

# **Finding of No Significant Impact**

## **Environmental Assessment**

**Oil and Gas Leasing, Wayne National Forest,  
Marietta Unit of the Athens Ranger District,  
Monroe, Noble, and Washington Counties, Ohio  
DOI-BLM-ES-0030-2016-0002-EA**

### **INTRODUCTION**

The Bureau of Land Management (BLM) has prepared an Environmental Assessment (EA), DOI-BLM-ES-0030-2016-0002-EA, to evaluate the anticipated environmental impacts of the Proposed Action to lease federal mineral estate within the proclamation boundary of the Wayne National Forest (WNF), Athens Ranger District, Marietta Unit. The Marietta Unit is located within Monroe, Noble, and Washington Counties in Ohio. The parcels that could be leased as part of the Proposed Action consist of all federal mineral estate underlying National Forest System (NFS) lands and total approximately 40,000 acres.

Interested parties, such as private individuals or companies, may file Expressions of Interest (EOIs) to nominate parcels for competitive bid and leasing by the BLM. The BLM has received at least 50 EOIs to nominate parcels on the Marietta Unit. Any nominated parcels reviewed and approved for competitive leasing by the BLM and Forest Service after the initial lease sale, in which parcels are auctioned, would be addressed with a Determination of NEPA Adequacy (DNA) document tiered to the environmental analysis from the final EA for this Proposed Action. Approved lease parcels would then be auctioned at future BLM Eastern States competitive oil and gas lease sales.

A federal oil and gas lease is a legal contract that grants exclusive rights to the lessee to develop federally-owned oil and gas resources, but does not authorize surface-disturbing activities or obligate the lessee to drill a well on the parcel in the future. Should the parcel be leased and a detailed plan for oil and gas development on the parcel be identified, the BLM and Forest Service would conduct future site-specific environmental analysis, prior to any ground disturbing activities, including any required consultations.

The EA has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969; the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), the United States Department of the Interior (DOI) NEPA requirements (Department Manual 516, Environmental Quality) and the BLM NEPA Handbook H-1790-1. The information presented within the EA serves as the basis for the BLM Authorized Officer to decide whether the Proposed Action would result in significant impacts to the environment. Significant impacts would require the preparation of an Environmental

Impact Statement (EIS). If the BLM Authorized Officer determines that no significant impacts would occur, a Finding of No Significant Impact (FONSI) would be issued.

## **CONSULTATIONS AND EXTERNAL SCOPING**

The BLM conducted required consultation with the Ohio State Historic Preservation Office (SHPO) and tribes. The BLM initiated consultation with the Ohio SHPO under Section 106 of the NHPA, by letter dated November 16, 2015; to date, the SHPO has not responded to the letter, indicating that they have found no adverse effects within the scope of the proposed action. Further consultation will take place at the APD phase prior to ground disturbing activities. On November 6, 2015, the BLM sent certified letters to seven federally recognized tribes who have a known connection to the area notifying them of the Proposed Action and asking to identify any concerns with respect to the Proposed Action. To date, the BLM has received no responses to these letters. The following tribes were contacted:

- The Delaware Tribe of Indians;
- The Delaware Nation;
- The Shawnee Tribe;
- The Eastern Shawnee Tribe of Oklahoma;
- The Absentee Shawnee Tribe of Indians;
- The Wyandotte Nation; and
- Peoria Tribe of Indians of Oklahoma.

The Forest Service has consulted with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act with respect to federally listed species in the development of the 2006 Forest Plan/ EIS. As part of this consultation, the Forest Service completed a Biological Evaluation (BE) as the USFWS issued a Biological Opinion (BO) on November 22, 2005. The BO established a tiered approach to the Section 7 consultation. The programmatic (Tier I) BO (November 22, 2005) covers all the activities described in the 2006 Forest Plan/EIS at a programmatic, non-site-specific level. Because the BLM was a cooperating agency in the 2006 Forest Plan and EIS, the consultation conducted with respect to the 2006 Forest Plan and EIS applies to the Proposed Action analyzed in this EA.

As part of the 2012 SIR, the Forest Service reviewed new information related to hydraulic fracturing and whether there could be additional effects to threatened and endangered species that had not been previously analyzed in the 2006 Plan/ EIS. The Forest Service and the USFWS concluded that no further analysis or consultation was needed and that the consultation conducted under the 2006 Plan/EIS was still valid.

As the BLM analyzes individual projects pursuant to the Forest Plan, the BLM is responsible for reinitiating consultation and providing the USFWS with additional information; this process is

called Tier II consultation. The BLM would submit a Tier II Biological Assessment to the USFWS when it receives an APD, if it determines that potential effects to critical habitat, fish or wildlife could occur. To reinstate the consultation, the FS should submit to the USFWS a:

- description of the Proposed Action and area affected;
- list of the species that may be affected and their locations;
- description of the nature of the potential effects;
- determination of the effects;
- cumulative total of incidental takes to date under the Tier I BO; and
- description of additional actions that were not described in the Tier I BO.

