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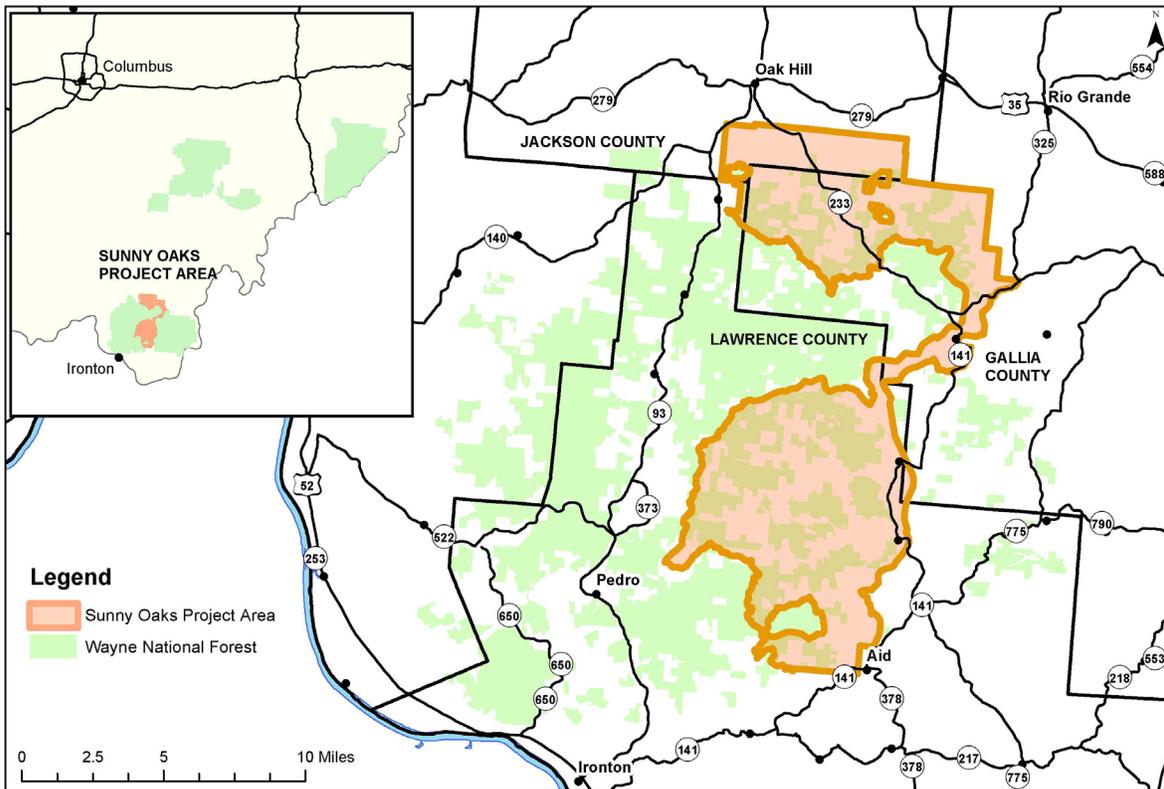
Forest
Service

January 2020

Draft Decision Notice & Finding of No Significant Impact

The Sunny Oaks Project

Ironton Ranger District, Wayne National Forest
Jackson, Gallia, and Lawrence Counties, Ohio



Project Area Map

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I. DRAFT DECISION & RATIONALE FOR DECISION

Draft Decision

This Draft Decision Notice (DDN) and Finding of No Significant Impact (FONSI) note my intention to select updated Alternative 2 of the Sunny Oaks Project. Updated Alternative 2 is shown in Table 1 below and is described in the Purpose and Need, Actions/Alternatives, and Design Criteria presentation (“Purpose and Need presentation”) of the Environmental Assessment (EA) for Sunny Oaks. The proposed activities of updated Alternative 2 are analyzed in various resource presentations of the EA and project record. The Sunny Oaks Project is located in parts of Jackson (Jefferson and Madison Townships), Gallia (Greenfield and Perry Townships), and Lawrence (Aid, Elizabeth, Decatur, Symmes, and Washington Townships) Counties, Ohio. The project activities would take place in the Forest Shrubland Mosaic, River Corridor, and Handley Branch Special Area management areas, as designated in the 2006 Land and Resource Management Plan (Forest Plan). Harvests are limited to only the Forest Shrubland Mosaic management area.

Several updates and clarifications to proposed activities have been made to Alternative 2 since it was described and analyzed in the EA:

- The stands that were identified for re-inventory now have prescribed harvest treatments, as shown in the updated Treatment Table to this DDN (Appendix B).
- A Regional Forester sensitive plant species was found near one of the harvest units (Old Forrest Ridge). Due to the potential for negative effects that were not described in the

Botany presentation, I intend to eliminate this harvest block from the harvest activities. This area would still be included for the prescribed fire, herbicide applications, and manual tree/shrub cutting (collectively referred to as timber stand improvements or TSI) treatments.

- And, lastly, we clarified what activities may occur in areas identified for shelterwood harvest that better align with current science on oak and hardwood silviculture.

I have determined that all of these updates and clarifications have been adequately analyzed in the EA and supporting documents. My intended decision is based on information presented in the Project Record, including the Environmental Assessment presentations, attachments, and maps (found on the [project webpage](#);

<https://www.fs.usda.gov/detail/wayne/landmanagement/projects> then click The Sunny Oaks Project link); public feedback received on the proposal; resource expert input on the potential beneficial and adverse effects that may occur from implementing the project; and consideration of best available science.

