

# Cherry River

## Decision Notice & Finding of No Significant Impact

### July 2006

#### **Introduction**

This Decision Notice and Finding of No Significant Impact (DN & FONSI) documents my decision regarding projects analyzed in the Cherry River Environmental Assessment (EA). The following pages describe the Cherry River project area, my decision, the activities selected for implementation, reasons for my decision, the public involvement process used, alternatives considered, findings required by laws and regulations, information regarding opportunities to appeal, and persons to contact about the analysis.

#### **Background**

The Cherry River project area includes an estimated 6400 acres of National Forest System (NFS) lands and an estimated 3000 acres of privately owned lands, totaling about 9400 acres. It adjoins the communities of Richwood and Holcomb, in Nicholas County.

The Cherry River forms the southern boundary of the project area, with state routes 94/5 and 7/3 forming the approximate northern boundary. The project area extends from the mouth of the Cherry River east to Joes's Branch of the North Fork Cherry. Elevations range from about 1900' at the mouth of Cherry, to about 3,260'.

Most of the project area is within the Lower Cherry Composite watershed and makes up about 74% of that subwatershed, and about 9% of the Cherry River watershed itself.

About 68% of the project area is managed by the Forest Service, while 32% is privately owned. National forest lands adjoin the project area to the North, but the rest of the project area is almost completely surrounded by private lands. There are two in-holdings, or areas of private land surrounded by National Forest ownership.

Public use of the area along with access to private land is facilitated by open state or county roads. Although there are no National Forest trails in the vicinity, the Tri-Rivers Rail Trail, on private land, is managed for public use. There are no forest system roads open for vehicle travel. The Mountain Waters Scenic Byway Extension travels along part of the southern edge of the project area.

The Monongahela Forest Plan identified a goal to "Manage the vegetation on the Forest...in order to provide a sustained yield of timber, benefit other resources, and support the local economy with concern for environmental protection and cost efficiency" (Forest Plan pg. 38). In addition, Goal VII is to "Provide a stable supply of Forest products to dependent wood using industry" (Forest Plan pg. 38).

The Cherry River project area is designated as Management Prescription (MP) 3.0 in the Monongahela Forest Plan. The desired future condition of the area is described as a "Forest that will be a mosaic of stands of predominantly hardwood trees...that provide habitat for a variety of wildlife species. The stands will vary in size, shape, height, and species...." (Forest Plan, p 127). In order to achieve this desired condition, the Forest Plan identifies the emphasis for this area as:

- Large, high quality hardwood trees for lumber and veneer, hard mast production and scenic attributes; and
- Wildlife species tolerant of disturbances, such as deer, grouse and squirrel.

Existing conditions in the project area were compared with the desired future conditions outlined by the Forest Plan. Key differences exist between the desired condition and the existing condition in the area.

Young forests, also referred to as early successional forests, and maintained permanent openings provide important habitat for species such as deer, grouse and squirrel. The Forest Plan states that 10-20% of the area will be in the younger age classes (seedling/sapling). The project area currently contains an estimated 3% of the forest stands in the younger seedling/sapling age class, and some of these will soon grow out of this size class.

Table 1-1: Size Class Distribution in the Cherry River Project Area.

<b>Size Class Description</b>	<b>Forest Plan Goals (% of Area)</b>	<b>Existing Condition (% of Area)</b>
Permanent Openings	5	0.4*
Seedling/Sapling	10-20	2.5
Pole Timber	15-30	4.5
Saw timber	50-75	92.7

\*The existing condition shows open areas classified as stands, not roadside edges or inclusions within stands. These areas are also included in the analysis of openings (EA p. 3-63).

The goal for permanent openings is 5%. The western part of the project area currently contains 4% in permanent openings. Open areas are mostly in large openings on or adjacent to private lands and they are not well distributed on National Forest land, as shown by comparing the opening percentages shown above with the openings shown in Table 3-22 on p. 3-98 of the EA. Young forest habitat and permanent openings on National Forest land are lacking in the area and there is a need to create this type of habitat.

Fruits and nuts from trees provide forage for wildlife species and are referred to as mast. As trees age, their mast production decreases. The Forest plan states that 50-75% of the area will be in the older age classes, also referred to as sawtimber (Forest Plan, p 129). An estimated 92% of the forest stands within the Cherry River project area are in the older sawtimber condition. There is a need to create more age class diversity across the project area in order to create large, high quality hardwood trees over time so that mast is sustained across the area and so that forest products are available over time.

Many stands within the project area are composed of dense or crowded trees. These conditions result in reduced growth from water and nutrient competition. This competition stresses the trees which then become more susceptible to insect and disease infestation. One of the Forest Plan standards related to this situation is “Management techniques and practices will be stressed which prevent unacceptable Forest pest damage from developing.” (Forest Plan, p. 92)

Road construction and reconstruction will be needed in order to provide access for present and future vegetation and habitat management.