More recently, a Biological Opinion was issued by the USFWS in 2016 for the 4(d) rule for the threatened northern long-eared bat. This rule exempts incidental take of northern long-eared bat for federal actions that adhere to certain, basic conservation measures. The Forest Service operates under this Biological Opinion and therefore the Proposed Action is also covered under the BO.

In addition to the required agency consultations, the BLM conducted external scoping for the Proposed Action through a series of public meetings, requesting public comments, and through close coordination and data sharing with the Forest Service. Public notices appeared in local newspapers including the Marietta Times, Athens Messenger, and the Ironton Tribune for two consecutive weeks starting on November 1, 2015. The BLM also issued a press release to various news outlets on November 2, 2015, notifying the public of dates, times, and locations of the public meetings. Public meetings were held on November 17, 2015 in Marietta, November 18, 2015 in Athens, and November 19, 2015 in Ironton. The primary purpose for those public meetings was to provide information and gather public input regarding issues that the BLM should consider in this EA. At each meeting, the BLM and the Forest Service provided information regarding proposed oil and gas leasing activities throughout the WNF; displayed maps showing locations of requested leases and posters detailing the administrative processes associated with EOs, leasing, and the NEPA; and answered inquiries regarding the project.

The BLM also created a project website for the EA in November 2015 that is accessible through the BLM national NEPA register at:

**<http://go.usa.gov/xKHCh>**

The website provides links to documents, opportunities for public involvement, including methods for comment submission, maps, EO information, and links to additional project information. The BLM Eastern States Office (ESO) leasing process and policy incorporates a mandatory 30-day public comment period on all completed EAs and unsigned FONSI. The

documents were made available April 28, 2016 for public review and a comment period ending May 31, 2016 (to account for the Memorial Day holiday).

In addition to the public involvement activities conducted for this Proposed Action, the WNF previously conducted extensive public outreach for the development of the 2006 Forest Plan and EIS. Public involvement activities included comment periods on the Notice of Intent, Draft EIS and Proposed Revised Forest Plan, public meetings, and collaborative workshops (see page 1-9 and Appendix A of the Final EIS; U.S. Forest Service, 2005). The WNF published a news release for the Finding for the Supplemental Information Report on August 27, 2012. All of these documents are available online at:

<http://www.fs.usda.gov/main/wayne/landmanagement/planning>.

The BLM received approximately 3,400 responses during its scoping period (November 1, 2015 to January 22, 2016), which included three public meetings in November 2015. Many of these comments reflected common themes, which are summarized below:

1. Oil and gas activities will disturb forestlands and degrade the wildlife habitats of the WNF;
2. Oil and gas activities will cause toxic chemicals to be spilled or be discharged into the environment, threatening wildlife populations, degrading water quality, and harming human health;
3. Oil and gas activities will create air pollution;
4. Oil and gas activities will degrade recreational opportunities and the visual character of the WNF;
5. Leasing should be delayed until the oil and gas market improves;
6. Enabling oil and gas activities will provide private landowners the opportunity to develop their minerals, and withholding leasing the federal minerals will pose an obstacle to development of private minerals; and
7. Restricting development of oil and gas minerals prohibits economic growth for the state of Ohio.

The BLM carefully considered comments received during the scoping period and 30-day comment period in the development of the EA.

The public had the opportunity to review and comment on the BLM Draft EA between April 28, 2016 and May 31, 2016. Approximately 13,700 comments were received by email and 480 comments by U.S. postal service or FedEx. Approximately 300 substantive comments were identified including:

- air quality and climate change (≈50 comments);
- hydraulic fracturing (≈50 comments);

- water quality (≈25 comments);
- cumulative impacts (≈20 comments);
- the validity of the NEPA process in development of the EA (≈50 comments);
- public health (≈10 comments);
- traffic & noise (≈10 comments);
- environmental justice (≈10 comments);
- seismic risk (≈10 comments); and
- waste disposal (≈10 comments).

Comments were addressed in the Final EA by either expanding existing sections or creating new sections, that either included more information or synthesized already existing information.

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

Based upon a review of the EA and supporting documents, I have determined that the Proposed Action is not a major Federal action, and will not significantly affect the quality of the human environment, individually or cumulatively, with other actions in the general area. This finding is based on the context and intensity of the project as described:

#### **Context:**

The Bureau of Land Management (BLM) proposes to make available for lease up to approximately 40,000 acres of federally-owned mineral estate located in the Wayne National Forest, Athens Ranger District, Marietta Unit in Monroe, Noble, and Washington Counties in Ohio. This approximate acreage figure represents the total amount of federally-owned minerals that could be nominated and potentially be made available for leasing on the Marietta Unit. Although this EA analysis assumes that both oil and gas may be produced in the future within the Marietta Unit, natural gas is more likely to be produced.