Updated Alternative 2 is compatible with the Forest Plan. Various Forest-wide Goals and Objectives support creating young, brushy forest; maintaining oak forests across the landscape; and responding to insects and diseases in order to provide for diverse habitats that support a broad array of wildlife and plants (Goals 4.1, 6.1, 6.2, and 7.1 and Objectives 4.1d, 6.1a, 6.1b, 6.2a, and 6.2c). Departures from Forest Plan guidelines are acknowledged in the Purpose and Need presentation (see Purpose and Need slide 32), with a full list and reasoning for the departures available on the project webpage for review and comment (see document titled “Mitigations/Design Criteria”). Proposed temporary openings larger than 40 acres are also acknowledged in the Purpose and Need presentation (see slide 31) along with reasoning, and have been mentioned in the scoping newsletter, EA newsletter, and legal notice for the project.

Update to Shelterwood Harvests

The Purpose and Need presentation of the EA described shelterwood harvests as having two stages – an establishment harvest and an overstory removal harvest (see Purpose and Need slides 17-18). We received comments from the public on the EA presentations that expressed concern that, according to common stand exam data, some of the stands proposed for shelterwoods may not have enough pre-existing oak seedlings and saplings to ensure successful regeneration to oak forests. This caused us to take a hard look at our proposals and initial description of shelterwood harvests to be sure our treatment proposals would be successful at meeting the purpose and need of the project. Our initial description of shelterwood harvests in the EA was too narrow and did not include other shelterwood approaches that may be appropriate for regenerating oak forests. Oak silviculture science supports the use of different shelterwood sequences, depending on existing conditions. In addition, where current oak regeneration stocking may be low, development of two-aged forests with oak overstory retention may be more appropriate to provide oak seed sources to establish oak regeneration in the future.

In reviewing this information, I intend to allow an adaptive approach to shelterwood harvests that may include different sequences and outcomes than what was initially described in the EA

that would ensure better success at regenerating oak forests (Purpose and Need statement #2). Stands identified in updated Alternative 2 to have shelterwood harvests would receive treatments that fit conditions as they develop to promote regeneration of oak. During implementation, staff would determine the appropriate treatments based on stand examination data coupled with best available science and their expertise implementing forestry practices. Existing stand examinations would inform determining the first treatment, and subsequent examinations would determine the timing of treatments to follow. Timber stand improvement (TSI) and/or site preparation treatments would be conducted before and/or after harvest treatments and in as many locations applicable across the project area to help ensure oak maintains a competitive position across the landscape. These treatments would decrease the amount of oak competitors and create conditions more conducive to oak regeneration. Stands that had shelterwood harvests indicated in the treatment table released with the EA could receive one of three sequences:

- 1.) Two-staged shelterwood harvest (as described in the Purpose and Need presentation). This sequence would be used on harvest units my staff have determined contain enough existing oak regeneration of the correct size to progress directly to a two-staged shelterwood sequence of establishment harvest followed later by an overstory removal harvest.
- 2.) Three-staged shelterwood harvest. This sequence would include a preparatory harvest (lighter basal area removal), followed two additional harvests that would be similar to the establishment and overstory removal harvests of a two-staged shelterwood. This sequence would be used on harvest units my staff determine need the preparatory harvest to encourage additional establishment of oak regeneration or to help existing oak regeneration grow to the correct size prior to moving to the establishment and overstory removal harvests.
- 3.) TSI followed by a clearcut with reserves, resulting in a two-aged stand. This sequence would include an initial non-commercial TSI treatment (prescribed fire, manual tree feeling, and herbicide application, as described in the EA) followed by a clearcut with reserves resulting in a two-aged stand as described in the Purpose and Need presentation. This sequence would be used on harvest units my staff determine need a regeneration enhancement treatment to encourage additional oak regeneration or to help existing oak regeneration grow to the correct size. These harvest units do not have enough overstory trees to support more than one commercial harvest; therefore, the first treatment would be non-commercial, and the second treatment would be commercial and would retain up to 15 square feet of basal area of species similar to what was described for the two-aged stands in the Purpose and Need presentation (see Purpose and Need slide 45).

All of these treatment sequences would be implemented in stands with oak objectives. By allowing for this flexible approach, we would be using best available science, forestry expertise, and on-the-ground conditions to ensure the treatments applied are appropriate to conditions and support regenerating oak forests. We monitor implementation of this intended decision through stocking surveys following harvest. There may be cases where the regenerating forest types following treatments are not predominantly composed of oak species. In such cases, we would employ appropriate TSI activities described in the EA and included in this intended decision to

further encourage oak. The resulting regenerating forests, regardless of composition, would still meet the purpose and need of the project to create young, brushy forest that is lacking in the area (Purpose and Need statement #1, see page 5, below).

I have coordinated with the Interdisciplinary Team (IDT) that developed, modified, and analyzed the Sunny Oaks project and understand that they feel all of the potential effects from implementing updated Alternative 2 inclusive of the adaptive approach described above have been adequately analyzed with effects disclosed and appropriately minimized. This is largely because the actions are the same as what was described in the Purpose & Need presentation and analyzed by each resource expert. Timber harvests would still occur in the locations already disclosed. The same log landings, roads, and skid roads would be used to access the stands. Overall we are still expecting an approximate 20 year timeframe to fully implement the project. I do note that sequence 3, TSI followed by a clearcut with reserves, is not a shelterwood treatment. However, clearcut with reserves resulting in a two-aged stand was included in Alternative 2. This treatment is still included in the overall shelterwood acres because I am allowing for adaptive management and we are not identifying which of the shelterwood stands may have the TSI followed by clearcut with reserves. I agree that the existing analysis is within the range of effects described in the EA and project record and supports making the stated updates and adaptive approach.