## **Decision**

I am the responsible official for the Cherry River analysis and am authorized to make this decision. Based on my review of the Cherry River EA, supporting information in the project file, and public comments received throughout the process, it is my decision to implement Alternative C as described on pages 2-11 to 2-23 of the Cherry River EA. The Mitigation and Design Features Common to Alternatives B and C (EA p. 2-19 to 2-21), and the Mitigation and Design Features to Be Implemented Only Under Alternative C (EA p. 2-22 to 2-23) are important components of the activities selected for implementation.

### **C. Alternative C**

Alternative C was developed in order to respond to the issues, while meeting the purpose and need for action for the Cherry River project. Alternative C meets the Purpose and Need for action in the following ways.

- Alternative C will create young forest habitat and a savannah within the area to improve habitat for species such as grouse, deer, and squirrel. The three wildlife openings were replaced by one savannah as a result of public input, which indicates that game and non-game habitat diversity in part of Compartment 48 could be increased from that provided by the proposed action, while benefiting a variety of wildlife species. The openings created for landings will be maintained to provide additional opening habitat.
- It will develop age class diversity across the project area in order to ensure large, high quality hardwood trees are growing across the watershed so that a sustainable amount of mast is provided for wildlife species and forest products are available over time. It will use clearcutting with residuals and shelterwood harvests to develop age class diversity.
- It will reduce the amount of competition between trees for light and water resources in dense, over-crowded stands to improve timber quality and stand health in the remaining trees and decrease the risk of insect and disease infestation, by thinning and single tree selection harvests. Single tree selection harvest is in keeping with Forest Plan guidance. The Forest Plan states “Uneven-aged management will normally be used when tolerant vegetation is the objective, when needed to meet visual quality objectives. . . .” (p. 135). Sugar maple is a type of shade tolerant tree existing in these stands that will be the objective and these stands are near open roads or private lands.

### **Activities Selected for Implementation**

Specific activities proposed are shown in tables in the EA, on the Alternative C map, and summarized as follows:

- 133 acres of clearcuts, divided into 6 separate units, 4 units will be logged using conventional skidding, and 2 units will be helicopter. Chainsaw site preparation will be done in these clearcuts. Vines will be manually cut to enhance tree regeneration on 13 of these acres, and cut twice on 72 acres, where sprouting vines may be denser (EA, p. 2-13).
- 64 acres of shelterwood harvests, in 3 separate units, two of them with helicopter logging. The shelterwood areas will be logged twice within a 5-7 year period as described on p. 2-13 of the EA. Chainsaw site preparation will be done. Vines will be cut on 46 of these acres (EA, p. 2-17).

- 81 acres of individual tree selection harvests in 2 separate units. Part of one unit will be harvested with helicopter (EA, p. 2-15).
- 10 acres in one savannah (EA, p. 2-15)
- Maintain log landings as wildlife openings following their use for timber harvest (EA, p. 2-15).
- 1,410 acres of thinning. Timber harvest activities use conventional (EA, p. 2-16) and helicopter logging (EA, p. 2-17, 2-18).
- 87 acres of oak mast tree release in young stands. This is not a timber harvest, and small trees will be felled using hand tools (EA, p. 2-14).
- Approximately 2 miles of new road construction in 2 segments (EA, p. 2-18)
- About 1 1/3 miles of road reconstruction in 3 segments (EA, p. 2-18)
- Road maintenance of existing roads. Partnerships with the state will be sought, and maintenance done if possible, for addressing stream passage problems on state roads, and for other state road maintenance needs as described on page 2-10, 2-11, and 2-18 of the EA.

Alternative C was developed in response to the issues raised during the scoping period by the public and by Forest Service and other resource specialists. Alternative C responds to the 3 issues as described below.

### **Issue 1: Soil Productivity/Soil Quality**

Issue: The Proposed Action may result in reduced soil productivity through compaction and displacement of soil from conventional logging. Harvesting trees may remove more base cations from the site than can be replenished through natural processes, given the amount of acid deposition and the soil types that occur in the area. This might eventually result in depletion of the soil reserve of base cations with further soil and stream acidification effects.

Alternative C reduces the amount of conventional logging and increases the amount of helicopter logging. This will reduce the amount of soil compaction and displacement and still meet the purpose and need. It reduces conventional logging and thus disturbance on the areas most sensitive to soil loss. The areas most sensitive to soil loss are on Buchanan and Ernest soils which are classified as wet. More soil and thus more base cations will be retained on site. Alternative C reduces the total amount of tree removal, by reducing acreage logged. More tree tops and limbs will also be retained on site, in that the “topwood” will not be sold in the helicopter units to be removed for pulpwood and other low value products.

### **Issue 2: Soil Erosion and Stream Sedimentation**

Issue: Because some areas have been identified within the project area as being more at risk for soil erosion effects due to soil type, slope, and proximity to stream channels, the proposed action may increase erosion and stream sedimentation and impact trout and other aquatic biota.

Alternative C eliminates some areas of timber harvest on slopes over 40%, on wet soils, in riparian areas and in coves. In some other of these areas, it changes the harvest method to helicopter logging. This reduces the number of stream crossings by skid trails, and the amount of soil available to erode from skid roads in the wettest and most sensitive areas.

