



DECISION MEMO
Southwestern Energy 2-D Seismic Proposal
USDA-Forest Service, Southern Region
Ozark-St Francis National Forests, Big Piney Ranger District

Background

On February 4th, 2013 a Notice of Intent (NOI) was received from Southwestern Energy Production Company (SWN) to perform oil and gas geophysical exploration operations (seismic) testing and the associated activities on approximately five miles of National Forest lands and four miles of privately owned lands located in Conway and Van Buren Counties. Per direction in the CFR's and Forest Service handbooks and manuals, this request was considered a formal application. The NOI and associated maps are located in the project file. This action pertains only to National Forest lands, not to private lands within the proposed seismic project. Approval for any seismic lines shown to cross private lands on the associated project maps are subject to negotiation and approval from the private landowners with SWN. The Forest Service has no jurisdiction over these or any other privately owned lands.

Decision

I have decided to allow SWN to perform approximately 5 miles of geophysical exploration (seismic) testing on National Forest lands. The action approved pertains only to Forest Service lands within the project area. The seismic line is located in Township 09 North, Range 16 West, Sections 6, 7 & 18 in Conway County and Township 10 North, Range 16 West, Sections 6, 7, 18, 19, 30 & 31 in Van Buren County (See attached map). The procedure will consist of drilling holes every 110 feet along this line. Minimal brush cutting will also be required. The holes will be 3" in diameter by 20 feet deep. An explosive charge will be placed in each hole, which will then be capped. Once all charges are installed, they will be detonated sequentially (not all at the same time) with the results recorded on seismic receivers placed along the line. All flagging and wires from the operation will be removed when testing is complete. Terms and conditions of the approved NOI and the associated operating plan and avoidance map will be adhered to by the company during implementation.

This action is categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA) because it is a routine geophysical exploration operation and is non-intrusive to the majority of the lands being crossed. The proposed action falls within the following category of FSH 1909.15, Section 31.2 (8) – Short-term (one year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than one mile of low standard road, or use and minor repair of existing roads.

The categorical exclusion (CE) is appropriate in this situation because there are no extraordinary circumstances potentially having effects which may significantly affect the environment.

Public Involvement

A scoping/comment letter explaining the project proposal along with maps was mailed out to 127 neighboring landowners, leaders of Native American Tribes, and members of the public. The letter requested comments and/or concerns be submitted within thirty days. Seven scoping/comment letters were returned as undeliverable.

A legal notice was published in Russellville AR's newspaper "*The Courier*" on March 7th, 2013, seeking comments on the proposed seismic project. The legal notice was also posted to the Ozark St-Francis National Forests website. In addition, various Forest Service specialists reviewed the proposal including specialists in the areas of biology, archeology, minerals, and lands. From the public involvement efforts, the Forest Service received a total of five external responses.

The Big Piney Ranger District would like to thank all those who participated in the public involvement process by submitting comments. Two comments received were from Native American Tribes neither of which had any concerns with the project proposal. One comment from a member of the public was received after the official 30 day scoping/comment period had closed. While this comment has been considered this commenter does not have standing to appeal since the comment was received after the 30-day comment period had ended.

The following are the comments and agency responses;

1. **Comment:** I am 100% opposed to any gas play activity being conducted in any area of the Ozark National Forest.

Response: The following is taken directly from the Ozark-St. Francis National Forests Revised Land Resource Management Plan (RLRMP); The Energy Security Act (1980) directs the Secretary of Agriculture to process applications for leases and permits to explore, drill, and develop resources on National Forest System lands, notwithstanding the current status of any management plan being prepared.

The Federal Onshore Oil And Gas Leasing Reform Act (1987) expands the authority of the Secretary of Agriculture in the management of oil and gas resources on National Forest System (NFS) lands. Without the Forest Service's approval, the BLM cannot issue leases for oil and gas on NFS lands. The Forest Service must also approve all surface-disturbing activities on NFS lands before operations commence.

National Energy Plan, May 2001.

