

Wayne National Forest

1992 Plan Amendment #8

The Decision

On January 4, 1988, Regional Forester, Floyd J. Marita, determined that the entire federally owned oil and gas mineral estate was administratively available for leasing. The unique natural areas and developed recreation sites were open to development but subject to the use of No Surface Occupancy lease stipulations. Francis J. Voytas, as the Federal official responsible, have decided to amend the Land and Resource Management Plan for the Wayne National Forest as follows:

- To reduce the acres available on the Forest for occupancy by eliminating occupancy Management Areas 6.2 and 7.1.
- To clarify the suitability requirements for 8.2 Management Area.
- To adopt a new Forest-wide Standard and Guideline for "Emergency Spill Response".
- There is no change to the guidance of prohibiting surface occupancy in Management Areas 8.1, 8.2 and 9.2.
- There is no change to the oil and gas guidance in the other management areas.

And to adopt the Forest Plan Amendment #8 as published in Appendix C of the EIS. "The following is a discussion of each of these items:

- To reduce the acres available on the Forest for occupancy by eliminating occupancy of unleased tracts in 6.2 and 7.1 Management Areas. The decision applies only to the federally owned oil and gas estate underlying National Forest System lands on the Wayne National Forest. The decision does not apply to other mineral ownerships within the Forest boundary, or to other federally owned minerals.

Management Area 6.2

I have decided to prohibit surface occupancy in Management Area 6.2. Management Area 6.2 has a desired future condition of natural forest; no timber harvest or wildlife habitat improvements; and semi-primitive, non-motorized recreation. There is no specific oil and gas guidance about Management Area 6.2 in the Forest Plan. The current oil and gas guidance for Management Area 6.2 is found in Forest-wide standards and guidelines. This guidance allows surface-disturbing oil and gas exploration and development to be considered, with restrictions on development

determined on a case-by-case basis after environmental analysis (Plan, pp. 4-51 to 4-53).

The new guidance will be included as an amendment to page 4-126 of the Forest Plan:

"On National Forest System lands in 6.2 areas, the USDA Forest Service will only issue Federal oil and gas leases that have a No Surface Occupancy stipulation. When oil and gas rights with wells revert to the Federal Government in 6.2 areas that have operating wells, the Forest Service will recommend to BLM that operations be allowed to continue provided that all activities comply with Forest guidance. When the existing well (or wells) is depleted all facilities must be removed and the site rehabilitated to Forest Service standards. No new wells will be allowed, nor will existing wells be allowed to be drilled to deeper formations. If the reverting rights do not have operations, the USDA Forest Service will recommend that BLM lease the tract with No Surface Occupancy lease stipulations."

I selected the guidance of Alternative D of No Surface Occupancy for Management Area 6.2 which has a unique purpose of "natural" forest because:

- A. Additional intrusions upon the environment within Management Area 6.2 would be avoided. Many people look to the Forest to provide a place for recreation and wildlife habitat where human presence and developments are not readily evident. Management Area 6.2 can eventually provide such a place, even though it may take many decades. Because of outstanding and reserved mineral rights on National Forest lands and mineral development on adjacent private lands, this desired future condition is a long term goal. However, this alternative provides a very important symbolic movement towards the desired future condition.

- B. Although the difference is small, it is significant for a person who visits a particular undisturbed tract on a regular basis to know that the tract will not have drilling on it. I recognize that the difference in effects on uncommitted lands within Management Area 6.2 between leasing with No Surface Occupancy, and leasing with Special Stipulations is very small. The ID team estimated that there would be 153 producing wells on the Federal Surface of Management Area 6.2 with Alternative D by the year 2000. This is only 3 fewer than are estimated to occur under Alternative B the alternative with the greatest number of wells. This is a small difference in the short term. Few people, if any, will be able to measure or see the overall difference in soil, water, recreation or wildlife resources whether or not surface occupancy is allowed.

C. By not allowing drilling on these tracts, we will be sensitive to placement of any necessary roads and pipelines across Management Area 6.2 to access private oil and gas on adjacent tracts but will not be infringing on private rights.

