

CHAPTER 1 - PURPOSE and NEED

1-1 INTRODUCTION AND BACKGROUND

In January 1988, the Wayne National Forest released the first Land and Resource Management Plan for the Wayne National Forest (Wayne Forest Plan). The newly released Wayne Forest Plan was developed in accordance with the implementing regulations of the 1978 Forest and Rangeland Renewable Resources Research Act (RPA) and the 1976 National Forest Management Act (NFMA). The Wayne Forest Plan was based on an environmental analysis documented in the Final Environmental Impact Statement for the Wayne National Forest Land and Resource Management Plan (Forest Plan FEIS). The Forest Plan FEIS documented the analysis of seven alternatives for management of the Wayne National Forest. The Record of Decision signed on January 4, 1988 documented the selection of one of the alternatives considered in the Forest Plan FEIS and provided the basis for implementing the Preferred Alternative. A part of the decision made in January 1988 on the Forest Plan FEIS included the statement that: "Oil and gas extraction will continue on USA-owned leases."

In August 1992, a supplemental environmental impact statement (EIS) was released covering the management of oil and gas resources on the Wayne National Forest and implementing the 1990 regulations on the Federal Onshore Oil and Gas Leasing Reform Act of 1987. The August 1992 (EIS) for oil and gas resources was necessary because the analysis contained in the original Forest Plan of 1988 did not have enough detail about the cumulative effects of Federal oil and gas activities and the Forest Supervisor needed to reconsider whether Federal oil and gas activities were consistent with the Management Area 6.2 desired future conditions of natural-appearing environment.

The ROD for the Wayne Oil and Gas FEIS included an attachment that described a three step leasing process to be used on the Wayne National Forest. The three step process can be summarized as follows:

Step 1- Determine whether oil and gas leasing and operations are suitable on the forest using the forest planning process.

Step 2- Determine which specific tracts and areas within the forest can accommodate oil and gas leasing and operations.

Step 3- Determine what site-specific conditions and surface management provisions are appropriate for oil and gas leasing and operations.

See Table 1-1.

The 1992 Amendment #8 decision accomplished the following:

- (1) Reduced the acres available for occupancy in two areas: Management Area 6.2 and Management Area 7.1;
- (2) Clarified the suitability requirements for 8.2 Management Area;
- (3) Adopted a new Forest-wide Standard and Guideline for "Emergency Spill Response";
- (4) did not change the guidance of prohibiting surface occupancy in Management Areas 8.1, 8.2 and 9.2;
- (5) did not change the oil and gas guidance in the other management areas;
- (6) Clarified priorities for land acquisition and projections of land acquisition; and
- (7) Updated the list of Federal proposed, endangered, and threatened species, regional sensitive species and forest species of concern. All items are nonsignificant amendments. The decision did not affect existing leases or private oil and gas rights (outstanding or reserved).

1-2 REGULATORY FRAMEWORK

The U.S. Department of Agriculture, Forest Service (Forest Service) is responsible for managing the diverse natural resources and multiple uses on the National Forests. The U.S. Department of the Interior, Bureau of Land Management (BLM) is responsible for managing oil and gas resources where the mineral estate is federally owned. BLM's responsibility includes leasing of federal oil and gas rights, administration of the leases, and subsequent oil and gas operations. All oil and gas operations within the State of Ohio are regulated by the Ohio Department of Natural Resources' Division of Oil and Gas in accordance with the Ohio Oil and Gas Laws (ORC 1509 and OAC 1501).

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. The BLM is responsible for the leasing and administration of Federal oil and gas resources. On NFS lands, the Forest Service is responsible for determining which lands are available for oil and gas leasing and development. Before lands may be leased, the Forest Service must confirm that leasing is consistent with the Forest Plan and, through an environmental analysis, verify that the subject lands are suitable for this use. The Forest Plan outlines conditions under which a leasing decision may be considered.

