

Talking Points for letters or meetings re Wayne National Forest Leasing Plans

Heather Cantino (heather.cantino@gmail.com)

Athens County Fracking Action Network, June 14, 2012

Please call 740-753-0101 to arrange a meeting or write Anne Carey, WNF Supervisor, (addresses below) to protest leasing of land for fracking. Visit ACFAN.org for more info.

In spite of wide public outcry, Wayne National Forest officials report that their current internal review of deep-shale high-volume horizontal drilling and fracturing (HVHF) will likely result in resubmission of parcels to the Bureau of Land Management (BLM) without an Environmental Impact Statement (EIS). The parcels were pulled from the December 2011 BLM lease sale based on widespread community concern. Wayne officials repeat flawed arguments to rationalize their plans. Effective rebuttals would be VERY helpful:

1. The National Environmental Policy Act (NEPA) \ requires that the Wayne consider, in an EIS *with full public input*, any significant impacts to the *region's human environment*, including the local *economy*, from any proposed action, before significant resources are committed—thus *before leasing, which is a significant commitment of resources*. A site-specific post-lease EIS is constrained by the contract (lease), so that the full range of options, including *no drilling, can NOT* be considered, contrary to NEPA requirements.
2. All Forest activities must comply with the most recent Forest Plan. The Wayne's most recent Plan (2006) and its EIS did not consider HVHF, so a new EIS is clearly warranted. Wayne officials say they don't want to do an EIS because they'll have to do one for their next Forest Plan. This is irrelevant and insulting to our community, which has grave concerns over impacts to our region's water, air, and economy. Wayne Supervisor Anne Carey has FULL authority to *revise* the Plan now (it's not required that she wait until 2016 or 2021 as she claims she wants to do). The new Forest Service (FS) Planning Rule states, "The responsible official has the discretion to determine at any time that conditions on a plan area have changed significantly such that a plan must be revised (16 U.S.C. 1604(f)(5))" (§ 219.7). Or Anne can *amend* the 2006 Plan with a supplemental EIS. The new planning rule states, "A plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for change, and should be used to keep plans current and help units adapt to new information or changing conditions." (§ 219.13)
3. Anne states that she must await an expression of interest (EOI) before taking steps to authorize an EIS. The expression of interest in 2011, in addition to the flurry of interest on private land that has continued in spite of the "new map," is enough to indicate the technology must be evaluated NOW—BEFORE it is too late and before current or new leases result in fracking permit applications.
4. Contradictorily, Anne states she must respond to an EOI. This may or may not be true but is irrelevant. The FS does NOT have to consent to BLM to lease. Anne has no basis on which to respond since the 2006 Plan does not address fracking. Only a Plan Amendment or Revision could give her a basis on which to respond to an EOI.
5. Anne has stated that the Forest is "multiple use." This has no bearing on whether she needs to respond to further leasing requests. As Wayne officials repeatedly state, most Wayne land is leased. Anne should therefore at least maintain control of what she can and take the "hard look" *required by NEPA* before taking any action with significant impacts. "Multiple use" does not imply or require unlimited leasing.
6. Anne claims to be required to respond to requests that involve "energy independence" [sic]. Although there may be a federal policy to promote "energy independence," there is no mandate or basis for Anne to conclude that corporate fracking promotes energy

independence. An EIS should of course demonstrate the fossil fuels' likely destination out of county, out of state, and abroad and the climate change impacts of fracking, in contradiction of FS mandates to address climate change. An EIS would of course demonstrate other significant impacts of fracking, all of which FS is *mandated* to consider, unlike general policy guidelines re energy "independence." If the Wayne is interested in energy independence, it should consider wind and solar installations, along the new U.S. Rt 33 through the Wayne where the forest has been destroyed.