Surface land and sub-surface mineral ownership within the boundaries of the Wayne National Forest (WNF) falls into four categories:

- Federal Land/Private Minerals - Approximately 59% of the WNF surface ownership is underlain by private minerals, as in scenario B in Figure 1, below. Partial mineral interest accounts for approximately 18,200 acres underlying National Forest Service lands on the Marietta Unit. There would be very little federal oversight in the development of private minerals under federal surface, as this development is subject to State of Ohio regulations (see Appendix C: Permitting of Oil and Gas Operations on Non-Federal Surface).
- Federal Land/Federal Minerals - Approximately 41% of surface ownership is underlain by federal minerals, as in scenario A in Figure 1, below. The federal government owns a

100% mineral interest in approximately 10,000 acres of the WNF. Leasing and development of federal minerals under federal surface is subject to more stringent federal government regulation than non-federal minerals.

- Federal Land/Future Federal Minerals - An additional 13,000 acres of reserved minerals will revert to the federal government over the next 20 years that will fall under this proposed action. When these sub-surface minerals revert to the federal government, they will then be subject to the same federal regulation as current full mineral interest lands.
- Private Land/Private Minerals – Within the Wayne National Forest boundaries, there are also inholdings of private land with private minerals. These lands and minerals were not included in the analysis.

The Proposed Action only applies to the federal minerals regardless of the amount of federal mineral interest. The Forest Service has authority to purchase lands, which may add to the total acreage of federal minerals that are available for lease.

Industry uses the BLM Expression of Interest (EOI) process to nominate federal minerals for leasing. To date, industry has submitted over 50 EOIs totaling approximately 18,000 acres for parcels located on the Marietta Unit. The BLM and the Forest Service review deeds on a parcel-by-parcel basis to verify federal mineral ownership as leasing nominations are received. The BLM plans to lease some parcels now and make the rest available for the future.

In accordance with 43 CFR 3120, approved parcels would be identified, along with any attached stipulations and notices, through a Notice of Competitive Lease Sale that is posted at least 45 days prior to a lease sale. Oil and gas leases are issued for a 10-year period and continue for as long thereafter as oil or gas is produced in paying quantities.

A federal oil and gas lease is a legal contract that grants exclusive rights to the lessee to develop federally-owned oil and gas resources, but does not authorize surface-disturbing activities or obligate the lessee to drill a well on the parcel in the future. Before conducting any surface disturbing activities, the lease owner/operator is required under 43 CFR 3162 to obtain approval of an application for permit to drill (APD). Upon receipt of an APD, the BLM conducts an onsite inspection with the applicant in cooperation with the landowner. The BLM also conducts site-specific NEPA analysis and consultations under the ESA and NHPA prior to approving the APD.

Although there would be no surface disturbance from the action of leasing, the EA analyzes a reasonably foreseeable development scenario (RFDS) to address the potential environmental effects from potential future oil and gas development. For example, estimates can be made on the most likely number of wells that could be constructed, but the specific locations cannot be

determined until APDs are filed. The detailed RFDS is included as an appendix to the 2006 Forest Plan EIS (Appendix G of the EIS)

**Intensity:**

The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into resources and issues considered (includes supplemental authorities Appendix 1 H-1790-1) and supplemental Instruction Memorandum, Acts, regulations and Executive Orders. The following have been considered in evaluating intensity for this proposal:

**1. Impacts that may be both beneficial and adverse.**

The Proposed Action would affect resources as described in the EA. There are no direct impacts to resources from the act of leasing since there would be no ground disturbing activities. The EA identifies potential future impacts from leasing as a result of reasonably foreseeable development of those leases to various resources including air resources, plant and animal habitats and populations, geology/mineral resources, soils, water resources and water quality, hazardous wastes, recreation/land use/noise, cultural resources and Native American religious concerns, visual resources/scenic quality, and socioeconomics and environmental justice. Potential future Best Management Practices (BMPs), Standard Operating Procedures (SOPs), and mitigations were discussed in the EA as methods to reduce potential impacts associated with foreseeable future oil and gas development. None of the direct, indirect, or cumulative environmental effects discussed in in the EA are considered significant.

The Proposed Action and No Action alternative are in conformance with the existing 2006 Forest Plan.

