

Decision Memo
For
Maple Run Watershed Improvement Project
USDA Forest Service, Eastern Region 9
Allegheny National Forest
Marienville Ranger District
Warrants 1465 and 1799, Highland Township
Elk County, Pennsylvania

I. Decision

A. Description of Decision

My decision is to:

- Remove from the Forest Service road system and decommission two segments of FR 104, totaling 0.1 mile, by removing the roadbed and culverts at the two Maple Run stream crossings (Segments B and D [see attached map for location of lettered road segments]); stabilize and rehabilitate the banks of the stream (including the road approaches); and restore the streambed (the existing culverts are undersized and poorly set, do not allow fish passage, and contribute to sedimentation in Maple Run);
- Add six new culverts to the Timberline ATV Trail “C” Loop (Segment E) to improve natural drainage and reduce soil erosion;
- Perform in-stream work to improve aquatic habitat within Maple Run (as described in the original proposed action); and
- Remove from the Forest Service road system the remaining four segments of FR 104, totaling 1.5 miles (Segments A, C, E and F). Retain private access to oil and gas development along these segments.
- Place log and rock structures in Maple Run to improve in-stream habitat. Excavate of the stream channel where sedimentation is excessive in order to create pools and riffles. At one site, sediment deposited on the floodplain will be stabilized or removed.

As a result of this decision:

- FR 104 will no longer be open to public motor vehicle travel.
- Motor vehicle traffic, which utilizes the two FR 104 stream crossings, will now have to cross Maple Run on FR 134.
- Private oil and gas operators who utilize the two FR 104 stream crossings will now have to use the FR 134 crossing. Any future requests to construct a stream crossing on Maple Run will be evaluated on a case-by-case basis and will require Forest Service authorization for surface disturbance and Pennsylvania Department of Environmental Protection permits for any in-stream work.
- The FR 104 corridor south of the lower stream crossing (Segment E) will continue as part of the Timberline ATV Trail “C” Loop. Dispersed camping sites located along this segment of FR104 will only be accessible to the public by ATV (via the trail) or by foot.
- Segments A, C, E and F of the FR 104 corridor will continue to provide restricted access to privately-held oil and gas developments as non-system roads. When no longer needed for private access to oil and gas developments, Segments A, C, and F will be decommissioned and rehabilitated, and Segment E will remain as part of the Timberline ATV Trail.

- Adding the culverts to the Timberline ATV Trail “C” Loop (Segment E) may require the use of excavated material. This material would come from fill removed from excavation of the eliminated stream crossing or from two borrow pits located south of the proposed project off of FR235.

The location of this decision is shown on the attached map.

B. Purpose of Decision

The stream crossings that will be removed are in poor condition and pose a barrier to fish passage. This decision would also reduce sedimentation and runoff into Maple Run and improve aquatic habitat in Maple run. The Allegheny National Forest (ANF) Land and Resource Management Plan (LRMP) includes a goal on page 14 that states “Maintain or restore watersheds and their associated stream and groundwater processes, channel stability, riparian resources, and aquatic habitats to a functional condition. Provide quality, quantity, and duration of stream flow to maintain levels that support desired aquatic species or the most restrictive beneficial use.”

II. Reasons for Categorically Excluding the Decision

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they qualify for one of the categories identified by the U.S. Department of Agriculture in 7 Code of Federal Regulations (CFR) part 1b.3 or one of the categories identified in 36 CFR 220.6 and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

A. Category of Exclusion

This decision falls within categories of exclusion 36 CFR 220.6 (d)(4) and (e)(7). Category (d) (4) allows for “Repair and maintenance of roads, trails and landline boundaries” and category (e)(7) allows for “Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices.”

B. Relationship to Extraordinary Circumstances

1. Proposed, Threatened, or Endangered Species or their Critical Habitat and Sensitive Species

The Endangered Species Act requires that Federal activities do not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species’ designated critical habitat. There is no critical habitat for any listed proposed, threatened, or endangered species on the ANF. Potential effects of the decision on federally listed species are documented in a biological assessment/evaluation (BAE). Analysis indicates that there will be “no effect” to any proposed or listed species or their critical habitat. Additionally, this decision will not jeopardize the continued existence of listed species. A supplemental information report (SIR) pertaining to the white-nosed syndrome affecting bats has been prepared and added to the project file. Findings in the SIR include no change in the listed determination for the Indiana bat.

