

**Decision Memo**  
USDA-Forest Service  
Wayne National Forest

Brush Fork Reclamation Project  
T13N, R15W, Sections FR6 & FR12  
Ward Twp, Hocking Co.

**I. DECISION**

**A. Description of Decision**

I have decided to reroute two intermittent streams from entering large subsidences, thereby eliminating sources of acid mine drainage elsewhere, and to unblock the unnamed tributaries, so the surface water can flow into Brush Fork. One subsidence will be left open to accommodate bat use, while the other will be fitted with a comparably large pipe to maintain air flow in the underground system, while preventing water from entering it. Work will occur in 3 areas in the drainage, including 2 small tributaries and one unnamed drainage that flows into Brush Fork from the west. Access will follow existing oil and gas roads, mainly on private property. One section is identified as Township Road 347 connected to County Road 22 (Jobs-New Pittsburg Rd) to the west. Beyond existing roads, all access work proposed is temporary and minimal in scope, and is solely for the purpose of getting the equipment on site. Both subsidences are located on the Wayne National Forest, Athens Ranger District, but approximately 40% of the work will occur on adjacent private lands owned by Sunday Creek Coal Company. This work will improve overall watershed condition on National Forest System (NFS) lands, and the work on private land is necessary to ensure that the water diverted from subsidences reaches the main stream channel, rather than draining into underground mines downstream from NFS lands. The project will impact approximately 5 acres and disturbance will be kept to a minimum. All disturbed areas will be seeded and mulched with a Forest Service prescribed seed mix upon completion of the project. The attached map shows the project location, project work limits, and scope of work. This reclamation effort will require the following actions:

- An agreement with the private landowner to permit access and work on 2 portions of private land.
- A project road agreement with Ward Township, Hocking County to use a portion of township road for access.
- Reconstruction of a stream channel to close a subsidence depression in the upper stream channel and to divert surface water past a large subsidence through a culvert under an existing road to connect it to the existing stream and use of an adjacent borrow area that will affect an area approximately 500 feet long by 200 feet wide (ca. 2.3 ac);
- Diversion of surface water past a large subsidence fitted with a comparably large air vent, closure of a small, vertical hole, unblocking the stream channel to connect it to the existing stream, and construction of an appropriate stream-road crossing that will affect an area approximately 850 feet long by 100 feet wide (ca. 2.0 ac);
- Diversion of the lower portion of the stream (on private property) past a blockage into a constructed channel that connects to the main stem of Brush Fork. Channel construction will be approximately 500 feet long by 30 feet wide, and clearing for the temporary access will affect an area approximately 200 feet long by 16 feet wide (total ca. 0.4 ac);
- Alteration of a beaver dam and downstream overflow channel on an existing pond, as well as construction of a channel and waterbars, to redirect storm overflow from the pond appropriately to prevent significant erosion on an adjacent oil and gas road and eventually on downstream segments of the aforementioned reclamation work (ca. 0.1 ac).

The following management requirements must be incorporated into the design and implementation of the project:

- Forest standards and guidelines for erosion control will be implemented for road maintenance and staging areas during construction.
- All disturbed areas will be reclaimed and the project area will be closed to public access on NFS lands upon completion of the project.
- The project will be monitored after installation to determine the effectiveness of the treatment.
- The following biological and botanical mitigations must be incorporated into the implementation of the project:

**Biological Mitigations:**

**Applicable standards and guidelines (S&G) presented in the 2006 Forest Plan's Conservation Plan (Appendix D) and appropriate minimization measures are incorporated into the proposed action and will be implemented in all work areas on federal land to protect endangered Indiana bats and their habitat, as described herein.**

- No shagbark or shellbark hickory trees greater than 6" diameter at breast height (dbh) shall be removed, unless removal is necessary to protect human safety or to avoid adverse impacts to steep slopes, erodible soils, floodplains or wetlands (**GFW-TES-9**). Any such removals will be coordinated with a Forest Service Contracting Officer Representative (COR) and, unless there is an imminent threat to safety, a Wildlife Biologist. Each instance must be recorded on a "Hickory Tree Removal Reporting Form" and submitted to the Biologist.
- Trees (live or dead) marked by a FS biologist as having current Indiana bat roosting suitability will be cut between 15 September and 15 April, unless it is identified as an imminent threat to human safety by an on-site Forest Service COR (**SFW-TES-10**).
- Any tree identified as a potential Indiana bat maternity roost will be avoided and protected throughout the project. If such trees must be removed, USFWS must be notified before taking further action to determine if additional mitigation measures are required. (No such potential maternity habitat was identified within the Lost Run 3E project area.)