**2. The degree to which the Proposed Action affects public health or safety.**

The Proposed Action is designed to offer lease parcels for sale and would not directly affect public health or safety. Public health or safety would also not be adversely affected as a result of potential future oil and gas development in the Marietta Unit. Through the NEPA process and adherence to federal, state, and local regulations, laws, permits and policy, as well as BMPs, SOPs, safety standards and protocols, the BLM and Forest Service ensures that future oil and gas leasing operations would not compromise public health and safety. If the parcels are subsequently sold and the leases enter into a development stage, public health or safety would be further addressed through site-specific NEPA analysis, where specific mitigation measures, such as controlling the potential for spills or wastes, would be identified as deemed necessary and appropriate.

**3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.**

The EA analysis determined that the Marietta Unit contains management areas with unique forests, natural areas, river corridors and wetlands, research natural areas, developed recreation sites and trails, and cultural resources. The Proposed Action would result in no direct impacts to these resources, since there would be no ground disturbing activities at this stage. Impacts associated with potential future oil and gas development would be controlled through the use of BMPs, SOPs, mitigation measures, and lease stipulations to minimize potential adverse impacts to these resources. If the leases enter into a development stage at a later date, the BLM and Forest Service would evaluate the potential impacts to resources site-specific NEPA analysis and consultations under the ESA and NHPA, as appropriate.

**4. The degree to which the effects on the quality of the human environment are likely to be controversial.**

Effects on the quality of the human environment are not expected to be significant or highly controversial. Site-specific NEPA will be conducted that addresses specific effects on resources at the time of development. Controversy in this context is considered to be in terms of disagreement about the nature of the effects - not political controversy or expression of opposition to the action or preference among the alternatives analyzed within the EA. The public had 30 days to review the EA and provide comments.

**5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

The project is not unique or unusual. The BLM has experience implementing similar actions in similar areas. The environmental effects to the human environment are fully analyzed in the EA. There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks.

**6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

This project neither establishes a precedent nor represents a decision in principle about future actions. This leasing of Federal minerals and more specifically fluid minerals has been occurring since the creation of the Mineral Leasing Act of 1920. A decision to lease would not limit later resource management decisions for areas open to development proposals, although lease stipulations do establish sideboards for potential future oil and gas development.



**7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.**

The interdisciplinary teams involved in preparing the EA evaluated the Proposed Action in the context of past, present and reasonably foreseeable actions. The cumulative impacts may result in a very small increase in greenhouse gas emissions but are not expected to result in significant climate change impacts because climate change is a global process that is affected by the total of greenhouse gases in the atmosphere. The 2012 SIR for oil and gas development notes that the environmental impacts of high-volume, horizontal fracturing technology can be kept within the range of impacts analyzed and disclosed in the 2006 Forest Plan Final Environmental Impact Statement (2006 Forest Plan Final EIS) for two primary reasons. First, the amount of surface disturbance projected on the WNF with the use of high-volume, horizontal fracturing technology is within the amount of surface disturbance analyzed in the 2006 Forest Plan Final EIS. Second, the regulations enforced by the BLM and Ohio Department of Natural Resources (ODNR) and measures prescribed by the 2006 Forest Plan reduce impacts from land clearing and other activities that may impact wildlife habitat and populations. Post-lease actions/authorizations (e.g. APDs, rights of way), could be encumbered by further restrictions on a case-by-case basis, as required through project-specific NEPA analysis or other environmental review. The use of BMPs, SOPs, and lease stipulations, as well as potential conditions of approval at the APD stage, would lessen the potential for significant cumulative effects.

**8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.**

There are no features within the project area listed or eligible for listing in the National Register of Historic Places (NRHP) that would be adversely affected by a decision to offer for sale the subject parcels, or from potential future development. If leases enter into a development stage, NRHP resources would be further addressed through site-specific NEPA analysis and consultations under the NHPA, as appropriate.

**9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.**

The Forest Service has consulted with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act with respect to federally listed species in the development of the 2006 Forest Plan/ EIS. As part of this consultation, the Forest Service completed a Biological Evaluation (BE) and the USFWS issued its Biological Opinion (BO) on November 22, 2005. The BO established a tiered approach to the Section 7 consultation. The programmatic (Tier I) BO

(November 22, 2005) covers all the activities described in the 2006 Forest Plan/EIS at a programmatic, non-site-specific level. Because the BLM was a cooperating agency in the 2006 Forest Plan and EIS, the consultation conducted with respect to the 2006 Forest Plan and EIS applies to the Proposed Action analyzed in this EA.

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**10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.**

The project does not violate any known Federal, State, local or tribal law or requirement imposed for the protection of the environment. In addition, the project is consistent with applicable land management plans, policies and programs.

Authorized Officer:

A handwritten signature in blue ink, appearing to read "Dean Gettinger", written over a horizontal line.

Dean Gettinger  
District Manager  
Northeastern States District

14 OCT 2016

Date