Forest Service Manual 2670 requires analysis of potential impacts to sensitive species, those species for which the Regional Forester has identified population viability is a concern. On November 8, 2006, the Regional Forester approved the updated Regional Forester’s Sensitive Species (RFSS) list. Analysis indicates that there will be “no impact” to all of the RFSS, except for the timber rattlesnake, and this decision will not cause a trend toward federal listing of any of those species. A “may impact individuals, but not likely to cause a trend toward federal listing or loss of viability” determination was reached for the timber rattlesnake for this project.

2. Floodplains, Wetlands, or Municipal Watersheds

Floodplains

Executive Order 11988 requires avoiding adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as, “... the lowland and relatively flat

areas adjoining inland and coastal waters including flood-prone areas of offshore islands, including at a minimum, that area subject to a one percent [100-year recurrence] or greater chance of flooding in any one year.” A very narrow floodplain, which does not show up on topographic or Ecological Land Type (ELT) maps, along Maple Run may be directly or indirectly affected by the proposed activities. However, this feature would be protected by ANF LRMP standards and guidelines (pp. 74-79).

Wetlands

Executive Order 11990 requires avoiding adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, “... areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.” The National Wetlands Inventory (GIS data) indicates at least three wetlands are located within the project area. Associated with past or present beaver activity, these three palustrine/emergent/saturated/seasonal wetlands, ranging in size from 0.5 to 1.1 acres in size, are located 275 to 600 feet downstream of the southern stream crossing on FR104. The proposed in-stream activities have the potential to directly or indirectly affect these wetlands. However, through implementation of ANF LRMP standards and guidelines (pp. 74-79), water quality and these valuable habitats would be protected, maintained, and improved.

Springs, seeps and vernal pools, which do not show up on topographic maps, found in or near the project area may be directly or indirectly affected by the proposed activities. However, these features would be protected by ANF LRMP standards and guidelines (pp. 74-79).

Municipal Watersheds

Municipal watersheds are managed under multiple use prescriptions in forest plans. There are portions of two municipal watersheds on the Marienville Ranger District. The project is not located in or near these areas. This has been validated by map and site review. The decision will not affect municipal watersheds.

3. Congressionally Designated Areas

Wilderness Areas

Designated wilderness areas are in MA 5.1 in the ANF LRMP (pp. 116 through 120). This project is not located in or near designated wilderness areas. This has been validated by map and site review. Therefore, this decision will not affect wilderness areas.

Wilderness Study Areas

There are two wilderness study areas (WSAs) on the ANF. WSAs are designated MA 5.2 in the ANF LRMP (pp. 121 through 125). The project is not located in or near either of the WSAs. This has been validated by map and site review. Therefore, the decision will not affect WSAs.

National Recreation Areas

The only National Recreation Area (NRA) on the ANF is the Allegheny National Recreation Area (ANF LRMP, p. 148 through 152). The project is not located in or near the Allegheny NRA. This has been validated by map and site review. Therefore, the decision will not affect the NRA.

National Wild and Scenic Rivers

There are two National Wild and Scenic Rivers on the ANF, the Allegheny and the Clarion. The project is not near the Allegheny or Clarion River. This has been validated by map and site review. Therefore, the decision will not affect either Wild and Scenic River.

4. Inventoried Roadless Areas

There are no inventoried roadless areas (RARE II or ANF LRMP) in or near the project area. This has been validated by map and site review. Therefore, the decision will not affect inventoried roadless areas.

5. Research Natural Areas

There are no Research Natural Areas in or near the project area. This has been validated by map and site review. Therefore, this decision, with impacts limited to the immediate area of activity, will not affect Research Natural Areas.

6. Native American Religious or Cultural Sites

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in, or unevaluated for, the National Register of Historic Places. The Native American Graves Protection and Repatriation Act governs the discovery and protection of Native American human remains and objects that are excavated or discovered on Federal lands. Additionally, the federal government has trust responsibilities to Tribes under a government-to-government relationship to insure that the Tribes' reserved rights are protected. The ANF has contacted the Seneca Nation of Indians regarding this project and no tribal concerns have been identified with this project.

