

Question and Answer Summary

March 9-11, 2009 Public Meetings

Thank you for taking the time to attend the meetings held last week in Warren, Bradford and Clarion, Pa. We know your time is valuable, and attending these sessions is an indication of your interest and concern for the management of the Allegheny National Forest. We've summarized the questions that were asked at the meetings and have provided written response. We look forward to your continued participation as we work through the SEIS. The next opportunity for participation will be on our first conference call scheduled for March 24, 2009 at noon, EDT. Call-in information – dial 1-877-939-0384, pass-code 9408961.

I'd like to encourage you to take full advantage of our SEIS web-site. We will be posting information there as it becomes available. Of particular interest may be the documents included in the 'Document Archive' section. We have been experiencing some problems with the web-site since late last week – and have been told that the access issues are related to changes being done by the Washington Office to the FS web. They are aware of the problems and are working to resolve them. Please call us or e-mail us if you continue to experience difficulties (814-728-6100 or via e-mail – ldemarco@fs.fed.us). We can mail or e-mail copies of documents upon request, if needed.

Again – thank you for your time and your input.

Leanne Marten

Forest Supervisor, Allegheny National Forest

Public Involvement

Q - What is our public involvement process?

Public involvement for the Supplemental Environmental Impact Statement (SEIS) will include the formal 30 day comment period which was initiated by publishing the Notice of Intent in the Federal Register on February 27, 2009. Scoping letters were mailed to approximately 700 people that have expressed interest in National Forest projects informing them of the comment period. Three sets of public meetings/open houses are scheduled (March 9 – 11, April 27 – 29 and July 20 – 22). In addition, open – invitation monthly conference calls are scheduled, commencing March 24, 2009. Please see: http://www.fs.fed.us/r9/forests/allegheny/projects/supp_eis/pub_meetings/anf_seis_public-inv-plan.pdf

Information will be posted on the web as information becomes available.

Q – Who is the ‘public’?

The public includes anyone (whether an individual or an organization) who cares to provide comment on the SEIS.

Q – How are our comments incorporated into the analysis? How can we be sure our voices will be heard?

All comments will be read and evaluated to determine if they define a significant issue for this project. Significant issues are the basis for the development of alternatives and the degree of analysis needed to support a decision for this project.

Q – What is the timeline for this project? Is the timeline flexible?

The timeline is displayed at:

http://www.fs.fed.us/r9/forests/allegheny/projects/supp_eis/pub_meetings/anf_seis_public-inv-plan.pdf

It is our intention to complete the project within this timeframe.

Q - Where can I find information?

The Allegheny National Forest (ANF) website is the best source of information related to this project. Links to related documentation will be provided. If there is information you are interested in that is not posted, please let us know.

http://www.fs.fed.us/r9/forests/allegheny/projects/supp_eis/index.php

Q - How did we choose our meeting locations?

Meeting locations were selected to reach a cross section of individuals who have an interest in the project. Monthly conference calls have been scheduled in an attempt to reach out to those who were unable to make the meetings due to meeting location or personal schedule conflicts. In addition, information shared at the meetings (powerpoint, handouts, etc) are available on the website for those who were unable to attend the meetings.

http://www.fs.fed.us/r9/forests/allegheny/projects/supp_eis/index.php

Q - How are our press releases distributed?

Press releases are distributed throughout a wide geographic area extending across the Commonwealth of Pennsylvania (including all major metropolitan areas, to eastern Ohio (including Cleveland) and as far north as Buffalo, NY.

Q – Will the Standards and Guidelines be displayed/discussed at the next set of public meetings?

The next round of public meetings (scheduled for April 27 – 29) will provide a review of comments received in response to scoping, and will propose preliminary issues and alternatives for public review.

Other agency/Government Involvement

Q - What is a cooperating agency?

A cooperating agency can be any Federal, Tribal, State, or local agency with jurisdiction by law or special expertise on an environmental issue that should be addressed in the completion of the environmental analysis. The Forest Service is the lead agency for this SEIS. If agencies agree to become a cooperating agency, an agreement will be developed outlining what level of participation will occur in the development of the analysis.

Q - Who is being considered to become a cooperating agency for this project?

We are considering including the following as cooperating agencies for this project: the US Fish and Wildlife Service (USFWS), the US Bureau of Land Management (BLM), the US Environmental Protection Agency (EPA), the State Historic Preservation Office (State Bureau of Historic Preservation), the Tribal Historic Preservation Office (Seneca nation), the State Department of Environmental Protection (DEP) and the State Department of Commerce and Economic Development

Q - What is the role of local government in the SEIS?

We have had continual discussions with our local government officials to keep them informed of activities on the ANF. The District Rangers met with Commissioners from the four counties encompassing the ANF prior to the March public meetings to inform them of the SEIS process and seek their input on how best to involve the counties. We will continue to work with them throughout the process in the manner that is meaningful to and effective for both the Forest Service and the counties.

Q - How will the Commonwealth of PA be involved in this project?