Table 1: Alternative 2 Activities

Activity	Alternative 2 (as Described in the EA)	Alternative 2 (with Updates Incorporated in Reflecting My Intended Decision) ¹
Clearcut harvest	795 ac	741 ac
Shelterwood harvest ²	1,425 ac ³	1,494 ac
Two-Aged	390 ac	377 ac ⁴
Re-Inventory	100 ac	0 ac ⁵

¹ The difference in the total amount of harvest between Alternative 2 and updated Alternative 2 is reflective of dropping the Old Forrest Ridge stands and other stands that were dropped or reduced in harvest size during the analysis process. Also, the acreages are estimates, based on GIS, and may be slightly larger or smaller once implemented.

² The appropriate sequence and number of entries would be determined during implementation as described in the adaptive approach described above. Some of the acres in this category may actually result in two-aged stand.

³ In the treatment table released with the EA a 15 acre stand was inadvertently missed (C409S26, Skyline Road Harvest Block), although the harvest block map showed the stand as receiving a harvest treatment for Alternative 2. Because the maps available to the public did show the treatment, I feel it is allowable to add that acreage back into the treatment total and the treatment table.

⁴ In reviewing the stand examination data following the release of the EA, we determined that 5 of the stands that were identified for two-age in Alternative 2 should be switched to shelterwood harvest (C402S51, C405S7, C405S9, C446S17, and C466S45). That change is accounted for here. In addition, 5 stands from the re-inventory category were reviewed post examination and a two-aged treatment was assigned.

⁵ The re-inventory was completed on the 100 acres that were identified for this in the EA. Upon consideration of the data, 6 acres were assigned to shelterwood, and 92 acres were assigned to two-aged.

Site preparation for regeneration	All harvest acres	All harvest acres
Supplemental tree planting	As desired to supplement natural regeneration	As desired to supplement natural regeneration
Log landings	~ 60 ac	~ 60 ac
Skid roads	~180 ac	~180 ac
New permanent road construction	~ 10 mi	~ 10 mi
Existing road reconstruction	~ 17 mi	~ 17 mi
Prescribed fire	2,000-4,000 ac/yr across the project area	2,000-4,000 ac/yr across the project area
Fireline	~ 41 mi per year (23 mi dozer line)	~ 41 mi per year (23 mi dozer line)
Mechanical and/or herbicide mid-story control	across the project area	Across the project area

Rationale for My Intended Decision

I intend to make the decision to approve the project and implement updated Alternative 2 because I find that the actions meet the purposes and needs for the project, are consistent with the Forest Plan, and can be conducted without causing significant effects to the human environment (see FONSI, starting on page 9).

Updated Alternative 2 responds to the purposes and needs for the project as discussed in the Purpose and Need presentation on slides 3-11, which are to:

1. Create young, brushy forest that is lacking in the area,
2. Regenerate oak forest in areas where it is favored so that forest type is maintained across the landscape,
3. Respond to insect and disease threats, and
4. Contribute to the local economy through commercial timber harvests.

The factors leading me to choose updated Alternative 2 over the Proposed Action or Alternative 2 as described in the EA are related to weighing the value of more successfully regenerating oak forests, which results in a longer time lapse to create the young, brushy forest that is needed in the project area. In response to public comment and internal discussions, this project evolved from focusing more heavily on the young, brushy forest objective to having more focus on the oak objective. Maintaining and enhancing oak forests across the landscape into the future is an important value of mine in selecting my intended decision. The initial Proposed Action would have regenerated oak stands, but I feel updated Alternative 2 would provide for a better outcome in stewarding oak. Creation of young, brushy forest habitat may take longer under my intended decision, since three-staged shelterwoods may take longer to complete than two-staged, but I feel this is an acceptable trade-off to increase the likelihood young oaks compose these regenerating forests.

As described in great depth in the Purpose and Need presentation, young, brushy forest, along with oak species, provide critical habitat components to an abundance of wildlife and plant species, and action on the part of the WNF is needed to create and perpetuate these forests (see slides 4-10, 15-16). If we want to maintain a diverse mix of species in the region we must provide diverse habitats for them. Long-term monitoring efforts have shown that species dependent on young, brushy forest have been in dramatic decline over the survey years - ruffed grouse, American Woodcock, Blue-winged warbler, yellow-breasted chat, and whip-poor-will show 77%, 23%, 33%, 27%, and 58% declines, respectively (Rodewald et. al. 2016). These declines are closely linked to a similar decline in young forest prevalence in Ohio (75% decline since 1960).