D. Selection of Alternative D will begin to move the 6.2 area towards a future condition that will meet public needs of providing recreation opportunities and potential restoration of old-growth forest ecosystems. The recreation experience sought is a feeling of solitude and closeness to nature. The potential restoration involves providing core areas of closed-canopied old-growth forest beneficial to forest interior plant and animal species and communities that could be highly important for biological diversity and forest interior species on a landscape level. This will ensure that the standards and guidelines for oil and gas leasing in 6.2 areas are consistent with its purpose and its desired future condition as closed-canopied, mature forest areas.

E. By making the lands in Management Area 6.2 available for leasing with the No Surface Occupancy (NSO) requirements, the oil and gas would be available in the future as technology improves. No Surface Occupancy leases also may be a tool to help resolve drainage problems in the future when slant drilling is economical. Because NSO may adversely affect the economics of developing these tracts, royalties may not be collected by BLM and the tracts with drainage problems may have the oil and gas "lost" to drainage.

Under Alternative A there would be no leasing of Federal oil and gas in Management Area 6.2. I did not select Alternative A because a total prohibition on leasing is not needed to protect these tracts. The stipulations included with Alternative D of No Surface Occupancy will assure protection of the surface values in Management Area 6.2, just as well as Alternative A, with no leasing and minimal impact as possible on the availability of the oil and gas. The values protected by both alternatives include:

1. Additional intrusions upon undisturbed tracts which is important for a person who visits a particular undisturbed tract on a regular basis.
2. Movement towards a future condition that will meet public needs of providing recreation opportunities and potential restoration of old-growth forest ecosystems.
3. Providing potential core areas of closed-canopied, old-growth forest.

By not selecting Alternative A, and by making these lands available for leasing with the No Surface Occupancy (NSO) requirements, the oil and gas would be available in the future as technology improves. Currently, because of the shallow

location of oil in southeastern Ohio, slant drilling of oil is not possible. If slant drilling was used, the extraction of the oil and gas would not disturb the surface.

Under Alternative B, Management Area 6.2 would be available for oil and gas with Special Stipulations. Under Alternative C, the 6.2 areas of Athens North and Marietta would be changed to 6.5 to recognize and allow for Federal oil and gas activities in those areas. I did not select Alternative B or Alternative C because neither protects the values of 6.2 such as:

1. Additional intrusions upon undisturbed tracts which is important for a person who visits a particular undisturbed tract on a regular basis.
2. Movement towards a future condition that will meet public needs of providing recreation opportunities and potential restoration of old-growth forest ecosystems.
3. Providing potential core areas of closed-canopied, old-growth forest.

This is particularly true for Athens North and Marietta areas since these areas are unique, natural-appearing areas even though there are 92 wells within the Marietta 6.2 area and 47 wells within the Athens North 6.2 area. Due to outstanding and reserved rights we have limited control over development of oil and gas within these areas. It is time to take action to move closer to the Desired Future Condition and prevent additional intrusions upon the undisturbed tracts. Under Alternatives E and F, the emphasis is on the acquisition of private oil and gas underlying National Forest System lands in Management Area 6.2. I did not select these Alternatives because it is more important to spend any money available for acquisition on our first priority of acquiring surface rights until we reach our ultimate size of 322,000 acres as stated in the Forest Plan. Land acquisition in Management Area 6.2 will continue to be high priority. Acquisition of oil and gas rights would be preferred, though acquisition is emphasized even when oil and gas rights are outstanding or reserved for development. While it is not ideal for rights to be reserved or outstanding, it is appropriate for the long term goals.

Management Area 7.1

I have decided to prohibit surface occupancy in the undeveloped portion of Management Area 7.1. The current minerals guidance for Management Area 7.1 is: "No surface disturbance is allowed to explore for or develop on land with USA-owned minerals within the developed portion of the 7.1 area."

The new guidance will be included as an amendment to page 4-144 of the Forest Plan:

"No surface disturbance is allowed to explore for or develop on land with USA-owned minerals within the entire 7.1 area."