7. Archaeological Sites or Historic Properties or Areas

While Section 106 of the National Historic Preservation Act requires federal agencies to consider the effects on eligible and unevaluated cultural resources, the Archaeological Resources Protection Act also affords lawful protection of archaeological resources and sites on Federal and Indian lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through *in situ* preservation, but may encompass other actions to preserve these remains and items. This proposed decision complies with the cited acts.

A heritage resource review and survey was completed for this project. No effects to heritage resources are anticipated with implementation of project design features and ANF LRMP standards and guidelines. This inventory is documented in the cultural resource report, which is part of the project file. The ANF has contacted the Pennsylvania State Historic Preservation Office and they have concurred with these findings.

No other extraordinary circumstances related to the project were identified.

III. Public Involvement

The following methods were used to inform the public of the opportunity to comment on this proposal:

- 1) A scoping package was mailed on March 26, 2008 to adjacent landowners and potential interested parties. The scoping package was also posted on the ANF website on April 3, 2008.
- 2) The proposal has been listed in the ANF Schedule of Proposed Actions (SOPA) since January 2008.
- 3) A news release was sent to local media on March 27, 2008 describing the project and listing the comment deadline as April 25, 2008.
- 4) A second scoping package was mailed on October 15, 2008 to adjacent landowners and potential interested parties. The second scoping package was also posted on the ANF website on October 20, 2008.

- 5) A news release was sent to local media on October 21, 2008 describing the modified proposed action and listing the comment deadline as November 17, 2008.

Four responses were received during the March 2008 scoping. One respondent was supportive of the project. Other respondents were supportive of aspects of the proposed action. Based on the comments received, I have decided not to realign FR104 as originally proposed due to safety concerns expressed by the mineral estate owner.

One respondent questioned the need for the proposal and requested that an environmental assessment be prepared “so that the public better understands the background of the Sackett area, one of the most fragmented landscapes in the Allegheny National Forest, and the need for this proposal.”

***Response:** Forest Road (FR) 104 shows up on the 1925 Myrtle L. Case Tract 15, plat map, which means that FR104 existed in its current location when the Forest Service acquired the land in the Maple Run area. FR104 is an open Forest Service System road and has provided access to the Maple Run area, including several special use camps in the past. In 1991, the road was reconstructed and limestone surfacing was applied at the FR 104 stream crossings. However, the culverts present at the Maple Run crossings were not replaced at that time. Please see Section I for a description of the purpose and need for this project.*

Two responses were received during the second scoping period. One respondent expressed concerns about implementation of the projects and those concerns were addressed by adding Design Features 3, 4, and 5 in Section IV. One respondent expressed a concern about what monitoring of the project the Forest Service would do to ensure that implementation of the project meets its purpose and need. Design Feature 6 in Section IV addresses this concern.

IV. Findings Required by and/or Related to Other Laws and Regulations

My decision will comply with all applicable laws and regulations. I have summarized some pertinent ones below.

Forest Plan Consistency (National Forest Management Act [NFMA])

This Act requires the development of long-range land and resource management plans (LRMP). The ANF LRMP was approved in 2007 and provides guidance for all natural resource management activities on the ANF. This Act requires that all projects and activities are consistent with the ANF LRMP. The ANF LRMP has been reviewed in consideration of this project proposal. The decision is responsive to guiding direction contained in the ANF LRMP. See Section I, B. This project implements the ANF LRMP, and as required by NFMA Section 1604(i), I find this project to be consistent with the ANF LRMP.

Endangered Species Act

See Section II, B1.

Sensitive Species (Forest Service Manual 2670)

See Section II, B1.

Clean Water Act

This Act requires restoring and maintaining the integrity of waters. The Forest Service complies with this act through the use of ANF LRMP standards and guidelines and Best Management Practices (BMPs). No ground disturbance is anticipated with this decision. Implementation of ANF LRMP standards and guidelines and/or Pennsylvania BMPs would ensure protection of soil and water resources.

Wetlands (Executive Order 11990)

See Section II, B2.

Floodplains (Executive Order 11988)

See Section II, B2.