Oak forests are our natural heritage and our native forest type in this region, but these forests will eventually transition to maple, beech, and tulip tree if nothing is done to increase oak regeneration in forest understories and to increase the amount of young oak forest (see Purpose and Need slide 9). The WNF has the ability, through funds and expertise, to apply treatments not readily available to or practical for many private landowners in order to ensure that habitat is of high quality for the species that use it. The WNF is able to provide this habitat at a scale that would have a positive impact across the landscape. For the location of the harvest treatments, I selected the Forest Shrubland Mosaic management area because its desired future condition is to provide young, brushy forest that is largely composed of oaks mixed throughout blocks of older forest (Forest Plan, p 3-19). I included the Handley Branch Special Area to receive the TSI treatments in order to maintain the oak barren community for which it was designated (Forest Plan, p 3-49). I included the River Corridor management area to also receive the TSI treatments (prescribed fire) to open up crowded understories, allowing for a flush of flowering and herbaceous plants, and to provide room for healthy trees to grow. My intended decision would also allow for cooperation with the Ohio Department of Natural Resources and private landowners that wish to have prescribed fire on their lands (see slide 24).

Clearcuts, clearcuts with reserves, and shelterwood harvests are the optimum methods to reach the project objectives of creating young, brushy forest that is largely composed of oaks because they immediately stimulate a pulse of new growth of flowering plants, shrubs, and new trees.

I recognize that this intended decision may not be universally supported by those that are interested in the management of the WNF; however, I have considered all supporting and dissenting opinions. I have attempted to resolve issues with those that indicated displeasure with the proposed activities and provided for incremental modifications of the alternatives to resolve some of these concerns, which are reflected in my intended decision of updated Alternative 2.

Response of Intended Decision to the Issues

Eleven potential issues were identified through the public involvement methods discussed in Section III below and were evaluated by my staff.

- 1.) Project activities, especially clearcutting may worsen flooding at the Symmes Creek scale and smaller drainage scale, causing school closures and damages to private property;
- 2.) Timber harvests may negatively impact scenery and horse trails;

- 3.) Clearcuts are not the optimum method to reach the stated project goals, in particular as it pertains to oak regeneration and ruffed grouse habitat;
- 4.) There is already enough young, brushy forest on private lands and the National Forest should be kept in mature and old forest;
- 5.) Project activities may spread non-native invasive species;
- 6.) Use of herbicides may negatively impact people's water supplies;
- 7.) Project activities may encourage ATV trespass onto private lands;
- 8.) Prescribed fire may negatively impact air quality;
- 9.) Timber harvests may worsen soil erosion, slips, and landslides;
- 10.) How much revenue may be generated and how would it be distributed;
- 11.) Project activities may substantially contribute to climate change and would negatively impact the forest's ability to sequester carbon.

These issues were discussed in detail within the Purpose and Need presentation (see slides 38-43). Consideration of issues led to documentation in the project record and the response to comments (issues 4, 10, and 11), analysis in resource input and the project record (issues 5, 6, 8, and 9), development of design criteria (issue 7), and development of Alternative 2 to lessen effects (issues 1, 2, and 3). I considered the comments we received on the project and found that they did not reveal any potential significant direct, indirect, or cumulative effects possible to resources from implementation of my intended decision, keeping in mind the definition of significant effects found in federal regulations has to do with context and intensity.

II. OTHER ALTERNATIVES CONSIDERED

Proposed Action, Alternative 2, and Updated Alternative 2

The Proposed Action uses clearcuts, shelterwoods, site preparation, planting, prescribed fire, and herbicides/mechanical cutting to accomplish the project purposes. The original Alternative 2 responded to public concern about the potential for increased water yield due to harvests (which does not necessarily equal increased flooding) by reducing harvests in a few small drainages, and also elevated the oak objective in importance by moving some clearcut stands into the shelterwood category and adding a clearcut with reserves harvest resulting in two-aged stands. I do not intend to select either of these alternatives because each has been incrementally modified to account for resource concerns and public concerns. These incremental modifications resulted in updated Alternative 2, which I feel represents the best mix of activities to meet the project purposes, minimize the adverse effects to resources, and address concerns of the public that are related to differences in values. These activities would elevate emphasis on regenerating oak forests, while also providing young, brushy forest in all harvest treatment types.

Alternatives Considered but Not Analyzed in Depth

No Action: While it is not enumerated on specifically in the EA, I did consider taking no action. The consequences of taking no action were explained in the Purpose and Need presentation (see slide 16), and I find them to be unacceptable, given the Forest Plan Goals to provide for a diversity of habitats for a diversity of wildlife and plants (Goals 4.1, 6.1, 6.2, and 7.1 and

Objectives 4.1d, 6.1a, 6.1b, 6.2a, and 6.2c), and for the Forest Shrubland Mosaic management area to provide a proportion of young, brushy forest that is spread throughout more mature forest (Forest Plan, p 3-19).

Keep All Harvests under 30 or 40 Acres: There are 16 harvest areas over 30 acres in updated Alternative 2, which is reduced from the 21 areas that would be over 30 acres in the Proposed Action. I did consider an alternative where the harvests would be under that acreage, but I found that maintaining riparian filterstrips in combination with the forested travel corridors meet the intent of what is intended in limiting the harvest size – they break up large harvest areas into smaller patches of habitat. When the Hydrologist did an initial review of the proposal he found that the potential for sedimentation and increased water yield was not necessarily a factor of the harvest size, but of retaining the riparian filterstrips and limiting the harvest amount to 20-25% of any particular watershed. In addition, I determined that further reducing the harvest sizes would have reduced the amount of young, brushy forest that would be created. Therefore, I decided not to analyze this alternative in detail and instead to develop Alternative 2 that focused on addressing the potential watershed effect specifically by reducing the amount of harvest in those small watersheds that were of concern (See Purpose and Need slides 48-50).