This change only affects the undeveloped portion of the Lake Vesuvius Developed Recreation Area. This is a change from the draft EIS Alternative D in which the undeveloped area of 7.1 was open to exploration. I learned since publication of the draft EIS that the Federal mineral rights within the watershed of Lake Vesuvius were purchased originally to protect the watershed from all effects of mineral development. The lands in and around the Lake Vesuvius watershed were acquired from Davis, Carlyle and Labold in 1936. The mineral rights were reserved by the vendors.

The minerals were later acquired by Minerals Products Company. The Lake Vesuvius Dam was constructed by the CCC's in 1938 and 1939. In 1950 the USA exchanged the lands acquired from Davis, Carlyle and Labold outside the watershed for the mineral rights that Minerals Products Company had acquired within the watershed. By amending the Management Area 7.1 standards and guidelines for the undeveloped portion of the recreation area to require No Surface Occupancy instead of Special Stipulations, I am ensuring the protection of the area of the Lake Vesuvius watershed by eliminating any effects for all mineral development. Some of the values protected include the beauty of the natural setting and uninterrupted forest landscape; undisturbed native vegetation; soil free from compaction from construction of access roads and well pads; air not polluted by dust and petroleum smells during road and pad construction; and noise from well drilling, pumping and road construction.

Under Alternative A there would be no leasing of Federal oil and gas in Management Area 7.1. I did not select Alternative A because a total prohibition on leasing is not needed to protect the area of the watershed of Lake Vesuvius. The stipulations included with Alternative D of No Surface Occupancy will assure protection of the surface values in Management Area 7.1, just as well as Alternative A, with no leasing and minimal impact as possible on the availability of the oil and gas. The values protected by both alternatives include: the beauty of the natural setting and uninterrupted forest landscape; undisturbed native vegetation; soil free from compaction from construction of access roads and well pads; air not polluted by dust and petroleum smells during road and pad construction; and noise from well drilling, pumping and road construction. By making these lands available for leasing with the No Surface Occupancy (NSO) requirements, the oil and gas would be available in the future as technology improves. Currently, because of the shallow location of oil in southeastern Ohio, slant drilling of oil is not possible. If slant drilling was used, the extraction of the oil and gas would not disturb the surface.

Under Alternatives B, C, E, and F the undeveloped portion of Management Area 7.1 would be available for oil and gas with Special Stipulations. I did not select any of these alternatives they do not ensure protection of values of the watershed. The values protected include: the beauty of the natural setting and uninterrupted forest landscape; undisturbed native vegetation; soil free from compaction from construction of access roads and well pads; air not polluted by

dust and petroleum smells during road and pad construction; and noise from well drilling, pumping and road construction.

To clarify the suitability requirements for 8.2 Management Area. The current guidance on page 4-150 is:

"Surface rights take precedence over subsurface rights as necessary to meet the intended use of the area".

The new guidance will be included as an amendment to page 4-150 of the Forest Plan:

"Subsurface rights should be purchased from willing sellers as necessary to meet the intended use of the area."

This was changed to clarify the meaning of the sentence. This was interpreted by several people who commented on the draft EIS that the Federal government was going to condemn their rights.

? To adopt a new Forest-wide Standard and Guideline for "Emergency Spill Response". Currently guidance for "Emergency Spill Response" does not exist in the Forest Plan.

The new guidance will be included as an amendment to page 4-51 of the Forest Plan:

"Upon discovery or notification of an accidental spill of crude oil or brine which discharges or threatens to discharge into surface waters, the Ohio Environmental Protection Agency emergency spill response unit at Logan, Ohio (614-385-8501) is to be telephoned immediately. State of Ohio regulations require a Spill Prevention and Control Countermeasures Plan (SPCC). Remedial action for cleanup of soil and water resources and timely repair of damaged wells, pipelines or tanks will be accomplished by lessee as directed by Ohio EPA."

I adopted this guidance in order to respond to the Environmental Protection Agency (EPA). The EPA pointed out the need for an "emergency plan for accidental pollutant discharges into surface water in its comments on the DEIS and proposed plan amendment. I believe the above "Emergency Spill Response" guidance addresses this need in a clear and efficient matter.