**Subsidence work in the Subsidence-283 area must be carried out between 1 May and 15 August, to avoid and minimize direct effects to bats during the fall swarming or hibernation seasons, unless biologist-approved bat exclusion measures have been successfully undertaken during the appropriate season.**

The contractors will be advised at the pre-work meeting of the potential to encounter rattlesnakes and what steps the contractor and all workers should take to avoid killing, harming, or harassing any individuals. Any sightings should be reported immediately to the CO/COR who should pass the information on to a Wildlife Biologist in a timely fashion. The contractor shall also be advised to report bear and bobcat sightings (individuals, prints, scat) to the CO/COR when discovered. All activities should stop in the event a bear or bobcat in its den is discovered until a Wildlife Biologist can be advised.

**Botanical Mitigations:**

- To reduce the likelihood introductions and invasions of NNIS, it is **required** that all equipment be cleaned of *all* vegetation debris and soil before entering the project area. Equipment cleaning can be done at any commercial car wash facility or other facility with a

high-powered water hose. Inspection of the rigs should be done on-site by the contract administrator.

- Non-native invasive Japanese stiltgrass and tree-of-heaven should be treated in the project area, as well as monitored after the project is complete to ensure successful treatment.
- Create ATV barriers to prevent illegal off-trail use in areas where ATV use is currently occurring, or where high visibility could invite ATV use.
- If any federally-listed or RFS species are found during project implementation, activity will be stopped in the area until a Biologist can determine the potential impacts of the project to the rare species found.

## B. Purpose of Decision

The Wayne National Forest has, for many years, been working to restore and reclaim Forestlands that were damaged by previous mining practices. The watershed has been mined for clay (during the 1800's) and coal (up until 1930). The purpose of this project is to help reduce the amount of surface water entering the underground mine system in the selected treatment area and minimize acid mine drainage (AMD) being released in other parts of the Forest. In addition, some treatment of the water derived through the use of limestone-lined channels is expected to improve water quality in the immediate area which in turn will enhance the potential insect forage base for bats in adjacent areas.

## II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are 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(d) or 220.6(e), and there are no extraordinary circumstances related to the proposed action that may warrant further analysis and documentation in an environmental assessment or environmental impact statement.

### A. Category of Exclusion

This decision falls under 36 CFR 220.6 (e) Category 7 “Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices.”

### B. Relationship to Extraordinary Circumstances

#### 1. Steep Slopes or Highly Erosive Soils -

This project will not impact any steep slopes or highly erosive soils-

#### 2. Threatened and Endangered Species or Their Critical Habitat -

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. As required by this Act, potential effects of this decision on listed species have been analyzed and documented in a Biological Evaluation that is

part of the planning record. The analysis indicated that the project is not likely to adversely affect the Indiana bat and will have no impact on other listed species within the decision area. Concurrence with this analysis was received from the Columbus Field Office of the USFWS in a letter dated 23 March 2009.

3. Floodplains, Wetlands, or Municipal Watersheds -

*Floodplains:* Executive Order 11988 is to avoid 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.”

This decision will not result in significant floodplain-related impacts.

*Wetlands:* Executive Order 11990 is to avoid 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 project is not located in or near wetlands. This has been validated by map and site-review. This decision will not affect wetlands.

*Municipal Watersheds:* Municipal watersheds are managed under multiple use prescriptions in forest plans.

There are no municipal watersheds on the Forest. This decision will not affect municipal watersheds.

4. Congressionally Designated Areas -

*Wilderness:*

This decision does not affect Wilderness. The project is not in or near Wilderness. There are no Wilderness areas on the Forest. The project is located in the Diverse Continuous Forest with Off-Highway Vehicles Management Area (2006 Forest Plan, p. 3-15).

*Wilderness Study Areas:*

There are no Wilderness Study Areas on the Forest. This decision will not affect Wilderness Study Areas.

*National Recreation Areas:*

There are no National Recreation Areas on the Forest. This decision will not affect National Recreation Areas.

5. Inventoried Roadless Areas -

There are no inventoried roadless areas (RARE II or Forest Plan) in the decision area. This decision will not affect inventoried roadless areas.