Keep All Mature, Acorn-Producing White Oaks: This alternative was brought up by a commenter and was considered. I eliminated it from detailed analysis because oak silviculture shows that a developing oak understory would be suppressed if more than 15 square feet of basal area is kept over the long-term (Stringer 2006). However, Alternative 2 was developed from a modification of this idea.

Only Thin or Select Harvest Stands: This alternative was brought up by a commenter and was considered. I eliminated it from detailed analysis because the suggested harvest types do not create young, brushy forest. Thinning can be a treatment that is part of an overall oak management sequence that helps to give growing space to existing oaks, but it does not regenerate oak forests or create young, brushy forest; some kind of overstory removal harvest is required to accomplish that.

III. PUBLIC INVOLVEMENT

I approached public involvement in a very different way for this project. My intent was to share information about the project with potential stakeholders early on so that any issues could be identified and considered. To that end, I discussed the need for the project and the proposed action with the Southern Wayne Advocacy Council (SWAC) to address concerns they believed would be important to local stakeholders. The SWAC hosted two evening meetings on December 13, 2017, and January 24, 2018 (SWAC invited local stakeholders and government officials). Feedback from those meetings identified potential concerns related to recreational investments (i.e. horse trails), township and county roads, and both the Symmes Creek watershed and smaller drainages within the watershed, as well as interest in learning about the financial payments the Forest Service makes to local communities. On May 10, 2018, my IDT and I held a public meeting with landowners identified to own property next to proposed harvests. At this

meeting I heard from neighbors that had some of the same concerns as already mentioned in the two previous meetings, as well as a new concern that the harvests would negatively impact them through changing the scenery from their homes and potentially opening up their private land to trespass and vagrancy. There were requests for me to visit with them at their homes to see first-hand their concerns. After this meeting I did meet with each of the landowners that requested I visit their property.

As outcomes of those meetings, I identified protecting recreation investments, talking with Township Trustees and County Commissioners prior to implementing timber harvests, investigating how the project may affect the Symmes Creek watershed and reducing those effects, and considering reasonable irregular buffers along private land boundaries where requested as priorities to incorporate into the project and analysis.

I reached out to a wider audience through a combination of scoping on the initial proposal and a comment period on the completed EA presentation recordings. The scoping period was 30 days and the comment period was extended to a total of 63 days due to the partial government shutdown of early 2019. In addition, my staff, the SWAC, and I worked together with Ohio University Southern to produce a 25-minute television show about the Sunny Oaks project for public access cable in the local viewing area. This video was also posted onto the SWAC's YouTube channel and linked to via Facebook on the official WNF Facebook page.

The entire public outreach strategy for this project was focused on more effectively collaborating with the public. The culmination of this effort was to document the EA in presentations that were recorded and available to watch over the Internet. We heard feedback on this approach that it was not as accessible to those that do not have at-home high-speed internet. We did provide transcripts from those recorded presentations to those requested and are now making each presentation available on our public website as a pdf with the speaker's notes attached.

IV. FINDING OF NO SIGNIFICANT IMPACT

My intended decision to authorize and implement the updated Alternative 2 is based on my determination that the actions fulfill the purposes and needs for the project, are consistent with the Forest Plan, and can be completed without causing significant effects to the human environment. My finding of no significant impact takes into consideration the Council on Environmental Quality's criteria for significance (40 CFR 1508.27), both with regard to the context and intensity of the impacts. I based my finding on the factors below.

Context

The Sunny Oaks project is located in the largely forested landscape of southeast Ohio. The project area includes about 25,000 acres of National Forest System lands of the Ironton Ranger District. Due to the size of the project area, it may appear to be a large project, but my intended decision only authorizes timber harvest on about 2,612 acres, which is about 2% of the IRD and about 1% of the entire WNF. The harvest acres also represent about 1% of the Symmes Creek watershed. These harvests would not occur all at the same time, but would be staggered over

about twenty years (with initial harvests estimated to occur within about 8 years). While the TSI activities could occur across the project area, they would generally not be ground disturbing (aside from fire line construction, which would use existing features and/or be stabilized). Furthermore, implementation of this project would not change the land use of the acreage involved; forested areas would continue to be forested. While implementation of the updated Alternative 2 would have positive impacts in creating needed wildlife habitat, it does not represent a significant acreage or a major undertaking in the context of the entirety of the WNF land base on the Ironton Ranger District or more broadly speaking across southeast Ohio.

Intensity

The intensity of effects was considered in terms of the following:

- 1. Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that, on balance, the effects will be beneficial.** Beneficial and adverse impacts have been acknowledged and disclosed throughout the project analysis contained in the EA presentations and the Wildlife and Plant Biological Assessments/Evaluations. No significant effects of any kind were found to be the result of implementing this project. While there are beneficial effects to implementing updated Alternative 2, they were not used to offset or downplay any potential significant negative effect.
- 2. The degree to which the proposed action affects public health or safety.** There would be no significant impact to public health or safety in implementing updated Alternative 2. The harvest areas and prescribed burn areas would be temporarily closed during timber cutting and burning activities. Herbicides would be used according to label instructions, with application by trained professionals.
- 3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, parklands, prime farmlands, wetlands, ecologically critically areas, wild and scenic rivers, or Congressional-designated areas.** Various cultural resources and wetlands are located in the project area. Implementation of project designs and Forest Plan Standards would minimize or avoid effects to these resources. The Handley Branch Special Area is within the project area and would receive TSI treatments. TSI is compatible with this management area since it is designed to maintain the oak barren community for which the area was designated.
- 4. Degree to which the effects on the quality of the human environment are likely to be highly controversial.** As with any decision to take action on National Forests, some degree of disagreement or controversy exists among the public on the best use of public lands; however, there is little scientific controversy over the nature of impacts.
- 5. Degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** There is a low level of uncertainty and risk involved with this project. Timber harvest and TSI treatments are routine activities on National Forests and their effects are well understood and supported by research.