? There is no change to the guidance of prohibiting surface occupancy in Management Areas 8.1, 8.2 and 9.2. These unique natural areas are designated (M.A. 8.1 and 8.2) and candidate (M.A. 9.2) special areas and research natural areas. These areas include the 78-acre, Reas Run Research Natural Area (RNA), 19 Candidate Special Areas and Research Natural Areas (M.A. 9.2), and the three Special Areas (M.A. 8.2) -Buffalo Beats, Eels Run, and Paine Crossing.

The current oil and gas guidance for Management Areas 8.1, 8.2, and 9.2 is they may be leased subject to 'No Surface Occupancy' stipulations.

For these three Management Areas all other alternatives are alike, except A. I selected Alternative D and have not changed the guidance for Management Areas 8.1, 8.2, and 9.2 because: (1) The standards and guidelines are consistent with the Forest Plan and the desired future condition I of these Management Areas; (2) Nothing has changed since the Forest Plan was approved in 1988; (3) There is no reason to be more or less restrictive.

Under Alternative A there would be no leasing of Federal oil and gas in Management Areas 8.1, 8.2 or 9.2. I did not select Alternative A because a total prohibition on leasing is not needed to protect these unique natural areas which include the higher quality examples of natural plant communities of the Forest. The guidance of 'No Surface Occupancy' protects these areas even if they have rare or uncommon plant and animal communities and ecological processes, by preventing additional intrusions from Federal oil and gas leasing. No Surface Occupancy protects the surface resources of these areas, just as well as Alternative A, with no leasing and minimal impact as possible on the availability of oil and gas. By making lands available for leasing with No Surface Occupancy (NSO), the oil and gas would be available in the future as technology improves. Currently, because of the shallow location of oil in southeastern Ohio, slant drilling of oil is not possible. If slant drilling was used, the extraction of the oil and gas would not disturb the surface.

There is no change to the oil and gas guidance in the other management areas. The current oil and gas guidance for Management Areas 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, and 6.1 allow surface-disturbing oil and gas exploration and development to be considered with restrictions on development determined on a case-by-case basis after environmental analysis (1988 Forest Plan, pp. 4-51 to 4-53).

For these seven Management Areas all other alternatives are alike, except A. I selected Alternative D and have not changed the guidance for the other Management Areas 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, and 6.1 because:

- (1) The standards and guidelines are consistent with the Forest Plan and the desired future condition of these Management Areas;
- (2) Nothing has changed since the Forest Plan was approved in 1988;
- (3) There is no reason to be more restrictive;
- (4) The effects of oil and gas are compatible with the desired future condition, standards and guidelines, goods, services and management activities expected to occur in these Management Areas; and
- (5) as documented in Chapter 3 of the EIS, Forest experience with over 1,000 wells has demonstrated that the mitigation measures work. These measures are required by the Forest-wide standards and guidelines. These mitigation measures include special lease requirements for resources and situations assigned with Interdisciplinary Team (ID) review.

Other mitigation measures include another ID team review prior to actual drilling operations.

Chapter 3 provides numerous examples of how mitigation works through proper administration, supervision and monitoring of oil and gas activities.

The following are brief examples:

1. Soil and water impacts are mitigated by seeding with a non-invasive seed mix, mulching requirements, interdisciplinary review, filter strips, use of information found in the County Soil Survey interpretive tables, and inspections of oil and gas apparatus.
2. Visual impacts are mitigated by visual resource specialist coordination. This coordination results in such activities as relocation of hiking trails to skirt sites, tanks being painted to blend in, equipment sited in dense vegetation, vegetatively screening, equipment located so as not be seen from sensitive areas, rapid construction, road berms revegetated, use of horses to lay pipe, or the planting of pine for visual screening.
3. Noise is mitigated by state laws pertaining to well siting, mufflers, and spark arresters. Case-by-case basis mitigation may include electric motors.
4. Riparian areas are protected by ID team review and resulting movement of proposed locations before drilling begins to avoid riparian zones, wetlands and flood plains.
5. Endangered, threatened and sensitive species are protected by site specific field reviews, relocation of proposed sites, siltation dams of bales of wheat straw and/or filter fabric, and on going Forest inventories of Forest flora and fauna.
6. Managed forest openings are protected by guidance that no oil or gas activities associated with USA-owned minerals will be allowed within managed forest openings unless resulting habitat loss can be mitigated.
7. Other wildlife habitat is protected by guidance that restrict oil and gas activities to avoid or minimize adverse effects on soils, waterholes, streams, marshes, and ponds and require that no oil and gas activities be allowed if they are likely to be detrimental to Federal endangered, threatened, regional sensitive, or Forest species of concern, or their habitats.
8. Fish and other aquatic resources are protected by Ohio Oil and Gas Rules and Regulations, biologist/ecologist/botanist coordination for all oil and gas activities,