### **Issue 3: Oak regeneration**

Issue: Oak species composition will be unlikely to be maintained in some stands by the clearcutting in the proposed action.

Alternative C maintains the same acreage of young forest habitat as in the proposed action. It changes the locations, sizes and methods of the regeneration harvests. Surveys were completed of seedlings and vines already present on the forest floor within the stands. Alternative C increases the size of the units with best chances for maintaining or enhancing the amount of oak in the regenerated stand, based on survey results. Units with the poorest chances of regenerating oak and other species are not clearcut in Alternative C.

In the stands to be clearcut, the existing trees are diverse, and include yellow poplar, oaks, and other species. The regenerated stands will be expected to be similar in diversity and percentage of oak. Increasing the size of harvest units will also be expected to reduce the impact of future deer browse, should it increase during the regeneration period.

Some stands are scheduled for shelterwood harvests, to increase the oak percentage and the size of oak seedlings already present. The size of these units is also increased, to decrease edge and potential impact from deer.

In this alternative, locations of the harvests were chosen to avoid those areas with the most competitive plants, trees and shrubs, to avoid the use of herbicides. It is recognized that ferns and competitive understories may restrict the development of oaks and other valuable trees. Grapevines are present in large numbers in some stands, and the manual cutting treatment in the proposed action may not be effective. To avoid the need for herbicide treatments, sprouting vines will be clipped in an additional manual treatment of stems that are not shaded enough to die from the first treatment. Areas with highest concentration of vines were dropped from regeneration. Harvesting in these areas as proposed might result in poor regeneration and poor survival of the best trees to produce large, high quality hardwood trees for a sustainable amount of mast and forest products over time.

Young mixed hardwood stands that were regenerated by clearcutting in the last 10 years currently have healthy oak trees. These young trees are unlikely to develop and survive to eventually be a large part of the mature stand, because yellow poplars and other faster growing trees are beginning to overtop them. Alternative C provides treatment to retain healthy oak trees in clearcuts completed within the last ten years.

An explanation of Alternative C's consistency with the Forest Plan is provided in the "Forest Plan Consistency" sections in Chapter 3 of the EA. Implementing Alternative C will not require a revision of an environmental impact statement or environmental assessment. Timber sale and possibly road contracts will be awarded to implement Alternative C. These contracts will contain terms and conditions which will help implement mitigation requirements.

Current activities and policies such as routine road maintenance and fire suppression will continue. All applicable Forest Plan standards and guidelines will be implemented to accomplish the projects in my decision. These guidelines, as well as other site-specific mitigation measures are considered an integral part of my decision.

## **Reasons for My Decision**

I have chosen to implement Alternative C because it meets the desired condition for project area vegetation (Forest Plan, pp. 38, 92, and 127, EA, pp. 1-2 to 1-3, 2-11, 3-66-3-69) and reduces potential effects to the water and soil resources of the area. I believe it is important to focus on regeneration and release of the important oak mast producers in the area, for future benefits to forest and wildlife diversity. When compared to the other alternatives, Alternative C is most likely to enhance oak mast production now and in the future.

The existing condition of the area is very much below the desired future condition as specified in the Forest Plan for age and size class diversity. The Environmental Assessment shows that Alternative C makes some progress towards meeting the Forest Plan desired conditions for young timber stands (5.4% in 2015 compared to the Forest Plan minimum of 10%) (EA, p. 3-66).

Alternative C will thin 1410 acres, and single tree selection harvest will occur on 81 acres. These treatments are expected to reduce the high stand density, and allow more mast production and understory development in these stands. In the long term, mast production might be reduced on the 81 acres of selection harvest where sugar maple is to be emphasized. However, these areas are already high in maple, this is a very small percentage of the entire area, and the treatment does contribute to diversity. Revenue from timber harvest will also be a result.

I recognize that Alternative C is very costly, because of the helicopter logging. Helicopter logging in this alternative occurs on slopes that could have been conventionally logged, under the standards and guidelines of the Forest Plan (EA, p. 2-9, 2-17 and 2-18). Public input was received that asked for even more logging restrictions, less logging, and wider uncut areas near permanent, intermittent and ephemeral stream channels with adjacent helicopter or conventional logging. Other input indicated strong concerns about the extra expense of helicopter logging on relatively gentle slopes. On balance, I believe that the cost of the helicopter logging is warranted within the project area. I believe that it will allow important vegetation management to occur with very low impact on the soil and water of the area.

Some public concern reflects a desire to invest in the infrastructure of roads, instead of spending so much on a one-time effort to log using helicopters. Other concerns indicate that local companies can not be employed currently in the high-cost and high-tech helicopter logging specified. I believe that the economic impacts to the local area will be beneficial overall, in spite of the expected use of some contractors from outside the area. Although the roads in Alternative C are very few and short, considering the amount of land that will be managed, I believe that they are well placed to provide long term management access to the area in combination with the many state or county roads. Although Alternative C does not provide high mileage of new and reconstructed roads, these Forest roads will be high quality access routes that will hold up during use and over time, because of the road standards that will be used (EA p. 2-20).