- 6. 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.** The intended decision to proceed is based upon results of a site-specific analysis conducted in accordance with NEPA. The actions intended to be authorized by this decision would occur within the project area described in the EA. Timber harvests would only occur where shown on the project maps available on the project webpage. TSI would be permitted within the project area boundary. Completing these activities requires the development of roads (permanent and temporary), skid roads, log landings, and fire lines. While the discrete locations of these features have not been determined, there would be no significant effects related to their construction or use because of implementation of standard forestry best management practices and the cooperation of timber staff with resource specialists in locating these features away from sensitive resources. In addition, if it were found that the activity could not take place without causing unanticipated and unacceptable adverse effects the FS can simply not implement that part of the project. Nothing in my intended decision removes the ability to take no action in the future. No additional actions are included in this decision.
- 7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.** I have not found any significant effects that might occur due to this project in combination with other projects. In the evaluation of potential cumulative effects, other Forest Service and private activities occurring or planned within the effects analysis areas for the various resources were considered.
- 8. Degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, or the degree to which the action may cause loss or destruction of significant scientific, cultural, or historical resources.** Cultural resources staff participated in the development of the Sunny Oaks project. Surveys for Native American Religious or cultural sites, Archaeological Sites, or Historic Properties or Areas have been conducted in portions of the project area to support the first round of implementation. Future surveys would be conducted after this decision is signed and prior to subsequent rounds of implementation. The WNF has entered into a programmatic agreement with Ohio's State Historic Preservation Office that allows for phased pre-implementation surveys. Heritage staff have concluded from the surveys to date that no historic property would be affected because sites would be identified and avoided. Mound sites and other Native American religious or cultural sites would be protected by adhering to Forest Plan standards and guidelines and the Native American Grave Protection and Repatriation Act. Additional information regarding Native American and heritage resources is located in the project record.
- 9. 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 Endangered Species Act.** The wildlife and botanical biological assessment in the project file considered federally threatened and endangered species. The Forest Botanist and District

Wildlife Biologist also consulted with the US Fish and Wildlife Service (USFWS) to ensure project compliance with the Endangered Species Act.

Wildlife and botanical surveys have been conducted in portions of the project area to support the first round of implementation. Future surveys would be conducted after this decision is signed and prior to subsequent rounds of implementation.

The Botanical Biological Assessment (project record) analyzed potential project impacts to the federally threatened small-whorled pogonia and federally endangered running buffalo clover, concluding the project activities may effect, but are not likely to adversely affect both species. The Wildlife Biological Assessment (project record) analyzed potential project impacts on the federally endangered Indiana bat and the federally threatened northern long-eared bat and concluded that project activities may effect, and are likely to adversely affect the two species. This conclusion does not represent a significant effect with respect to at-risk bat species, but rather recognizes the slight chance that an occupied yet undetected secondary or lesser important roost tree could be cut as a result of road, skid trail, log landing, or fireline construction, or hazard tree removal associated with proposed actions. However, if this were to occur, it is anticipated to only affect a few individuals and not result in negative population-level fitness consequences (USFWS 2005). Standards & guidelines built into the project help avoid direct mortality of bats and reduce the potential loss of roost trees. By complying with the Forest Plan Indiana bat standards and guidelines and the Range-wide Programmatic Biological Opinion for the northern long-eared bat, potential effects are minimized. In a letter dated December 20, 2018, USFWS has authorized incidental take of the Indiana bat associated with road, skid trail, log landing, and fireline construction and concurred that the project is not likely to jeopardize the continued existence of the Indiana bat. An update letter was sent to the USFWS on February 10, 2020 to inform them of the relevant updates to Alternative 2 and to make some corrections to the existing consultation, but does not alter the effects analysis or determinations. There is no designated critical habitat for any federally listed species on the Wayne National Forest.

Providing and maintaining a variety of habitats, forest types and ages would ensure long-term suitability of the WNF for a variety of plant and wildlife species, including federally listed species. The Sunny Oaks project is intended to help create and maintain a variety of quality habitats within the WNF, and Forest Plan standards and guidelines, along with project mitigation and design criteria, would ensure that the project can be implemented to improve plant and wildlife habitat quality without causing undue impact to at-risk species. Project mitigation and design criteria are attached as Appendix A.

- 10. Whether the action threatens a violation of federal, state, or local law or other requirements imposed for the protection of the environment.** The activities in Modified Alternative 2 comply and are consistent with all Federal, state, and local laws or requirements imposed for the protection of the environment.

