes since the preferred route has not been selected. Drilling will only take place on the selected alternative. The eastern section of the proposed route is not part of the alternatives and can be drilled as soon as the permit is issued. Other concerns with wildlife and plants are addressed in the biological evaluation completed for both animals and plants. Another comment was made that this proposal should be documented in an environmental assessment or EIS. This is a planning type permit to gather information and falls within categories that may be excluded from documentation in an environmental assessment or environmental impact statement. Information gathered from this project will be used later in preparation of the NEPA document by the State for the selection of the preferred corridor and

construction of the highway.

FINDINGS REQUIRED BY OTHER LAWS:

A biological Evaluation for both plants and animals has been prepared by a private consultant for the Department of Transportation on 12/18/03. The evaluation has been reviewed and concurred with by both the District Wildlife Biologist and Forest Botanist on 01/12/2004. The biological evaluation made a determination that implementation of this project's subsurface investigation activities may affect, but is not likely to adversely affect any federally listed threatened or endangered species of plants or animals, nor contribute to the loss of viability or cause to move toward federal listing of any of the regional sensitive species of plants or animals. The activity may impact individuals but is not likely to cause a trend towards federal listing or loss of viability for the black bear, bobcat, timber rattlesnake, cerulean warbler, Bicknell's panicgrass, Juniper sedge, rock skullcap, yellow-fringed orchid, and umbrella magnolia.

The project's subsurface investigation activities were reviewed by the Forest Archaeologist per Section 106 of the National Historic Preservation Act. The evaluation determined that implementation of the core drillings will not effect identified sites within the corridors. A recent Phase II archaeological investigation of prehistoric site 33AT209 recommended that the site was not eligible for the NRHP. The investigation also produced the incidental identification of sites 33AT957 and 33AT958, neither of which is eligible for the NRHP. All core drilling sites and access trails on the eastern segment will avoid any impact to prehistoric site 33AT 208. The evaluation determined that this activity will not affect any historic properties and should be allowed to proceed as planned. No additional Section 106 coordination is necessary. In the event that any historic properties or prehistoric sites are discovered, all activity in the area shall be halted until further investigation is completed.

Implementation of this decision is consistent with the Wayne National Forest Land and Resource Management Plan. It is consistent with Plan Standard and Guidelines (p. 4-13, 4-48, 4-59 & 4-61), Management Areas 2.1 (p. 4-71 & 4-73); 3.1 and 3.2 (p. 4-86).

REASONS FOR CATEGORICALLY EXCLUDING THE PROPOSED ACTION:

This action to issue an amendment to an existing Ohio Department of Transportation special use permit can be categorically excluded from documentation in an EIS or EA because it is within Category 31.2, Section 3 (Forest Service Handbook 1909.15, Environmental Policy and Procedures.) which allows for "Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land".

Forest Service Handbook 1909.15, Environmental Policy and Procedures, Chapter 30.3 identifies extraordinary circumstances. Our analysis has found that there are no extraordinary circumstances related to granting this special use amendment which might cause this action to have significant effects

Our analysis has found that the extraordinary circumstance of flood plains is present but there will be no significant impacts, for wetlands, or municipal watersheds is not present.

Our analysis has found that the extraordinary circumstance of Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas is not present.

Our analysis has found that the extraordinary circumstance of inventoried road less areas is not present.

Our analysis has found that the extraordinary circumstance of research natural areas is not present.

Our analysis has found that the extraordinary circumstance of Native American religious or cultural sites, archaeological sites, or historic properties or areas may be present but there is no effect.

Our analysis has found that the extraordinary circumstance of threatened and endangered species is present. However, the biological evaluation has determined that this action is not likely to adversely affect any threatened or endangered species. It has concluded that this action may impact individuals but is not likely to cause a trend toward federal listing or a loss of viability of any sensitive species.

IMPLEMENTATION DATE:

Implementation of this decision may occur immediately upon signature of this Decision Memo.

ADMINISTRATIVE REVIEW:

This decision is not subject to appeal which is in accordance with 36 CFR 215.12(f). For further information regarding this decision, contact Dan Kincaid, District Ranger, Athens Ranger District, Wayne National Forest, at 13700 U.S. HWY 33, Nelsonville, Ohio 45764 or telephone 740-753-0101.

s/s Dan B. Kincaid

Date: 02/10/2004

DAN B. KINCAID
Athens District Ranger