



United States  
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Agriculture

Forest Service  
Southern Region

September 2013



# Decision Notice and Finding of No Significant Impact

## Clay County Shooting Range Project

Tusquitee Ranger District  
Nantahala National Forest  
Clay County, North Carolina

Decision Notice  
and  
Finding of No Significant Impact  
**Clay County Shooting Range Project**

USDA Forest Service  
Tusquitee Ranger District, Nantahala National Forest  
Clay County, North Carolina

## Decision and Rationale

### Decision

Based upon my review of the alternatives, I have decided to select **Alternative B (Modified) – Perry Creek Location** of the Clay County Shooting Range Project Environmental Assessment (EA). The Selected Alternative will develop approximately three to five acres off Passmore Spur Road near Perry Creek as a recreational shooting range.

- Approximately three to five acres will be cleared of all vegetation and the terrain shaped with heavy equipment, such as a dozer, to create five to eight shooting lanes and earthen backstops.
- To access the site, the first 2,000 feet of Passmore Spur Road will be removed from storage and will receive maintenance treatments, including mowing, light grading, and spreading gravel aggregate to accommodate passenger vehicles. The remainder of Passmore Spur Road will remain closed and in storage. Approximately 1,300 feet of single lane, gravel road on an existing old logging road prism will be constructed and added to the forest road system to connect Passmore Spur Road to the range site. A parking area capable of accommodating approximately ten vehicles will be constructed.
- The shooting facility will include five to eight covered shooting stations, sign boards, and a portable restroom facility.
- Design measures to control erosion will include seeding exposed soil with a grass seed mixture, hardening the access road and parking area with gravel, and installing sediment control measures such as silt fences.
- Design measures to reduce nuisance gunfire noise include incorporating sound baffling components into range structures, vegetation, and landscaping and establishing operational policies for the facility, such

as limiting the caliber of firearms that are allowed, among others. The Forest Service has not committed to specific design criteria at this time because the agency wants to preserve the full spectrum of approaches to manage sound and be able to incorporate the most effective measures to reduce noise impacts from the site.

- Design measures to prevent lead contamination include the construction and maintenance of a clean soil backstop, treatments to manage the pH of the shooting lanes and backstop, and routine monitoring of the lead content of soil and water.
- Design measures to avoid effects to ground nesting bird species, including ruffed grouse, during the construction of the range will prohibit ground disturbance during the nesting season from early April until the middle of June.
- Design measures to address traffic safety on Nelson Ridge Road will include posting and enforcing speed limits and may also include installing speed bumps, broad based dips, and additional signage.
- Alternative B (Modified) aligns with the Road Management Objective (RMO) for Forest Service Road 351 (Nelson Ridge Road). In the past, the Forest Service gate on Nelson Ridge Road at the entrance to the national forest has been closed and locked from January 1<sup>st</sup> to March 31<sup>st</sup> annually. The RMO for Nelson Ridge Road is appropriate for a road that is open year-round; therefore the seasonal closure will not be continued under Alternative B (Modified) to provide year-round access to a developed recreation facility.
- Alternative B (Modified) also aligns Passmore Spur Road seasonal use with Nelson Ridge Road year-round use. Under past practices for Nelson Ridge Road, the section of Passmore Spur Road that accesses the shooting range would have been closed from January 1 to March 31 annually, coinciding with

the past closure of Nelson Ridge Road. The seasonal closure for Passmore Spur Road will not be implemented under Alternative B (Modified).

#### **Best Available Science**

My decision is based on a review of the project record that shows a thorough analysis of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk pursuant to 40 CFR 1502.9(b), 1502.22, and 1502.24.

#### **Rationale**

The purpose for the proposal is disclosed in Section 1.3, Chapter 1 and is to provide a safe and environmentally sound and secure public shooting facility to serve the local community of Clay County, North Carolina. The need for the proposal is to address the lack of a facility that is designed to minimize the impacts to physical, biological and social resources. A related need is for a shooting facility that is closer to the population centers of Clay County to meet the needs of local residents.

Shooting range facilities are consistent with Forest Service policy (FSM 2335.4) which allows for the authorization of target ranges on the National Forest when the use is consistent with Forest Plan standards and guidelines and when the authorization would enhance forest management (by improving public safety, providing recreational opportunities or consolidating dispersed target shooting). Policy also directs the forest to enter into agreements with state governments, local governments or private organizations to provide for cost-sharing for target range design, construction, operation and maintenance, with title to the target range improvements remaining with the government.

In reaching my decision, I reviewed the purpose and need for the project and the alternatives considered in detail in the EA. I then carefully weighed the effects analyses of the alternatives analyzed in detail and the public comments received on the EA. The Clay County Shooting Range Interdisciplinary Team (IDT) conducted field surveys, database queries, and other localized analyses to determine effects the alternatives considered in detail could have:

- On public safety, noise, traffic volume, and dust.
- On recreational resources and the use of adjacent areas of national forest land, including effects to hikers, rockhounds, campers, anglers, and on dispersed forest uses.
- On the area's ecology, including threatened, endangered, and sensitive species.

- On the potential for lead contamination to soil and water at and adjacent to the facility.

During their analyses, the IDT took a hard look at past, present, and reasonably foreseeable future actions that could be combined with expected effects from the Clay County Shooting Range proposal. I believe they provided me sufficient analyses and conclusions to make a reasoned decision. I believe Alternative B (Modified) will achieve the purpose and need for the project and addresses public concerns.