Prior to making decisions on availability of lands for lease and on the leasing of specific tracts, the Forest Service prepares an analysis(es) to address the environmental impacts of implementing the decisions. The 1991 "Interagency Agreement Between the Forest Service and the Bureau of Land Management for Oil and Gas Leasing" (Interagency Leasing Agreement) guides how the Forest Service and BLM cooperate throughout the environmental analysis and decision-making process. The Interagency Leasing Agreement states that an important

objective of the analysis(es) is to provide an adequate environmental basis for all decisions to be made by the Forest Service or the BLM with respect to offering Forest Service lands for lease.

This analysis is being performed in accordance with the Wayne National Forest policy on Federal oil and gas leasing as established by the Record of Decision (ROD) of August 6, 1992 (ROD, pages 21 to 24). This analysis also meets the National policy direction contained in the 36 CFR 228 Regulations set forth to implement the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Both the Forest Service and BLM must comply with the terms of the 1991 Interagency Leasing Agreement and prepare a National Environmental Policy Act (NEPA) analysis that provides adequate environmental basis for all decisions to be made by each agency with respect to offering National Forest lands for lease. The Forest Service must provide the BLM with a decision regarding consent to the leasing of specific tracts. This NEPA document addresses whether to offer specific tracts for leasing, and if offered, under what conditions. BLM is a cooperating agency under 40 CFR 1501.6 regulations and the guidelines of the 1991 Interagency Leasing Agreement.

1-3 PURPOSE and NEED FOR ACTION

Purpose: The underlying purpose is to determine which Wayne National Forest lands, if any, are available for Federal oil and gas activities and under what conditions should these lands be offered for leasing.

Need: The need is to meet current and future demands for energy from oil and gas resources found on the public lands. The BLM receives requests from the industry and the public to consider certain lands for oil and gas leasing. The BLM transmits these requests to the FS for title review, consent to lease and conditional terms.

1-4 FUTURE DECISIONS

Leasing of federal oil and gas rights on the National Forests involves decisions by both the Forest Service and the BLM. As outlined in the oil and gas management process contained in the 1992 Amendment to the 1988 Wayne National Forest Plan, the Forest Service has three decisions to make (see Table 1-1):

- The first decision is to determine which National Forest lands are suitable for oil and gas leasing and development.
- The second decision is whether to consent to leasing tracts of land and under what conditions these lands would be leased.

- The third decision is to respond to site specific operations and surface disturbing activities, once development proposals are received by the BLM.

The second step is the Forest Service's "consent to lease" decision which authorizes the BLM to offer specific tracts for lease. Once consent is granted, the BLM must decide whether to offer those tracts for lease. BLM's decision is discretionary. If the Forest Service does not grant consent, the only BLM decision is to not offer the tracts for lease.

The Forest Service and the BLM have separate but related decisions to make in regard to specific tracts. The Forest Service decision is whether to consent to leasing the tracts under consideration and what conditions are to be attached to leases tracts. The BLM decision is whether to offer for lease the tracts to which the Forest Service has consented. If the Forest Service does not grant consent to lease the tracts, the only BLM decision is to not offer the tracts for lease. If a decision is made to lease, only the subsurface mineral estate would be offered for lease. National Forest System (NFS) lands (i.e. surface estate) will not be leased.

1-5 RELATIONSHIP TO EXISTING FOREST PLAN and AMENDMENTS

This document is being prepared in conformance with the Wayne National Forest policy on Federal oil and gas leasing as established by the Record of Decision (ROD) of August 6, 1992 (ROD, pages 21 to 24). The August 6, 1992 Forest Plan amendment requires that all Federal tracts, subject to leasing, have a location that can be developed subject to condition of surface occupancy.