Clean Air Act

Under this Act, areas of the country were designated as Class I, II, or III attainment areas for Prevention of Significant Deterioration purposes. Class I areas generally include national parks and wilderness areas. Class I provides the most protection to pristine lands by severely limiting the amount of additional human-caused air pollution that can be added to these areas. There are no Class I attainment areas on the ANF. The ANF lies within a Class II attainment area. A greater amount of additional human-caused air pollution may be added to these areas but must still meet Commonwealth and National Air Quality Standards. No areas on the ANF have been designated as Class III attainment areas at this time.

Federal Cave Resources Protection Act

This act requires securing, protecting, preserving, and maintaining significant caves to the extent practical. Site features and field review substantiate that no caves are in the project area. Therefore, no known cave resources will be affected by the decision.

National Historic Preservation Act

See Section II, B6 and B7.

Archaeological Resources Protection Act

See Section II, B6 and B7.

Native American Graves Protection and Repatriation Act

See Section II, B6 and B7.

Wild and Scenic Rivers Act

See Section II, B3.

Environmental Justice (Executive Order 12898)

This order requires consideration of whether or not projects would disproportionately impact minority or low-income populations. The decision complies with this order. Public involvement occurred for this project, the results of which I have considered in this decision making. Public involvement did not identify any adversely impacted local minority or low-income populations. The decision is not expected to adversely impact minority or low-income populations.

National Environmental Policy Act

This Act requires public involvement and consideration of potential environmental effects. The entirety of documentation for this decision supports compliance with this Act. My decision is based on a review of the record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information, scientific uncertainty, and risk.

Project Design Features:

Besides ANF LRMP standards and guidelines, the following measures will be incorporated as project design features:

1. Project managers and operators including contractors must be informed of the increased risk of encountering basking rattlesnakes on roads and in stone pits and must consult with district wildlife biologists prior to obtaining road materials (even stock-piled material) within existing stone pits. If timber rattlesnakes are encountered, operations shall cease and a district wildlife biologist should be consulted immediately to formulate a coordinated plan of action to either capture and tag or protect the rattlesnake.
2. In-stream habitat enhancements shall be conducted from June 1 to August 31 to avoid the spawning season (September – October) and minimize effects to hatchlings (eggs usually hatch in late winter about March).

3. The Forest Service will remove FR 104 as an open road from the ANF Motor Vehicle Use Map during the next map update. The Forest Service will install proper signage on the portions of FR 104 that are going to remain in place, but will be closed to public motor vehicle access.
4. The Forest Service will notify mineral estate owner(s) prior to conducting any work under this decision so the mineral estate owner(s) can properly mark their utility and pipe lines and take the steps necessary to coordinate their work in the area with the Forest Service's activities.
5. When Segments A, C, and F (of FR 104) are no longer needed for private access to oil and gas developments, the Forest Service will consult with the mineral estate owner(s) prior to decommissioning and rehabilitating these segments and will coordinate such activities with the mineral estate owner(s).
6. From past surveys, the Forest Service has baseline information on fish species present in Maple Run and it will be resurveyed within two years of implementation. The Forest Service will also do photo point monitoring before and after the completion of this project for up to 3 years.

V. Administrative Review or Appeal

This decision is not subject to an administrative review or appeal pursuant to 36 Code of Federal Regulations 215 and the *Earth Island Institute v. Ruthenbeck* ruling of October 19, 2005.

VI. Implementation Date

Implementation of this decision may occur immediately.

VII. Responsible Official and Contact Person

The Responsible Official is:

Robert T. Fallon, District Ranger
USDA- Forest Service
Allegheny National Forest
Marienville Ranger District
HC 2 Box 130
Marienville, PA 16239

Questions regarding this decision memo should be directed to the Responsible Official or Kevin Treese, District NEPA Coordinator, at (814) 927-5759. This document is also listed on the ANF website at: <http://www.fs.fed.us/r9/forests/allegheny/projects/watershed/>.

VIII. Conclusions, Signature, and Date

I have concluded that this decision may be categorically excluded from documentation in an environmental impact statement or environmental assessment as it is within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified in 36 CFR 220.6 and there are no extraordinary circumstances related to the decision that may result in a significant or cumulative environmental effect. My conclusion is based on information presented in this document and the project file.

/s/Robert T. Fallon

ROBERT T. FALLON
District Ranger

November 25, 2008

Date

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