6. Research Natural Areas -

There are no Research Natural Areas in the decision area. The project is located in the Diverse Continuous Forest with Off-Highway Vehicles Management Area (2006 Forest Plan, p. 3-15). This decision, with impacts limited to the immediate area of activity, will not affect Research Natural Areas.

7. Native American Religious or Cultural Sites, Archaeological Sites, or Historic Properties or Areas -

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 the National Register. Section 106 of the National Historic Preservation Act also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered in federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. The Native American Graves Protection and Repatriation Act cover the discovery and protection of Native American human remains and objects that are excavated or discovered in federal 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 decision complies with the cited Acts. Surveys were conducted for Native American religious or cultural sites, archaeological sites, and historic properties or areas that may be affected by this decision. A ‘no properties impacted’ determination was made. Consultation on this finding occurred with the State Historic Preservation Office.

No other extraordinary circumstances related to the project were identified.

### **III. PUBLIC INVOLVEMENT**

A project proposal and invitation to comment was mailed to state and local officials, state and federal agencies, and interested publics on 12 December 2008. The project file contains the mailing list. There was one positive response to scoping for this project. The response was reviewed and the ideas that were expressed were incorporated into the project as appropriate.

### **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) - This Act requires the development of long-range land and resource management plans (Forest Plans). The Wayne Forest Plan was revised and approved in 2006, as required by this Act. The Plan provides for guidance for all natural resource management activities on the Forest. The Act requires all projects and activities be consistent with the Forest Plan. The Forest Plan has been reviewed in consideration of this project. This decision is

responsive to guiding direction contained in the Plan and the decision is consistent with the standards and guidelines contained in the Forest Plan.

Endangered Species Act - See Section II, Item B2 of this document.

Sensitive Species (Forest Service Manual 2670) - This Manual direction requires analysis of potential impacts to sensitive species, those species for which the Regional Forester has identified population viability is a concern. Potential effects of this decision on sensitive species have been analyzed and documented in a Biological Evaluation. Black bear, bobcat, cerulean warbler, and timber rattlesnake are the only RFS wildlife species considered to have suitable habitat and the potential to occur within the project area. The proposed project may impact individuals but is not likely to cause a trend towards federal listing or the loss of viability for cerulean warblers. The project will have no impact on black bear, bobcat, timber rattlesnakes, or any of the remaining RFS wildlife species. The project may also impact habitat for butternut, umbrella magnolia, lined sedge and sparse-lobed grape fern, but is not likely to cause a trend toward federal listing or a loss of local viability. The project will have no impact on the remaining RFS plant species, since no individuals or potential habitat was identified in the work area

Clean Water Act - This Act is to restore and maintain the integrity of waters. The Forest Service complies with this Act through the adherence to applicable standards and guidelines in the 2006 Forest Plan, which exceed the required Best Management Practices. This project incorporates the standards and guidelines to ensure protection of soil and water resources.

Wetlands (Executive Order 11990) - See Section II, Item B3 of this document.

Floodplains (Executive Order 11988) - See Section II, Item B3 of this document.

Federal Cave Resources Protection Act - This Act is to secure, protect, preserve, and maintain significant caves, to the extent practical. Site features and field review substantiate that no caves are in the decision area. No known cave resources will be affected by this decision.

National Historic Preservation Act - See Section II, Item B7 of this document.

Archaeological Resources Protection Act - See Section II, Item B7 of this document.

Native American Graves Protection and Repatriation Act - See Section II, Item B7 of this document.

Wild and Scenic Rivers Act - See Section II, Item B4 of this document.

Environmental Justice (Executive Order 12898) - This Order requires consideration of whether projects would disproportionately impact minority or low-income populations. Public scoping did not identify any adversely impacted local minority or low-income populations. This 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.

**V. ADMINISTRATIVE REVIEW OR APPEAL**

This decision is not subject to a higher level of administrative review or appeal pursuant to 36 CFR 215.8.

**VI. IMPLEMENTATION DATE**

This decision may be implemented immediately.

**VII. CONTACT PERSON**

Further information about this decision can be obtained from Gary Willison at the Wayne National Forest Supervisor’s Office (Address: 13700 Highway. 33, Nelsonville, OH 45764 ; Voice: (740) 759-0101; TTY/TDD: (800) 877-8339 (hearing impaired); Fax: (740) 753-0118, e-mail: gwillison@fs.fed.us).