36 CFR Parts 228 and 261 (1990) are the regulations and procedures to implement the 1987 Reform Act. These regulations establish a staged decision process designed to accommodate the nature of oil and gas exploration and development.

As stated above the leasing of National Forest land for oil and gas including exploration is within the authority of the Ozark-St. Francis National Forests.

2. **Comment:** The seismic exploration would cause forest fragmentation for small organisms living in the soil and that travel underground.

Response: The proposed project is designed to have charges go off 20 feet below the surface,

110 feet apart, inside capped 3” diameter holes; this method of geophysical exploration has been used for many years. Any detriment to the forest or small organisms living in the soil would be slight if measurable at all.

3. **Comment:** The concussion from the explosions would kill wildlife and trees. The concussion could also cause a shifting in the layers of underground rock that would kill additional trees.
Response: The proposed project is designed to send the concussion downward so any trees and wildlife would be virtually unharmed. There is no known documented instance of this type of exploration causing any shifting of layers of underground rock or killing any sizeable trees on the surface.
4. **Comment:** The exploration would cause loss of both surface and ground water. The seismic line crosses a major stream (Brock Creek) and one smaller stream. The explosions will cause a loss of water on the surface of these streams. In the Boston Mountains most of the water is in a perched aquifer the explosions will cause a loss of water in this aquifer and result in desertification of the whole area.
Response: There would be no measurable loss of surface or ground water due to this type of geophysical exploration. It is true the proposed seismic line does cross more than one stream, but no holes or charges will be drilled within 30 feet of the stream itself. No loss of surface water within a stream is possible, and it is highly unlikely any loss of ground water could occur with this type of exploration. The explosive charges simply are not strong enough. The holes are drilled to a depth 20 feet, and they are plugged after the charges are set, this would keep any perched water from leaking into them after the exploration has taken place.
5. **Comment:** With that much blasting it will cause landslides and earthquakes like those around the community of Greenbrier.
Response: No known connections with any earthquakes or landslides have been documented with this type of seismic exploration. The “shot holes” are set off sequentially but individually, not all at the same time; this also reduces the chance of any shifting of underground rock or causing any landslides.
6. **Comment:** This project proposal is evidence of the Ozark-St. Francis National Forest’s abuse of authority and discretion in a manner that disregards the law and public interest making this project arbitrary and capricious.
Response: The Ozark-St. Francis National Forests clearly has the authority and direction to issue this type of decision. The decision to be made is whether or not to approve the request from SWN. SWN currently holds a lease for gas and oil in this area on National Forest land. SWN has a legal right to conduct geophysical exploration on their lease.

Findings Required by Other Laws

This decision is consistent with the Ozark-St. Francis National Forests Land and Resources Management Plan. The lands considered in this use crosses portions of three management areas as outlined in the current (RLRMP). The management areas are as follows: Pine Woodland, Oak Woodland and Riparian Corridors. An avoidance map will be provided to Southwestern Energy Company showing the locations of any sensitive areas required to avoid.

It was determined that there would be no adverse effects to Threatened and Endangered Species or Their Critical Habitat, Floodplains, Wetlands or Municipal Watersheds, Congressionally Designated Areas, Native American Religious or Cultural Sites, Archaeological Sites or Historic Properties or Areas through approval of the NOI. A Biological Evaluation (BE) of the project area for the seismic operation was completed in March 2013 and submitted to the US Fish and Wildlife Service (USFWS) for concurrence. No areas of concern were identified through the field data collection process from the proposed project by this decision developed through informal consultation with USFWS. Verbal concurrence was received from USFWS on May 16th, 2013. A copy of the BE and concurrence letter, when received, will be located in the project file at the district office in Jasper.

A cultural resource survey and report (HRR# 09-10-03-01) of the project area were conducted and concurrence from the State Historic Preservation Office (SHPO) was received. Additionally, a categorical exclusion (CE) and a visual inspection of the proposed seismic line for this project were completed on May 9th, 2013, and the CE is on file at the Supervisor's office in Russellville. Both the cultural report and the CE state that no historic properties will be affected.