The amount of openings or the amount of fragmentation in the alternatives was not a major factor in my decision, although some public input indicated concern with the small amount of openings on National Forest lands. Other input indicated that openings on surrounding private land were sufficient and no additional openings should be created on National Forest land. The Forest Plan recommends up to 5% of Opportunity Areas in openings, and they should be dispersed throughout the area as much as practical (Forest Plan, p. 129). This analysis provides no need to propose an amendment to the Forest Plan. Many, if not most of the "openings" on surrounding private lands are the types of transient open areas provided by regeneration harvests,

which will develop quickly into young forest stands. In alternative C, the savannah and the open areas provided by landings along forest roads gated and closed to the public will increase the amount of openings to provide this element of diversity.

Alternative C is consistent with Forest Plan objectives, and Forest-wide and management area standards/guidelines (EA, pp. 3-49, 3-61, 3-71, 3-75, 3-80, 3-94, 3-99, 3-111, 3-131, 3-134, 3-139).

### **Public Involvement Process & Issues Identified**

Chapter 2 of the Cherry River EA describes the process used to solicit and employ internal and public comments, the Proposed Action that was submitted to the public for review and comment, and alternatives considered for implementation. Opportunities to comment were provided after development of the proposed action, and after preparation of the Draft EA. The following is a summary.

1. This project was first placed on the Monongahela National Forest website under Forest Planning, Schedule of Proposed Actions in February, 2003 and has been continuously listed there since that date.
2. The project was listed on the above website, under Proposed Actions, since February, 2005. The project listing included site specific maps and acreage listings along with a short summary of the purpose and need for the project and methods of providing input.
3. A Legal Notice was placed in *The Nicholas Chronicle* on February 10, 2005 announcing the initiation of the scoping period for this project.
4. A scoping letter was mailed to about 300 potentially interested parties, including people expressing interest in all projects on the Monongahela NF, and adjacent landowners, on February 10, 2005. The letter included a map and stand and acreage listings. About 23 letters, e-mails and phone contacts were received during the initial scoping process.
5. Each letter or comment was reviewed by the Interdisciplinary Team (IDT) in order to identify the issues and alternatives for the project.
6. On March 17, 2006, the Forest initiated an official 30-day comment period to provide the public an opportunity to provide input on the proposal and the alternatives being considered. The comment period was initiated with a Legal Notice in *The Inter-Mountain* on March 20, 2006. A legal notice was also printed in the *Nicholas Chronicle* on March 23, 2006. This was determined to be the best timing for solicitation of comments. The Draft Environmental Assessment was also posted on the Monongahela National Forest website under "Environmental Documents".
7. A letter and the Cherry River Draft Environmental Assessment was sent to the 23 commenters who responded during scoping. Letters were sent to about 130 potentially interested parties, with maps and Comparison of Alternatives table from the Draft Environmental Assessment. Comments received were reviewed by the IDT.
8. Most of the comments received related to issues already analysed in depth, such as roads, openings, and economic effects. These comments revealed that commenters appeared to have a good understanding of the environmental effects of the proposal and the alternatives, but did not want a certain alternative, or a certain project, to be implemented, because of the effects presented in the Environmental Assessment. Some of the comments indicated that I should choose parts of Alternative C, with some changes. I

decided to make one change related to openings in Alternative C, and that was to include the landing acreage as wildlife openings. This means that they could be maintained by mowing over time. Their status as openings was already analysed (EA, p. 3-97). By allowing them to be maintained, as budgets allow, the permanent opening density and distribution will be a little closer to the Forest Plan guideline. A few additional changes were made to the EA to clarify language or incorporate additional information.

All internal and public comments were reviewed and considered in my decision. Comments relevant to the decision to be made were used to define the issues and alternatives that are displayed on page 2-4 through 2-23 of the EA. Most comments were related to potential environmental effects of the proposal, and were described in Chapter 3 of the EA. Other comments were used to develop site-specific mitigation measures. Some comments were considered to be outside the scope of the decision to be made.

Three issues were identified during scoping that were used to develop alternatives and drive the analysis. They are described in the EA on pages 2-2 and 2-3.

#### Issue 1: Soil Productivity/Soil Quality

Concerns were identified related to soil productivity impacts from heavy equipment primarily through the construction and use of skid roads and the construction of temporary landings on about 1500 acres that will be logged using conventional skidding methods in the proposed action. Building and using roads will also cause compaction and topsoil displacement.

Concerns were also identified related to the potential for soil acidification, given the amount of acid deposition and soil types that occur in the area.

#### Issue 2: Soil Erosion and Stream Sedimentation

Concerns were expressed that the proposal might cause soil erosion and sedimentation of streams because of the amount and intensity of earth disturbance, wet soils, steep slopes, and proximity of activities to stream channels.

#### Issue 3: Oak Regeneration

Concerns were expressed that proposed regeneration treatment ensure oak regeneration, if necessary, by planting and tubing oaks.