**VIII. 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 by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 sections 31.1b or 31.2, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect. My conclusion is based on information presented in this document and the entirety of the Planning Record.

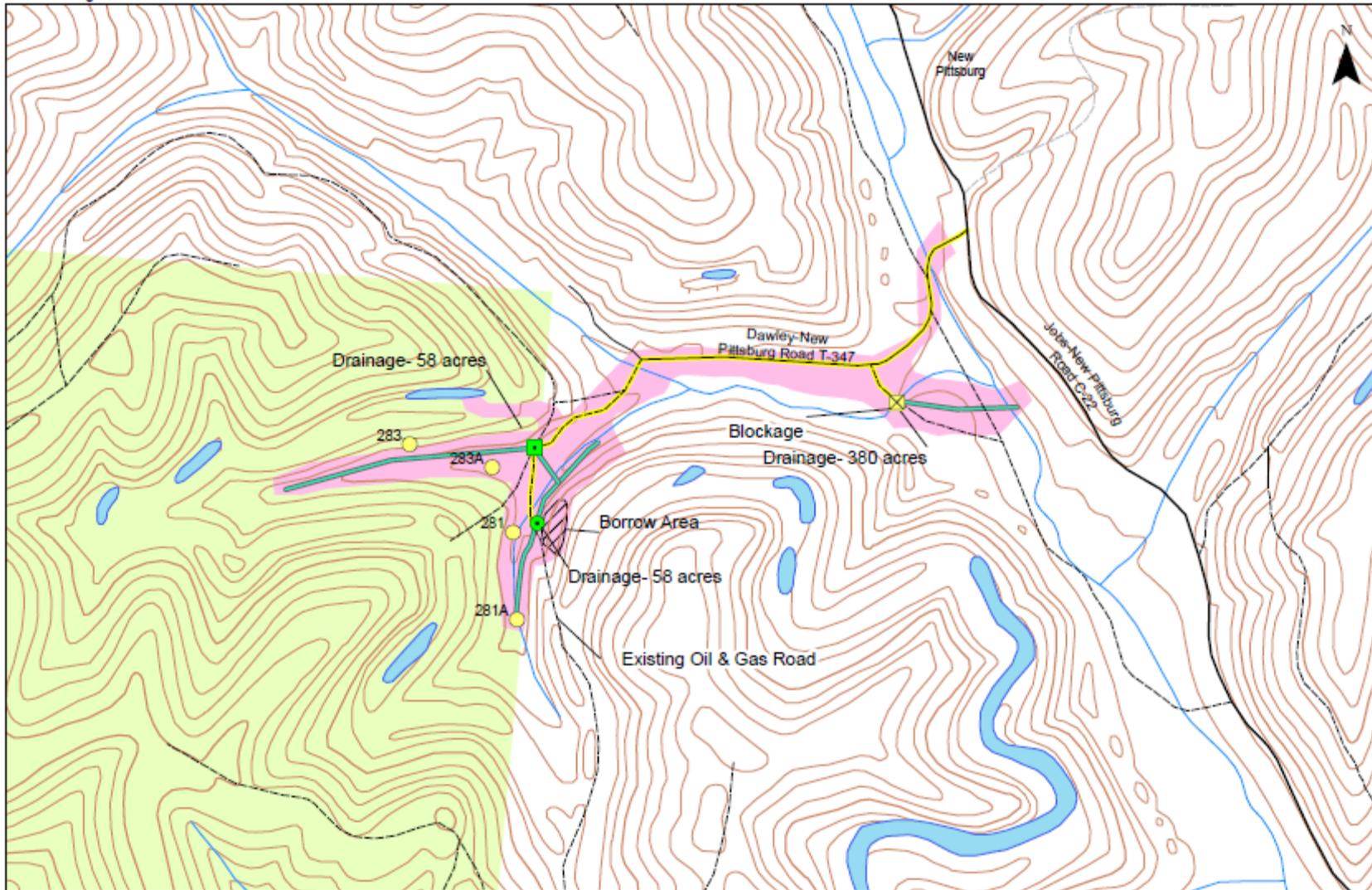
for,   
Jo Reyer  
Forest Supervisor

8-26-09  
Date

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- ACOE Identified Subsidences
- Project Area
- Culvert
- Low Water Crossing
- Access Road
- Open Limestone Channel
- WNF Lands