We have initiated discussions with the DEP and will work with them to ensure that our agency to agency responsibilities are fulfilled. We will engage the Department of Commerce and Economic Development prior to the next public meeting and consult with the State Historic Preservation Office at appropriate steps in the process.

Q - How will we involve the US Fish and Wildlife Service?

We have initiated discussions with the USFWS and will work with them to ensure that our agency to agency responsibilities are fulfilled.

SEIS Process

Q – Which planning rule applies to the SEIS?

The 2008 Planning Rule applies to the completion of the SEIS. The 2008 Planning Rule contains transition language that could apply to this SEIS. For more information please see : http://www.fs.fed.us/emc/nfma/includes/planning_rule/08_planning_rule.pdf

Q – How was it determined that an Environmental Impact Statement was needed?

The Regional Forester directed us to prepare an environmental impact statement in response to the Chief's Appeal Response on the 2007 Forest Plan.
http://www.fs.fed.us/r9/forests/alleggheny/projects/supp_eis/appeal_decision_letter.pdf

Q - Who makes the decision on this project?

The Forest Supervisor, under full implementation of the 2008 Planning Rule, has the authority for this decision. The Notice of Intent indicated that the Regional Forester would be the responsible official for this project.

Q – How do you make the decision?

The decision will take into consideration the environmental, economic and social analyses disclosed in the SEIS, as well as public comments received.

Q – Can this decision be over-ruled?

Yes. we intend to use the objection process included in the 2008 planning rule. In addition, if someone so chooses, a lawsuit could be filed on the final decision.

Q – The 2008 rule is currently under litigation. What happens if a decision is reached that either rescinds or suspends the new rule?

We will comply with the instructions that would be included in the ruling.

Q – How is the National Rule Making process related to this SEIS?

National Rule Making is not directly related to the SEIS. They are independent processes. It is conceivable that decisions made in Rule Making could affect some assumptions made in the preparation of the SEIS.

Q – What is the purpose of the Notice of Intent?

The Notice of Intent (NOI) initiates the public involvement process for an environmental impact statement. It is published in the Federal Register with enough background and detail for an interested party to be informed on how to provide comment. It also explains

the decision to be made, identifies the decision maker, and describes the process timeline expected for the analysis.

Q - Does the SEIS look at environmental effects or does it look at political impacts?

The National Environmental Policy Act (NEPA) process calls for the analysis and consideration of the physical, biological and social impacts of the proposed action and alternatives. Physical and biological effects describe the environmental factors related to the action. Social impacts weigh the trade-offs between alternatives.

Q – What does it mean to look at an alternative in detail/ not in detail?

A reasonable range of alternatives that respond to significant issues raised for this project will be considered in detail. An alternative should meet the purpose and address one or more significant issue related to the proposed action. These will be fully evaluated against the issue measures that are raised in the analysis in order to provide comparison measures. A brief discussion with reasons for eliminating alternatives not considered in detail will be provided. Alternatives that are beyond the scope of the analysis or are not legal will not be considered.

Q – Will there be different sets of standards and guidelines developed for different MAs?

Yes. Each MA has a desired condition, describes as an aspiration. To achieve these conditions, some MAs require different S&Gs. A framework of forest-wide S&Gs is established with each MA having a smaller set of additional S&Gs to help achieve a specific desired condition.

Q – Can comments recommend making some S&Gs applicable to only certain MAs?

Yes

SEIS Analysis

Q – How do we assess the scientific basis of comments?

Our resource specialists will review scientific references for accurate interpretations and consideration with other sources of scientific information.

Q - What is included/considered in an economic analysis?

The level of economic analysis will depend on the issues raised for the analysis. Some economic analyses rely upon economic models to predict outcomes, others can be

qualitative rather than quantitative. The starting point for the analysis will be what was included in the 2007 FEIS.

Q – How will the values associated with other resources, such as recreation, wildlife and water be considered?

Potential effects of the proposed action will be considered for all resources. Major effects will be analyzed and displayed by resource for each significant issue. Issue measures can be set up in quantitative or qualitative terms. Often a mix of market and non-market values are evaluated.

Comments that will be considered in the SEIS analysis (received during meetings)

Would like to see full development plans by watershed – present and future development, with maximum loads on watersheds

Would like to see a proposal that includes action that offset the OGM development – ie looking at the number of inactive or orphaned wells

Concern was expressed over S&G's being too strict that they constitute a taking.

Concern that there isn't sufficient time to identify a range of reasonable alternatives?

Concern that the question of NEPA for individual well development needs to be determined before the SEIS can be prepared.

Would like to see effects of OGM development on remote recreation discussed.

Would like to see heritage resources considered in context of a Federal Action

Authorities and relationship to State Regulations

Q - What is the relationship between Federal law and regulations and State law and regulations?

This will be clarified, per the Chief of the Forest Service's direction as outlined in her decision on the appeals to the 2007 Forest Plan, and included in the Supplemental Environmental Impact Statement.

Q – Is the ANF trying to shut down development of private oil and gas minerals?

No.

Q – How will we determine our authority related to OGM?