### **Other Alternatives Considered for Implementation**

In addition to the selected alternative, I gave full consideration to the No Action Alternative and the Proposed Action. The following four **alternatives were eliminated from detailed study**, as explained below and on pages 2-3 through 2-4 of the EA:

#### **A. Uneven-aged Management**

An alternative was considered, but eliminated from detailed study, that would focus entirely on using uneven-aged management within all the units in the proposed action. This alternative would mean that stands would be entered on a regular basis (every 10-20 years), removing individual trees scattered across the stand or small groups of trees.

The Forest Plan (p. 134) states that “evenaged management will be used when intolerant vegetation is the species objective”. Using uneven-aged management over the entire area would



not move the project area toward desired age class or forest type diversity. Uneven-aged management would not move towards a mosaic of tree stands of various heights, shapes, and ages across the project area (Forest Plan, p. 127). Uneven-aged management, over the long term, will lead to less species diversity, favoring shade tolerant species, which in this area would be striped maple (a shrub species) and red and sugar maples. The current diversity of overstory tree species consists mostly of shade intolerant oak, poplar and a variety of shade tolerant and intolerant species. Only a few stands have high proportions of maples, which are shade tolerant. Beech and hemlock are smaller elements of diversity within the area, and are shade tolerant. Managing to convert stands to these species at this time would not be desirable, since beech bark disease and hemlock wooly adelgid may threaten the survival of these trees.

An alternative that used uneven-aged management, and thus promote shade tolerant trees, over the entire area would not meet the purpose and need for action. Such an alternative will not move towards young forest habitat, age class diversity for mast and habitat for species such as grouse, deer and squirrel.

#### **B. Alternative locations for roads or timber harvest units**

Many of the stands within the project area are crowded, and could have benefited from thinning to enhance mast production or development of big trees. Access and practicality of thinning limited the stands recommended for such treatment. Some stands would not have provided commercial volumes of timber in such a harvest, when thinned to comply with silvicultural guidelines. Within Compartment 61, the need for age-class distribution was met by regeneration harvests in a previous timber sale.

Potential road locations on private land and elsewhere were considered for construction to allow access for timber harvest. Had these locations appeared to be more practical in eliminating environmental effects and road mileage, steps might have been taken to acquire rights of way or choose alternate locations. However, in this area, many road corridors already exist, and were used previously for timber harvest on national forest lands.

Thus site-specific terrain, merchantability and other environmental factors were used to limit the areas considered for management and road location.

#### **C. Herbicide or prescribed burning to enhance oak regeneration potential**

Herbicides and prescribed burning were considered to remove undesirable vegetation and leave room for the development of oak seedlings. These techniques were not carried through into an alternative, because some advance oak seedlings are already present in the areas to be regenerated, according to seedling surveys. Heavy deer browsing might destroy these and new seedlings, but evidence of current deer browse was found to be light to moderate. For large vines that could impede regeneration in some units, a less thorough method of reducing the impacts of vines on regeneration was employed in Alternatives B and C. Thus, site-specific factors in the environment appeared to indicate that successful regeneration of oaks and other hardwood species could be obtained.

#### **D. Recreational development connected with trout fishing**

Recreational uses within the area include trout fishing and other dispersed use along the Cherry River itself. Much of this use is connected with the Tri-Rivers Rail Trail, which is not a national forest facility. Constructing and promoting additional recreational developments within the area

is not part of the purpose and need for action of the Cherry River project, and thus, no such alternative was fully developed.

Three alternatives were carried forward for a detailed analysis, Alternative A (the No Action alternative), Alternative B (the Proposed Action), and Alternative C. I am not selecting the other alternatives for the reasons described below.

### ***Alternative A - No Action***

The National Environmental Policy Act (NEPA) requires that an EA include a “no action” alternative to serve as a baseline to compare action alternatives. The no action alternative is based on the premise that ecosystems change, even in the absence of active management. This alternative provides the decision-maker with a clearer basis for a reasoned choice among the alternatives studied in detail.

With the “no action” alternative, neither the proposed action nor any of the action alternatives analyzed will be implemented. Management activities such as road maintenance, fire suppression, and routine maintenance of facilities will continue to occur within the planning area. Table 2-5 on page 2-25 of the EA shows the continued impact of this alternative on vegetation age class diversity. Table 3-13 on p. 3-63 shows the expected decline in young forest habitat from the existing condition. Over time, the amount of young forest in the area will continue to decline, and will be far lower than the 10-20% that the Forest Plan recommends. Oak mast production will not increase as a result of thinning (EA, p. 3-88). Therefore I did not select this alternative.

### ***Alternative B***

Alternative B proposed harvest of 1793 acres through clearcutting and commercial thinning. Approximately 1510 acres would be helicopter logged and 283 acres would be conventionally logged. This alternative has several features in common with Alternative C: it regenerates about as much to provide young timber stands, and thins almost as much to reduce stand density and increase mast production. However, the shape, size and location of the clearcut harvests are less likely than regeneration harvests in Alternative C to withstand any increases in deer browse impacts to vegetation. They are also less likely to regenerate oaks. More roads and less helicopter logging would be used. Although this alternative would be more cost effective, and return more to the Treasury, it will do so with a greater probability that sediment will be introduced into Morris Creek, Coal Siding Run, and possibly the Cherry River (EA p. 3-38). For these reasons, I did not select this alternative.