7. According to USFS groundwater policy and guidance documents, the Wayne has responsibility to protect ground water and *drinking water*, which it can no longer protect once it gives permission to the BLM to lease, since the BLM then becomes responsible for subsurface impacts. 70,000 people depend on the shallow, highly permeable aquifer that lies along four Wayne parcels and the Hocking River and is the sole source for Nelsonville, LeAx, Burr Oak Regional Water District, Chauncey, and Athens. Abandoned mines underlie ALL the river parcels previously proposed for leasing. *Acid mine drainage corrodes steel and concrete in a matter of decades*. Spills, explosions, truck accidents and equipment failures have led to thousands of cases of HVHF contamination with significant public health and environmental costs borne by communities. The Wayne has NOT evaluated these costs. No post-lease EIS, lease stipulations or Ohio BMPs ["best management practices"– sic!] can protect against these impacts. *Athens County groundwater has not been mapped*. Mapping and assessment of groundwater must precede FS actions to assess potential impacts, according to the FS Groundwater Technical Manual (FS-881).
8. The Wayne 2004 socioeconomic assessment for its 2006 Plan did not evaluate *public health, recreation, local food, or other socioeconomic COSTS of past or future mining, drilling or industrialization* of the Forest. There is no mention of acid mine drainage's corrosion threats to drinking water by fracking, since fracking is not evaluated. Hocking Valley Scenic Railway and Hockhocking Adena Bikeway (Athens County's #1 and 2 tourist attractions), which both traverse the Wayne, are not mentioned. Nor are adjacent Nelsonville Public Square or Robbins Crossing. All are economically vulnerable to air and water pollution, noise and truck traffic from fracking on the Wayne. These cannot be prevented by lease stipulations or a post-leasing "site-specific" EIS. It is NOT enough to provide "buffers" for the bikepath. The potential effects of fracking on the economy in relation to the bikepath, etc. must be evaluated with PUBLIC INPUT in an EIS, which would not happen in a post-lease site-specific EIS. The 2004 assessment states, "Stakeholders overwhelmingly see recreation as having a major role in supporting tourism development. Most stakeholders indicated that recreation was very important to the area..." Water contamination, air pollution, truck traffic, pressure on rental housing prices, decreased land values, and reputation of our colleges and local organic food system are severe threats to our economy. In a region long impacted by extractive industries, these new threats to our burgeoning local economy must be seriously evaluated. Please help us protect our community!
9. Supervisor Cary repeatedly points to the patchwork of Wayne mineral ownership and implies that the Wayne is helpless in the face of so much private ownership. This ignores that the Wayne must evaluate *regional and cumulative* impacts on *all* its land, whether or not it owns "minerals" and *especially* on lands for which it does. Partial ownership is all the more reason why the Wayne must protect what it can.
10. Ms. Carey points to the 2006 Plan's "administratively available for leasing" clause as if this prohibits her from protecting land from further leasing. This is false:

- a. The Forest Service has sole authority to grant permission to the BLM for all leasing and is NOT required to lease any land.
 - b. Most Wayne land is already leased. There is no requirement that more be leased.
 - c. The 2006 Plan did not consider fracking, so the “available to lease” provision is irrelevant to further leasing, which is likely to involve fracking. Fracking must be evaluated in a Plan-level EIS before any further leasing.
11. Wayne officials ask why we don’t trust ODNR and reference ODNR guidelines for state lands. These allow well pads 300’ from campgrounds! One well vents 23 tons of volatile organic compounds, *unrestricted by Ohio law*. Comments by Natural Resources Defense Council state that draft Ohio well regulations “*lack the minimum standards necessary for the protection of the public health, safety and environment and lag behind the state-of-the-art requirements in drilling technology, practice and engineering...* The rules provide no training standards for Division inspectors.” Ohio rules don’t meet American Petroleum Institute standards. *They do not weigh environmental factors for well approvals.*
 12. The recent OU survey reveals strong community opposition to fracking: 75.2% of respondents felt their quality of life would be negatively impacted, 69% said fracking OU would not provide a long-term boost to the local economy, 75.9% predicted a negative or extremely negative impact on personal safety, and 85.1% responded it would have a negative to extremely negative impact on water. These results alone should justify a Plan-level EIS, since the community considers potential impacts highly significant and problematic to our health and economy. These echo the high level of concern expressed last fall in formal protests to the BLM by Ohio University, Athens City, Burr Oak Regional Water District, Athens County Commissioners, Hocking River Commission, environmental groups and dozens of citizens; hundreds attending rallies (11/11 and 5/12) and thousands of e-mails and petition signatures to Wayne officials.
 13. If Anne Carey releases land back to the BLM, she will give up her power and ours to protect our community drinking water, economy, safety and wellbeing. She will breach the public’s trust by ceding authority despite significant public concern, huge stakes, and NO public input. She implies that her job is at stake and says the FS is a “bureaucracy,” implying this requires she follow the path she is on. There is no basis for holding this over us—she would be within her legal authority and job description to authorize an EIS. At worst she might get moved. This is the federal government after all, and some job protections remain. Hers is a career not a political appointment.