Special Stipulations for riparian zones, existing wetlands, open water areas, springs and seeps, and other uncommon habitats; and, that No Surface Occupancy will be permitted within riparian areas.

Under Alternative A there would be no leasing of the Federal oil and gas in these Management Areas 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, and 6.1. I did not select Alternative A because:

- (1) the effects of oil and gas are compatible with the desired future condition, standards and guidelines, goods, services and management activities expected to occur in these Management Areas;
- (2) a total prohibition on leasing is not needed to protect these areas as mitigation measures required by the existing Forest Plan will assure protection of the surface values in these Management Areas; and
- (3) as documented in Chapter 3 of the EIS, Forest experience with over 1,000 wells has demonstrated that the mitigation measures work.

I have decided to adopt the Forest Plan Amendment #8 as published in Appendix C of the EIS. This amendment includes the above changes to Management Areas 6.2, 7.1, 8.2 and the emergency spill guidance. This amendment includes in addition:

- Clarifications to the standards and guidelines in regards to: the desired future condition of 6.2; how production noises can be reduced; cultural resource areas; visual resource specialist coordination; biologist/ecologist/botanist coordination; occupancy on steep slopes; and riparian area, floodplain, or wetland protection.
- A map showing occupancy requirements for Federal oil and gas is listed in Appendix C of the EIS. These maps will now be displayed as a new Appendix I to the Forest Plan. The Management Area Map is unchanged by this amendment.
- This amendment prohibits occupancy for the extraction of USA-owned minerals in recreation areas not currently designated as 7.1 or administrative areas. This clarifies my position that these minerals may be available but with NSO.

Summary

In summary, Alternative D provides the best balance. It does this by resolving the critical issue of the appropriateness and compatibility of allowing Federal oil and gas leasing activities in Management Area 6.2. It provides a balance of all Forest resources in meeting the present needs of society, as well as those of future generations.

- A. It presents a balance which addresses the need for energy and ecosystem protection. We will have a policy to protect the special tracts in

recreation areas, natural areas, special interest areas and Management Area 6.2. Provide a balanced mix of benefits for posterity.

B. It fully conforms to the USDA Forest Service's national policy and objectives for energy and minerals management, and meets the USDA Forest Service's legal responsibilities under FOOGLRA and its implementing regulations.

C. Most of the Forest (96 percent) will be available for occupancy for oil and gas activity a result of this alternative. This includes 100 percent of the outstanding and reserved right and 88 percent of the Federal rights. In addition to above, I have decided to clarify other portions of the plan.

- To clarify the purchase priorities of the land adjustment strategy and respond to the Chief's direction of December 24, 1990 to clarify the figures in Table A-4 of Appendix A of the Forest Plan. The Chief directed this clarification in his decision on the appeal of the Wayne National Forest Plan filed by Sedam and Mann, representing the Ohio Environmental Council, the Hocking Valley Audubon Society, and the Ohio Audubon Council. This land adjustment strategy is listed in listed in Appendix C of the EIS.
- To update the list of Federal proposed, endangered, and threatened species, Regional sensitive species, and Forest Species of concern, published in the 1988 Forest Plan beginning on page 4-48. The species listed by state and Federal agencies for special protection change as species nomenclature change, as new populations and new species are found, or as previously known populations are lost. This list will continue to be updated as information changes. The revised list is contained in Appendix C of the EIS and will be listed as a new Appendix in the Forest Plan.