No other extraordinary circumstances related to this decision were identified. Any new discoveries during project implementation would be handled on a case by case basis. The project work would be stopped, the appropriate Forest Service Representative would be contacted and an evaluation would be made by the appropriate specialist.

Implementation Date

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 business days following the date of appeal deciding officer's decision. (36 CFR 215.9)

Administrative Review or Appeal Opportunities

In light of a recent court ruling [Sequoia ForestKeeper v. Tidwell, 11-cv-00679-LJO-DLB (E.D. Cal.)], the Forest Service will provide public notice, comment, and opportunity for administrative appeal for projects and activities documented with a "Decision Memo" [36 CFR 220.6(e)] until new instructions are issued by the Washington Office, or the Agency issues regulations addressing the Court's ruling. In addition, the Forest Service will prepare Decision Memos and offer notice, comment and appeal opportunities for timber sales and proposed approvals of oil or gas exploration and development activities that rely upon Section 390 of the Energy Policy Act of 2005.

This decision is subject to appeal pursuant to 36 CFR 215.11 and the above referenced court ruling. A written notice of appeal, including attachments, must be postmarked or received by the Appeal Deciding Officer within 45 days starting the day after the legal Notice of Decision is published in Russellville AR's newspaper *The Courier* 36 CFR 215.15(a). When the 45-day filing period ends on a Saturday, Sunday, or Federal Holiday, then the filing time is extended to the end of the next Federal working day 36 CFR 215.15 (b). The date of publication in the legal paper of record (Russellville AR's *The Courier*) is the only means for calculating the date by which appeals must be submitted; do not rely upon any other source for this information CFR 215.15(3).

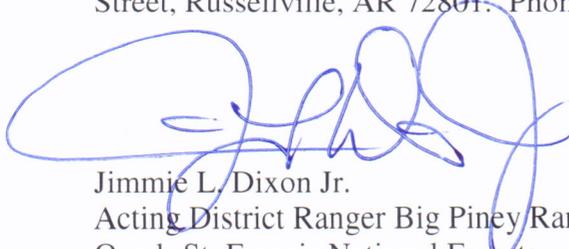
The Notice of Appeal **must** be sent to: Ozark-St. Francis National Forests, ATTN: Appeals Deciding Officer, 605 W. Main, Russellville, AR, 72801. The Notice of Appeal may be faxed to: (479) 964-7255, Attn: Appeals Deciding Officer, USDA Forest Service, Ozark-St. Francis National Forests. Appeals may also be mailed electronically in a common digital format to appeals-southern-ozark-stfrancis@fs.fed.us. Hand-delivered appeals may be submitted Monday-Friday at the above address within normal business hours of 8:00 a.m. to 4:30 p.m. CST.

Appeals must meet content requirements of 36 CFR 215.14, and will only be accepted from those who have standing to appeal through their response during the scoping/comment period. It is the appellant's responsibility to provide sufficient project or activity specific evidence and rationale, focusing on the decision, to show why the Responsible Official's decision should be reversed. The appeal must be filed with the Appeal Deciding Officer in writing. At a minimum, an appeal must include the following:

- Appellant's name and address, with a telephone number, if available;
- Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal);
- When multiple names are listed on an appeal, identification of the lead appellant and verification of the identity of the lead appellant upon request;
- The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision;
- Any specific change(s) in the decision that the appellant seeks and the rationale for those changes;
- Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement;
- Why the appellant believes the Responsible Official's decision failed to consider the comments and/or concerns identified; and
- How the appellant believes the decision specifically violates law, regulation, or policy.

Contact Person

For further information on the specific activities authorized with this decision or the appeal process contact Terry Krasko, Planning Staff Officer, Ozark-St. Francis National Forest, 605 West Main Street, Russellville, AR 72801. Phone (479) 964-7200;



Jimmie L. Dixon Jr.
Acting District Ranger Big Piney Ranger District
Ozark-St. Francis National Forests

Date:

5/17/13