Our water, air, and economy cannot be protected with lease stipulations, ODNR rules or a post-lease EIS. The public could not express its grave concerns in 2006. A new pre-leasing plan-level EIS must be done. The Wayne cannot legally justify further leasing meanwhile. Please call 740-753-0101 to arrange a meeting or write:

Anne Carey, WNF Supervisor: agcarey@fs.fed.us (cc Rachel Orwan, Wayne NEPA Coordinator rorwan@fs.fed.us) or send to WNF 13700 U.S. 33, Nelsonville OH 45764.

Visit **ACFAN.org** for more info.

Please help right the Wayne and protect our community today!

Thanks to Buckeye Forest Council and staff attorney Nathan Johnson for legal guidance and support. Please consider a donation to www.buckeyeforestcouncil.org to support this effort.

Thank you.

Supporting materials:

Technical Guide to Managing Groundwater Resources, FS 881, May 2007 excerpts:

“Water Development: Conduct appropriate National Environmental Policy Act (NEPA) analyses when evaluating applications for water wells or other activities that propose to test, study, monitor, modify, remediate, withdraw, or inject into ground water on NFS lands (see also FSH 2509).

Always assume that hydrological connections exist between ground water and surface water in each watershed, unless it can be reasonably shown none exist in a local situation...

Delineate and evaluate both ground water itself and ground water-dependent ecosystems before implementing any project activity with the potential to adversely affect those resources. Determine geographic boundaries of ground water-dependent ecosystems based on site-specific characteristics of water, geology, flora, and fauna...

Design inventory and monitoring programs to (1) gather enough information to develop management alternatives that will protect ground water resources, and (2) evaluate management concerns and issues expressed by the general public. Assign high priorities for survey, inventory, analysis, and monitoring to municipal water-supply aquifers, sensitive aquifers, unique ground water-dependent ecosystems, and high-value or intensively managed watersheds. Develop estimates of the usable quantity of ground water in aquifers while protecting important NFS resources and monitor to detect excessive water withdrawal. Define the present situation and detect spatial or temporal changes or trends in ground water quality or quantity and health of ground water-dependent ecosystems; detect impacts or changes over time and space, and quantify likely effects from human activities.” (pp. 4-6)

More re **water, chemical, and waste impacts:** Water consumption and waste generation for HVHF are magnitudes greater than for conventional and vertical wells (as much as 10 million gallons per frack; wells can be fracked numerous times). Withdrawals from rivers, streams, or groundwater or large-scale piping or hauling of water to the site; storage in tanks or open impoundments with likely additions of toxic biocides to prevent algal growth; waste production, storage, and transportation from the site and ultimate disposal are all highly significant issues not addressed by the 2006 Plan. 10-90% of water returns to the surface over the life of the well. The magnitude of contaminated water released in truck and equipment accidents causing blowouts, spills, and leaks, has not been considered by the WNF. Increased likelihood of highly significant accidents due to high truck volume, high pressures, and high volumes of chemicals and radioactive waste has not been evaluated. *The Wayne says it won't allow injection wells. Then who has to accommodate its millions of gallons of toxic, radioactive waste?*

Land disturbance impacts: Pad development will require access roads 2-3x wider than for conventional shallow wells to accommodate two-way truck traffic, which may number in the *thousands of trips* for a single well. 10 wells or more may be developed per pad. Pads are often 10 acres; a recent lease signed in Athens County stipulated a 20-acre pad. Pipeline construction with 100-foot rights-of-way is increasing drastically where HVHF is underway.

Scale of impacts: Although the Wayne claims that horizontal drilling operations concentrate the development area, as if this will mean decreased impacts, this is not the case. Whether or not square footage is less is irrelevant to the overall level of impacts of possibly fewer but heavy industry impacts, including noise, air pollution (23 tons of volatile organic compounds per well), truck traffic, likelihood of accidents and contamination, waste production, water, chemical, and waste storage. Land clearing, earth removal and valley filling for flat sites also have serious potential impacts on water quality, forest biota, habitat, carbon sequestration, and “scenery management” not considered in the 2006 Plan. Water contamination, air pollution, truck traffic, pressure on rental housing prices, decreased land values, and reputation of our colleges and local organic food system are severe threats to our economy, only recently recovered from more than a century of devastation by extractive industries. Our local food, arts, and green economies are flourishing. Don't let corporate control of our government destroy our local economy, environment, and community well being.