### **Finding of No Significant Impact**

After considering the environmental effects described in the Cherry River EA, I have determined that implementing Alternative C, will not have a significant effect on the quality of the human environment (40 Code of Federal Regulations (CFR) 1508.27). Therefore, an Environmental Impact Statement is not needed.

To determine significance, I considered both the context and the intensity of these actions.

Significance of an action is to be considered in several contexts such as society as a whole, the affected region, affected interests, and the locality, depending on the setting of the proposed projects. This DN/FONSI is for a set of projects that are site specific in nature and their effects

were analyzed as such. Significance in this case is heavily based on the effects in the local area rather than the forest, state, nation, or world as a whole.

Intensity refers to the severity of the impact. I based my determination of intensity of impacts on the following (40 CFR 1508.27):

1. **Impacts that may be both beneficial and adverse.** As described in Chapter 3 of the EA, both beneficial and adverse impacts to the human environment may result:
  - Impacts on recreational hunting will occur in the area, since portions of the area will be closed during hunting season while helicopter logging is on-going. It is possible, but not likely that all the areas of helicopter logging will be closed at once. Other areas of National Forest land will be available for hunting, both adjacent to and within the project area during these times (EA p. 3-132, 3-133).
  - Impacts on local traffic on WV 94 and WV 7 will consist of short term stops during felling or helicopter operations near the road, or for road maintenance activities.
  - Views from the heavily traveled WV 55 and WV 39/55 will not be noticeable or only noticeable for a short duration (EA p. 3-137).
  - Some soil disturbance will occur as the proposed projects are implemented over the next several years, as described in the EA. The use of helicopter logging on 64% of the timber harvest in most of the steeper, wetter or cove soils and conventional logging on 36% of the area harvested is expected to result in 64 acres of soil disturbance in all (EA p. 2-25). Application of the mitigation measures included in this decision will reduce expected disturbance. Based on the analysis, the impacts to the soil resource are within the thresholds set by the Forest Plan and the Regional soil standards. (EA, pp. 3-16)
  - The potential for exceeding state turbidity limits is reduced, to a point where this is not likely to occur (EA p. 3-43).
  - Beneficial and adverse impacts to wildlife vary depending upon the species. Project design and location focused on age class distribution and oak mast production to benefit some species. Adverse impacts were mitigated where feasible. These impacts are discussed in the EA (EA, p. 3-50 thru 3-94).
2. **The degree to which the proposed actions affect public health or safety.** Public health and safety will not be significantly affected by Alternative C projects:

Public health is not expected to be adversely affected. As stated above, all Forest-wide standards and guidelines (including those related to public safety) will be followed and are incorporated in this decision. In addition, specific mitigation measures are included in this decision that are designed for public safety. Specific areas of helicopter logging will be closed to public use during the period of helicopter logging (EA, pp. 2-21
3. **Unique characteristics of the geographic area.** There will be no significant impact on unique characteristics of the geographic area. Historic and cultural resources are discussed below and in the EA (EA, pp. 3-130 to 131). There are no coastal zones areas, research natural areas, state or national parks, conservation areas, wild and scenic rivers and wilderness areas or other ecologically critical areas adjacent to or

present in the Cherry River project area. Wetlands, floodplains, and prime farmlands are present within the project area. Wetlands are not located in activity areas. Small wetlands occur within the project area boundary, but they are all on privately owned lands, mostly small constructed ponds (EA p. 3-21). Floodplains are limited primarily to very narrow corridors along streams, but there are some areas where beaver have created small, temporary impoundments. The floodplain along the Cherry River is nearly all in private landownership. There will be no adverse effects to any floodplains or wetlands (EA, p. 3-41). The USDA Natural Resources Conservation Service (NRCS) has determined that the project does **not** impact Prime and Unique Farmland, Statewide Important Farmland, or Locally Important Farmland (Letter of January 19, 2006).

4. **The degree to which the effects on the quality of the human environment are likely to be highly controversial.** Controversy in this context refers to cases where there is substantial dispute as to the size, nature, or effect of Federal action, rather than opposition to its adoption. None of the issues within the scope of this analysis are believed to be highly controversial within the scientific community (EA, p. 2-2 thru 2-3).
5. **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** Most of the vegetation and road management related activities included in my decision have been implemented on the same soil types, within the project area, and in the same watersheds in the past. Although savannahs have not been implemented in the area, the design and management of the savannah will be similar to wildlife openings that have been done in the area, and will not involve unique or unknown risks. Thus, possible effects on the human environment are not highly uncertain nor do they involve unique or unknown risks. Also, mitigation that will be implemented as part of this decision has been implemented in various areas of the Forest, and, when applied properly, has been effective at minimizing adverse resource effects. Most mitigations involve limiting the amount of activity, which would thus limit effects.
6. **The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

Timber harvest, road construction and reconstruction, and associated projects, as authorized by my decision, have been implemented on the same soil types and in the same watersheds in the past. No other actions are expected in the project area or the Cherry River watershed that will cause selected projects to establish a precedent for future actions with significant effects (see Cumulative Effects sections throughout Chapter 3 of the Cherry River EA and Reasonably Foreseeable Future Project descriptions, pp. 3-1 and 3-2). My decision to implement the alternative with less road and skid trail construction does not set a precedent for the area, or for future timber sales. Additional roads or skid trails could be constructed after future analyses in the areas harvested by helicopter now. All projects in Alternative C, are within the scope of the Forest Plan and associated EIS (Forest Plan Consistency sections throughout Chapter 3).