It is the U.S. Forest Service policy that the Forest Supervisor will give consent to lease the tracts if the following four conditions are met:

- Leasing is consistent with the Forest Plan.
- Effects of leasing have been adequately addressed in a NEPA document.
- Conditions of occupancy are identified in the leasing analysis and included as stipulations to proposed leases.
- Operations and development could be allowed somewhere on each proposed lease, except where surface occupancy is not allowed. (ROD, page 23, 36 CFR 228.102 (e))

If approved by the Forest Supervisor, a list of these tracts will be submitted to the Bureau of Land Management (BLM) for a lease sale. If the BLM decides to offer the tracts, the Forest Service and the BLM will work jointly to put together lease parcels and attach the appropriate special stipulations, as called for in the lease decision. The Forest Supervisor will monitor the preparation of the lease sale to ensure this is done. The BLM prepares the competitive lease sale notice. The notice lists the parcels of land by description and sites the applicable stipulations or notices. It is posted prior to the sale and copies are distributed to the public.

An oral auction is conducted and the lands are awarded to the qualified highest bidder (competitive leases). All lands not bid upon are offered the day after the sale and remain available for a two year period (noncompetitive leases). Leases may be extended for as long as they are producing commercially-viable quantities of oil or gas.

The proposed leases are scattered over the entire Forest, in all Management Areas (MA) except for Management area 7.1 and 8.2. See Appendix 2 (containing Appendix I from the 1992 Amendment #8 EIS) which lists the Management Area number and the desired condition of the land. The lease commits the mineral resource to development subject to the stipulations of the lease.

1-6 ISSUES

In June 2001, the Wayne National Forest completed an Environmental Assessment addressing leasing 4,634 acres (revised from 4,609 after a more accurate measuring of parcel locations) for exploration and development of oil and gas resources. The subsequent finding and decision were appealed to the Regional Forester. One of the appeal points rested on the basis of insufficient analysis with regards to threatened and endangered species (note: when the biological analysis was initiated, in June 1997, the Indiana bat had not been found on the Wayne National Forest). The Regional Forester remanded the decision and requested the completion of a revised Environmental Assessment addressing, among other issues, threatened and endangered species analysis.

Issues were identified during the development of the 1998-2001 proposed leasing process - including issues raised during the 2001 appeal (these documents are incorporated by reference and have been used by the ID Team to develop the scope of the analysis). In addition, internal interdisciplinary team review and analysis of the existing project record were conducted to identify any other pertinent issues. This internal review included an examination of the 1992 Oil and Gas Plan Amendment #8 which documented extensive public scoping and issue identification during the development of the EIS. The issues can be summarized as follows:

- Effects on threatened and endangered species from leasing,
- Long term irreversible and irretrievable commitment of forest resources as a result of leasing.

Table 1-1 -Wayne National Forest Oil and Gas Resource Management Process

Process Step	Objective of Step	Documentation
Step 1 Administrative Availability	Determine the administrative availability of lands for oil and gas leasing which are: <ul style="list-style-type: none"> • 1) Open to development with the standard oil and gas lease form; • 2) Open to development subject to special constraints such as a No Surface Occupancy stipulation; and • 3) Closed to leasing by law or management action. 	Completed with signing of the ROD on the Wayne Oil and Gas FSEIS for Forest Plan Amendment # 8.
Step 2 Consent to Leasing	For specific tracts of land: <ul style="list-style-type: none"> • 1) Verify compliance with Forest Plan; • 2) Develop a Reasonable Future Development Scenario (RFDS) that best describes the types of surface disturbing activities that are likely to occur if approval is granted; and • 3) Determine which on-the-ground factors limit or restrict access to and development of the mineral resources. 	A NEPA analysis that evaluates alternative management approaches to addressing future oil and gas activities on the Wayne National Forest. The result would outline the process and the procedures by which oil and gas activities on certain tracts would be addressed at future site-specific level proposals.
Step 3 Surface operation/application	Respond to a site-specific Application for Permit to Drill (APD) on a specific tract of land that might be filed sometime in the future after a lease has been issued. (This will authorize BLM to approve the APD, allowing ground and/or vegetative disturbing activities.)	Site-specific analysis of proposals to access, explore and drill for oil and gas resources. Analysis includes review of proposal for conformance with the existing Step 2 NEPA analysis.

The above table illustrates the decision process regarding the management of federally owned oil and gas resources on the Wayne National Forest, as stated in the ROD for the Wayne Oil and Gas FSEIS.