This will be clarified, per the Chief of the Forest Service's direction as outlined in her decision on the appeals to the 2007 Forest Plan, and included in the Supplemental Environmental Impact Statement.

Q – Do we know who owns the subsurface rights?

93% of the subsurface is privately owned. We do not maintain lists of who owns the subsurface. When individual companies submit drilling proposals to the ANF, they must provide proof of ownership at that time.

Q – What do most OGM deeds of ownership say? How does this affect surface management?

Each deed is unique and specific to private property rights and ownership. Surface management for National Forest System Lands is the responsibility of the Allegheny National Forest.

Q – Is the issue of the split estate more of an eastern issue than a western issue?

Split estate is common in the East due to the law in which the majority of the Eastern National Forests came into existence: Weeks Law of 1911. Most of the Western National Forests are public domain land.

Q – If prior laws exist related to private oil and gas development, shouldn't this be a non-significant issue?

Significant and non-significant issues will be determined through the process outlined in the presentation made March 9, 10 and 11th and posted on the website. Public meetings in April will be held to discuss and disclose these issues and how and why they were determined to be either significant or non-significant.

Questions related to Oil and Gas Development

Q – How is the SEIS related to the issuance of individual Notices to Proceed?

The final decision on the Supplemental Environmental Impact Statement will set the standards and guidelines that will be used for managing the surface use associated with private oil and gas development activities. These standards and guidelines will be the basis used when reviewing and approving proposals for development on the ANF.

Q – Why is issuing the Notice to Proceed a Regional Forester decision when the Forest Supervisor can sign the SEIS?

The Regional Forester is not issuing Notice to Proceeds. The ANF Forest Supervisor has this authority. She has subsequently delegated authorization to approve Notice to Proceeds to the District Rangers. At this time, based on a January 16, 2009 memo from the Regional Forester, the Forest Supervisor has directed the District Rangers to not authorize any Notice to Proceeds until a regional review process has been completed.

Q - What is the process and timeline for issuance of a Notice to Proceed?

Based on direction from the Regional Forester, documented in a January 16, 2009 memo, the Forest Supervisor has directed the District Rangers to not authorize any Notice to Proceeds until a regional review process has been completed. The timeline for this process to be completed is unknown.

Q – Is NEPA required for individual well development?

Whether or not NEPA is required for individual well development is currently in litigation and therefore cannot be discussed.

Q - Do we know how many miles of OGM roads are on the ANF?

At this time, we estimate there are 2,330 miles of roads developed for OGM activities on the ANF.

Q – How unique is the surface/subsurface ownership pattern found on the ANF?

Approximately 93% of the subsurface to the ANF is privately owned outstanding and reserved mineral rights. Other National Forests in the nation also have privately owned subsurface rights, particularly in the Eastern and Southern parts of the country. The high percentage of privately owned subsurface rights on the ANF however is considered by most to be unique.

Q – Does the surface/subsurface ownership pattern cause different types of management compared to other National Forests?

All National Forests are managed following the same laws, regulations and policies. Due to the high percentage of privately held subsurface rights, however, there are some unique circumstances for management of the ANF because we have to ensure that access to private property rights is not impeded, while fulfilling our land stewardship responsibilities.

Q – Do we consider the beneficial effects of road construction related to OGM, and improved access to the ANF for public access and resource management?

Analysis for the proposed standard and guidelines (including any associated with road construction) in the supplemental environmental impact statement will include analyzing potential environmental, economic and social effects.

Q – Isn't the Notice to Proceed part of the standards and guidelines?

No. The Notice to Proceed is the authorization tool that has been used on the ANF for documenting final approval for private oil and gas development.

Q – Is the Forest Plan compliant with the Minard Run ruling?

Yes.

Q – How will this process address availability of stone?

The availability of stone (pit material) will continue to follow the process outlined in Forest Supervisor Marten's March 2008 memo. The S&Gs included in the SEIS will be consistent with that direction.

Q - How deep are the mineral rights (ie – stone)?

This issue is currently in litigation and therefore cannot be discussed.

Q – Would selecting the No Action alternative have any bearing on the availability of stone?

The availability of stone (pit material) will continue to follow the process outlined in Forest Supervisor Marten's March 2008 memo. The S&Gs included in the SEIS will be consistent with that direction.

Q – Why is it more difficult to work with the ANF than anyone else?

It is not our intent to make working with us difficult. We are simply trying to do our best to fulfill our responsibilities as land managers by following all applicable laws, regulations and policies.

Q – Are Federally owned minerals being developed?

Yes.

Q – Have things stopped because of the litigation?

The pending litigation is not impacting the effort to complete a supplemental environmental impact statement.

Separate from the supplemental environmental impact statement process, the pending litigation has added another step to the Notice to Proceed process used on the forest for authorizing private oil and gas development activities. Based on direction from the Regional Forester, documented in a January 16, 2009 memo, the Forest Supervisor has

directed the District Rangers to not authorize any Notice to Proceeds until a regional review process has been completed. The timeline for this process to be completed is unknown.