**7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.**

Table 3-1 of the EA (EA, pp. 3-1 and 3-2) describes the past, present, and reasonably foreseeable future actions that may have bearing on the cumulative effects of Cherry River projects. The “Scope of Analysis” sections throughout Chapter 3 of the EA identify the area and rationale used to assess the cumulative effects of various resources. The “Cumulative Effects” sections throughout Chapter 3 explain why Alternative C will have no cumulatively significant impacts. I believe the analysis considered the potential cumulative effects on local contractors, and these effects would have been more severe if I had chosen Alternative 1, no action.

**8. The degree to which action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.**

Surveys for heritage resources were conducted as part of the analysis (EA, p. 130). Using mitigation described on pages 2-13 through 2-15 and 2-23 through 2-26 of the EA, heritage resource sites will be avoided and are not expected to be impacted by Alternative C projects (EA, pp. 3-16 and 3-17). The West Virginia Division of Culture and History concurs with these findings. There are no Native American concerns associated with proposed activities.

**9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.**

The following determinations of effects to Threatened and Endangered species have been made as a result of the biological assessment and the Tier II Biological Opinion from USFWS (p. 15) for Alternative C: no effect on Cheat Mountain salamander, VA big-eared bat, WV northern flying squirrel, shale barren rock cress, running buffalo clover and Virginia spiraea; may affect, not likely to adversely affect bald eagle and small-whorled pogonia. The biological assessment resulted in a “May Affect, Likely to Adversely Affect” determination for the Indiana bat<sup>1</sup>.

All alternatives will have no effects beyond those previously disclosed and addressed in the Revised Biological Assessment (USFS 2001) and Biological Opinion (USFWS 2002) for the 2004 Threatened and Endangered Species Amendment to the Forest Plan. The anticipated effects from the proposed project are similar to those anticipated in the programmatic BO (USFWS 2002).

With regard to sensitive species, the Cherry River Biological Evaluation documents that implementing Alternative C will have “no impacts” or “may impact individuals but is not likely to cause a trend to federal listing or loss of viability” (BE).

Alternative C will not result in a loss of viability for any species or associated habitat within the Cherry River project area.

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<sup>1</sup> No effects beyond those previously disclosed and addressed in the *Revised Biological Assessment* (USDA 2001) and *Biological Opinion* (USFWS 2002 – Tier I consultation)

The U.S. Department of Interior Fish and Wildlife Service (USFWS) has been consulted, and replied on June 16, 2006 regarding this project and concurs with the findings in the Cherry River BA and BE (EA, Biological Evaluation). Mitigation attached to this decision will be followed to help reduce the potential for adverse effects to threatened, endangered, and sensitive species. If any federally-listed endangered or threatened species are found during project design or implementation, activities within that area will cease until additional consultation with USFWS has been concluded.

**10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.**

No Federal, State, or local laws (e.g. the Clean Air Act, Clean Water Act, Endangered Species Act, various heritage resource laws, Multiple Use Sustained Yield Act, Wild and Scenic Rivers Act, WV Best Management Practices, etc.) will be violated by implementation of Alternative C including the mitigations (EA, Chapter 3 and information in the project file).

**Findings Required by Other Laws and Regulations**

It is my finding that the actions described in this decision comply with the requirements of the National Environmental Policy Act (NEPA), the Endangered Species Act of 1972, the National Forest Management Act (NFMA) of 1976, and the NFMA implementation regulations in 36 Code of Federal Regulations (CFR) Section 215.

- 1. Forest Plan Consistency (16 USC 1604(i))** - All actions implemented as part of Alternative C are consistent with management direction identified in the Forest Plan (EA, Forest Plan Consistency sections of Chapter 3). Approved activities will comply with Forest-wide standards and guidelines; Management Prescription 3.0 purposes, standards, and guidelines; Appendix M, Transportation Planning Procedures; Appendix R, Riparian Area Management and Filterstrip Guidance; and Appendix S, Soil Resource Management Standards.
- 2. Vegetation Manipulation (NFMA)** – This act and its implementing regulations require that manipulation of tree cover for any purpose must comply with the following seven requirements.
  - *Be best suited to the goals in the Forest Plan.* The applicable goals are given beginning on page 1-4 of the EA. This decision is responsive to those goals and is best suited to meet those goals.
  - *Assure that technology and knowledge exists to adequately restock lands within five years after final harvest.* The information in the project file and the EA adequately addresses this requirement.
  - *Not to be chosen primarily because they give the greatest dollar return or the greatest output of timber (although these factors shall be considered).* While economics were considered in my decision, other factors also played a part. As discussed above, this alternative did not provide the greatest dollar return of the alternatives considered, but was the most costly alternative considered in detail (EA, p. 3-127).