V. INCORPORATION BY REFERENCE

My decision incorporates the following documents:

- United States Department of Agriculture, Forest Service. 2018. Sunny Oaks Project. Environmental Assessment and Attachments. United States Department of Agriculture, Forest Service, Wayne National Forest. Nelsonville, OH. Video presentations and attachments available at <https://www.fs.usda.gov/detail/wayne/landmanagement/projects/?cid=FSEPRD603728>
- United States Department of Agriculture, Forest Service. 2007. Decision Notice and Finding of No Significant Impact for the Non-Native Invasive Plan Control Project. Wayne National Forest. Nelsonville, OH. 26 pp.
- United States Department of Agriculture, Forest Service. 2007. Environmental Assessment for the Non-Native Invasive Plan Control Project. Wayne National Forest. Nelsonville, OH 106 pp.
- United States Department of Agriculture, Forest Service. 2005. Final Environmental Impact Statement for the 2006 Land and Resource Management Plan. Eastern Region. Wayne National Forest. Nelsonville, OH. 416 pp.
- United States Department of Agriculture, Forest Service. 2006. Land and Resource Management Plan. Eastern Region. Wayne National Forest. Nelsonville, OH. 308 pp.

VI. LEGAL REQUIREMENTS AND POLICY

In reviewing the EA and actions associated with updated Alternative 2, I have concluded that my draft decision is consistent with the following laws and regulations:

The National Environmental Policy Act (NEPA). NEPA establishes the content requirements of environmental analysis and documentation as well as requirements for public involvement and disclosure. The entire process of preparing this EA was undertaken to comply with NEPA. The project file is available to the public upon request.

The National Forest Management Act (NFMA). I find that the actions described in updated Alternative 2 and in this DDN/FONSI comply with the requirements of the NFMA, and the NFMA implementation regulations in 36 CFR 219. Furthermore, the development and analysis of this project used the best available science and was consistent with the direction laid out in the Forest Plan.

Several of the harvest units would create temporary openings greater than 40 acres in size. Exceeding 40 acres is allowed with Regional Forester review and 60 days public notice. The public was notified of this exceedance through a combination of scoping and the comment period. In updated Alternative 2, 7 harvest units would be over 40 acres, and 16 harvest units would be between 30 and 40 acres (see G-FSM-WLF-1). I am consulting with the Regional Forester and would not make my decision final until approval is given for these larger temporary openings. As the project is being implemented, it is possible that additional temporary openings would be created that would be over 40 acres. This is because several of the shelterwood

harvests would be greater than 40 acres. Once the stands are ready for the overstory removal in the shelterwood sequence, my staff would determine if only portions of the stand smaller than 40 acres should be harvested, or if the entire area should be harvested (minus riparian filterstrips, forested travel corridors, and any patches retained to buffer private land). In my intended decision I am not specifying if larger shelterwood harvests would be split into patches less than 40 acres or not. Once those individual shelterwood overstory removal harvests are being planned I would conduct the required Regional Forester review request and provide for 60 days public notice.

Some of the Forest Plan guidelines would not be followed in the implementation of this project. These departures are also allowed in the NFMA and have been disclosed, with reasoning, to the public within the EA Purpose and Need presentation (see slide 32) along with the reasoning in the document titled “Sunny Oaks Design Criteria, Mitigations, and Forest Plan Guideline Departures”, which was posted as “Mitigations/Design Criteria” on the project webpage along with the EA presentations and maps.

American Antiquities Act of 1906, National Historic Preservation Act, American Indian Religious Freedom Act and Native American Graves Protection and Repatriation Act.

Reference Intensity Factor 8, above.

The Endangered Species Act of 1973, as amended. Reference Intensity Factor 9, above.

Migratory Bird Treaty Act (MBTA). The MBTA established an international framework for the protection and conservation of migratory birds. Within the NEPA process, effects of proposed actions on migratory birds were evaluated and approaches to identify and minimize take were considered as per the 2008 memorandum of understanding (MOU) with the USDI Fish and Wildlife Service on the Migratory Bird Treaty Act. This MOU identifies key principles and directs the U.S. Forest Service to (1) focus on bird populations; (2) focus on habitat restoration and enhancement where actions can benefit specific ecosystems and migratory birds dependent on them; (3) recognize that actions taken to benefit some migratory bird populations may adversely affect other migratory bird populations; and (4) recognize that actions that may provide long-term benefits to migratory birds may have short-term impacts on individual birds. The parties agreed that through the NEPA process, the U.S. Forest Service would evaluate the effects of agency actions on migratory birds, focusing first on species of management concern along with their priority habitats and key risk factors.

The Clean Water Act, 1982 and 303(d). Update Alternative 2 complies with the Clean Water Act. This Act establishes a non-degradation policy for all federally proposed projects. Upon review of the Watershed Presentation (project record), I find that activities associated with updated Alternative 2 would comply with water quality standards and would not lead to a degradation of water quality.

The Clean Air Act. Updated Alternative 2 would comply with the Clean Air Act. The Air Effects Presentation (project record) describes that the project is located within an area that is in attainment for all six criteria pollutants, even taking into account current and past prescribed burning activities conducted in the area, and concludes prescribed burning from the Sunny Oaks project would not contribute to exceeding any of the six criteria pollutants. Upon review of the

Air Effects Presentation, I find that the Sunny Oaks project would comply with air quality standards.

Civil Rights and Environmental Justice. Executive Order 12898 on environmental justice requires federal agencies to identify and address any disproportionately high and adverse human health or environmental effects on minority and low income populations. After evaluation the EA, I have determined that there would be no discernible impacts between any of the Alternatives on minorities or the Civil Rights of any American citizen.

Wilderness Act of 1964 and 2001 Roadless Area Conservation Rule There are no Congressionally-designated Wilderness Areas or Roadless Areas within or near the project area.