- *Be chosen after considering potential effects on residual trees and adjacent stands.* The potential effects on residual trees and adjacent stands have been considered.
- *Be selected to avoid permanent impairment of soil productivity and to ensure conservation of soil and water resources.* Potential effects to soil productivity are within the Soil Management direction in FSH 2509.18. Mitigation measures are included in my decision to protect the soil and water resources.
- *Be selected to provide the desired effects on water quality and quantity, wildlife and fish habitat, regeneration of desired tree species, forage production, recreation users, aesthetic values and other resource yields.* This decision is consistent with the Forest Plan and provides the desired effect on the above resources. Even aged regeneration methods, Clearcutting and Shelterwood cutting) in Alternative C are appropriate to regenerate a variety of hardwood species, including oaks, as described in the EA (p. 3-67 to 3-69). In stands where clearcutting is proposed, it is optimal to regenerate a mix of desired species, especially yellow poplar, and some oak will also be present in these stands.
- *Be practical in terms of transportation and harvesting requirements and total costs of preparation, logging, and administration.* The activities in this decision are appropriate to accomplish project objectives.

**3. Environmental Justice** - I do not believe any groups will be disproportionately affected by this decision because of the implementation of Alternative C. Environmental Justice is discussed in the EA on page 3-130.

### **Administrative Review and Appeal Opportunity**

This decision is subject to administrative appeal pursuant to Forest Service Regulations at 36 CFR 215 by individuals and organizations who submitted substantive written or oral comments during the 30-day comment period (CFR 215.13). This decision will be published in the *Nicholas Chronicle*, which is the “Paper of Record” for this decision.

In accordance with 36 CFR 215.15(a)(b), a written Notice of Appeal must be postmarked and submitted to the following Appeal Deciding Officer within 45 calendar days after the date the notice of this decision is published in the *Nicholas Chronicle*: Clyde Thompson, Appeal Deciding Officer, Attn: Appeals and Litigation, USDA-Forest Service, Eastern Region, 626 E. Wisconsin Avenue, Milwaukee, WI 53202-4616.

A Notice of Appeal may also be faxed to Attn: Appeals Deciding Officer, (414) 944-3963 or hand-delivered to the above address during the normal business hours of 7:30 A.M. to 4:00 P.M., Monday through Friday. If submitted electronically, appeals should be directed to [appeals-eastern-regional-office@fs.fed.us](mailto:appeals-eastern-regional-office@fs.fed.us). They should be in TXT, RTF, DOC, PDF or other Microsoft Office-compatible formats. In cases where no identifiable name is attached to an electronic message, a verification of identify will be required.

### **Implementation Date**

The appeal period for this decision begins the day after notice of this decision is published in the *Nicholas Chronicle*. Those wishing to file an appeal must do so within 45 calendar days after the legal notice is published. If an appeal is not filed, implementation may begin on, but not before

the fifth business day from the close of the appeal-filing period (36 CFR 215.9(a)). If an appeal is received, implementation may occur on but not before the fifteenth business day following the date of appeal disposition. In the event of multiple appeals, the date of the disposition of the last appeal controls the implementation date (36 CFR 215.9(b)).

Timber may be sold in calendar year 2006 or later. Projects could begin in the next few months. Timber harvest, road construction and reconstruction, savannah construction and oak release treatments will be expected to be completed within 7 years, for the most part. The second harvest of the 64 acres of Shelterwood harvest will occur 5-7 years after the first harvest is completed. Project monitoring activities will continue farther into the future. Competitively bid timber sales or other contracts will be used to accomplish many of these projects. The area will be evaluated according to the attached monitoring plan. Stocking surveys will be conducted one to three years after harvest, or up to five years if needed.

### **Responsible Official and Contact Person**

For more information concerning this decision, contact Jane Bard at voice/TTY at 304-846-2695 or by writing to the Gauley Ranger District, 932 North Fork Cherry Road, Richwood, WV 26261. A copy of the Cherry River EA can be obtained from the Monongahela National Forest website at [www.fs.fed.us/r9/mnf/](http://www.fs.fed.us/r9/mnf/) under "Forest Planning", by emailing [comments-eastern-monongahela@fs.fed.us](mailto:comments-eastern-monongahela@fs.fed.us), writing or calling Jane Bard at the address or phone number above, or by contacting James L. Lowe at the Gauley Ranger District Office or phone (304) 846-2695. Records that support the conclusions of the EA and that were used to make this decision are available for review at the Ranger District Office from 8 AM to 4:30 PM Monday through Friday.

/s/James L. Lowe

July 5, 2006

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James L. Lowe  
District Ranger

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Date

#### **USDA Nondiscrimination Statement**

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