VII. OBJECTION RIGHTS

This DDN/FONSI for the Sunny Oaks Project is subject to the objection process, pursuant to 36 CFR part 218, subparts A and B. Regulations for the objection process can be found in the [Federal Register \(https://www.federalregister.gov/articles/2013/03/27/2013-06857/project-level-predecisional-administrativereview-process\)](https://www.federalregister.gov/articles/2013/03/27/2013-06857/project-level-predecisional-administrativereview-process)

Only those that submitted timely, specific written comments during the scoping period, the comment period, or other period designated by me for submission of comments are eligible to submit an objection, unless the objection is based on new information. Issues raised in an objection must be based on those previously submitted comments, unless based on new information that arose after designated comment periods. The 45-day objection period begins the day following the publication of a legal notice of the availability of the DDN/FONSI in *The Ironton Tribune*, Ironton, OH. The date the legal notice is published is the exclusive means for calculating the close of the objection period. Those wishing to object should not rely on timeframes or dates provided by any other source. If the 45th day falls on a weekend or federal holiday, the next business day marks the close of the objection period. Timeframes or due dates given from any other source should not be relied upon when determining when objections should be submitted.

1. The scoping period was April 1 – May 1, 2018, and included a landowner meeting on May 10, 2018.
2. The comment period was extended due to the partial government shutdown and occurred December 14th, 2018 – February 14th, 2019.
3. The legal notice announcing the availability of the DDN/FONSI will publish in *The Ironton Tribune* on or about January 19, 2020.

Objections must include:

1. Specific issues related to the proposed project;
2. How the objector believes the environmental analysis or draft decision specifically violates law, regulation or policy;
3. Suggested remedies that would resolve the objection;
4. Supporting reasons for the reviewing officer to consider;

5. A statement that demonstrates the connection between prior specific written comments on the particular proposed project or activity and the content of the objection, unless the objection concerns new information that arose after designated comment opportunities;
6. The objector's name, address and telephone number;
7. Signature or other verification of authorship of the individual, entity or lead objector;
8. Identification of the lead objector, when multiple names are listed on an objection; and
9. Reference to the Sunny Oaks Project, the Ironton District of the Wayne National Forest and Responsible Official Ironton District Ranger Tim Slone. (36 CFR 218.8(d))

Incorporation of documents by reference is not allowed, except for all or any part of a Federal law or regulation, Forest Service directives and land management plans, documents referenced by the Forest Service in the project EA and comments previously provided to the Forest Service by the objector during public involvement.

Objections can be submitted in several forms, but must be postmarked (if mailed) or received by the Objections Reviewing Officer, Forest Supervisor Carrie Gilbert, within 45 days from the date of publication of the legal notice for the DDN/FONSI availability in *The Ironton Tribune*, Ironton, OH.

Objections may be mailed or hand-delivered to:

USDA Forest Service, Eastern Region
Gaslight Building, Ste 700
ATTN: PAL/LSC Staff
626 East Wisconsin Avenue
Milwaukee, WI 53202-4616

Emailed to: objections-eastern-region@fs.fed.us Subject: Sunny Oaks Project

Faxed to: 414-944-3963 Attn: Objections Reviewing Officer, Forest Supervisor Carrie Gilbert; Wayne National Forest

Electronic objections must be submitted as part of an actual e-mail message, or as an attachment in Microsoft Word (.doc), rich text format (.rtf), or portable document format (.pdf) only. E-mails submitted to addresses other than the ones listed above or in formats other than those listed above or containing viruses will be rejected. It is the responsibility of the objector to confirm receipt of an objection submitted by electronic mail. For electronically mailed objections, the sender should normally receive an automated electronic acknowledgement from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgement of receipt, it is the sender's responsibility to ensure timely receipt by other means.

For mailed/shipped objections, objections must be post-marked or have a shipping date by the closing date of the objection period *and* must be received by the end of the fifth business day following the close of the objection period.

Normal business hours for hand-delivered appeals are Monday - Friday, 7:30-4:00 (Central Time). E-mailed objections must be submitted by 11:59 Central Time on the closing date of the objection period.

VIII. IMPLEMENTATION

If no objections are filed, the Responsible Official may approve updated Alternative 2 of the Sunny Oaks Project by signing the Final DN/FONSI on, but not before, the fifth business day following the close of the objection period. If objections are filed, the Final DN/FONSI cannot be signed until the Reviewing Officer has responded in writing to all pending objections and all concerns and instructions identified by the Reviewing Officer in the objection response have been addressed (36 CFR 218.12).

IX. CONTACTS & ADDITIONAL INFORMATION

Project records are on file at the Ironton Ranger District office. The project newsletters, EA, and maps are available on the [project webpage](http://www.fs.usda.gov/projects/wayne/landmanagement/projects) (<http://www.fs.usda.gov/projects/wayne/landmanagement/projects> by scrolling down and clicking on the link for the Sunny Oaks Project).

For additional information concerning the specific activities that would be authorized with this decision, you may contact Dawn McCarthy, Public Affairs Officer, at Dawn.McCarthy@usda.gov or 740-753-0101.

X. RESPONSIBLE OFFICIAL

As the District Ranger of the Ironton Ranger District of the WNF, I will be the Responsible Official for deciding to approve updated Alternative 2 in the Sunny Oaks Project.

DRAFT
Tim Slone
Ironton District Ranger
Wayne National Forest

DRAFT
Date