- Alternative B (Modified) is positioned at approximately 2,800 feet in elevation and the existing topography allows for a natural backstop beyond any constructed backstops with an increase in elevation of 1,000 feet above the range site. This natural backstop surrounds the proposed shooting direction and covers approximately 180 degrees which encompasses the trajectory safety zone.
- Results from three sound tests for Alternative B (Modified) show minimal nuisance noise from the Perry Creek location, even in the absence of sound management features described in Section 2.1.2 and 2.1.4 of the EA. The Forest Service will implement a combination of operational, site, engineering, and vegetation approaches to manage noise from the facility.
- Results from traffic studies for Alternative B (Modified) show that current and projected range use is consistent with the RMO for the roads that access the range site. The Forest Service will implement traffic calming measures as a safety precaution for residents along Nelson Ridge Road and forest users.
- Results from a dust analysis for Alternative B (Modified) shows that the projected use will not generate hazardous amounts of fine particulates in road dust from vehicles accessing and exiting the range site.
- Best Management Practices for lead management at outdoor ranges will be implemented to minimize buildup of lead in the soil and also to minimize the movement of lead in the groundwater (see Design Criteria in Section 2.1.4 and Appendix A of the EA).

#### **Other Alternatives Considered**

In addition to Alternative B (Modified), I considered two other alternatives in detail: *Alternative A – No Action* and *Alternative C – Chestnut Branch Location*. A comparison of these alternatives can be found in Section 2.3, Chapter 2.

### Alternative A – No Action

Under Alternative A, the Forest Service would not establish a shooting range in Clay County and the Land and Resource Management Plan (LRMP) for the Nantahala and Pisgah National Forests would continue to guide management of the project area (see Section 2.1.1, Chapter 2). Under Alternative A, there would be no designated facility in Clay County to provide the public with the opportunity for recreational shooting. I did not select this alternative because it would not have met the purpose and need to provide a safe and environmentally sound and secure public shooting facility designed to contain lead and noise as described in sections 1.3 and 2.1.2 of the EA.

### Alternative C

Alternative C would have authorized a public shooting facility in eastern Clay County at the Chestnut Branch location (Section 2.1.3 of the EA). Both the Chestnut Branch site and the Perry Creek site were analyzed for site characteristics such as topography, soil type, geographic location and depth to ground water which affect the engineering effort necessary to prevent potential degradation of natural resources and potential safety issues associated with each site. I did not select Alternative C for several reasons.

- Unlike the Perry Creek location (Alternative B (Modified)), the topography at the Chestnut Branch location does not provide a supplemental natural back stop, increasing the potential for bullets to leave the range site (Section 3.3.5 of the EA). The Chestnut Branch site is positioned at an elevation of approximately 4000 feet and is located on top of a natural topographic shelf which does not provide an adequate natural back stop behind the proposed range. The negative sloping or decreased slope would allow stray bullets to leave the range and impact features downrange and off site.
- The sound test conducted by Schomer and Associates in 2010 (Section 3.3.1 of the EA) showed that noise from the range would impact residences in the Rainbow Springs area.
- The facility at Alternative C would have offered four to five shooting lanes, fewer than could be established under Alternative B.

### Public Involvement

This proposal has been listed on the NFsNC Schedule of Proposed Actions since July 2002. The proposal was provided to the public and other agencies for comment during scoping periods in November 2002, May 2005, and October 2007.

An EA was released to the public for a formal 30-day Notice and Comment period on May 19, 2010. This Notice and Comment period ended on June 18, 2010. A total of 169 comments on the EA were submitted to the Forest Service by members of the public and by representatives of state and federal agencies and non-governmental organizations. These comments were reviewed by District Ranger Steve Lohr and he used them to guide his decision of October 2010 to authorize a facility at the Perry Creek Location. This decision was withdrawn in January 2011 to incorporate additional analysis on the topics of traffic, dust, and noise.

A revised EA was released to the public for a formal 30-day Notice and Comment period on August 23, 2012, which ended on September 24, 2012, with legal notice published in the *Clay County Progress*. A total of 168 comments were received from interested parties. District Ranger Lauren Stull issued a decision on June 3, 2013, with legal notice published in the *Clay County Progress* on June 6, 2013.

A procedural error in the 2012 notice and comment and 2013 decision processes required the Forest Service to withdraw the June 3, 2013 decision. The newspaper of record for the Tusquee Ranger District is *The Cherokee Scout*. According to 36 CFR 215.5(b)(2), both of these legal notices must be published in the applicable newspaper of record. Accordingly, the EA was presented to the public for notice and comment in August 2013 with a letter to interested parties and through a legal notice which was published in *The Cherokee Scout* on August 14, 2013.

I carefully reviewed and weighed all comments received during the development of this decision and used them to guide my decision. Comments are addressed in the EA and in a Response to Comments document.

### Finding of No Significant Impact

After considering the environmental effects described in the EA, I have determined that these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

1. My finding of no significant environmental effects is not biased by the beneficial effects of the action (Chapter 3).
2. There will be no significant effects on public health and safety and implementation will be in accordance

- with project design features (Sections 2.1.2 and 2.1.4, Chapter 2; Chapter 3).
3. There will be no significant effects on unique characteristics of the area, because there are no park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas in the project area, nor will it violate local law or requirements imposed for the protection of the environment (Chapter 3).
  4. The effects on the quality of the human environment are not likely to be highly controversial because there is no known scientific controversy over the impacts of the project (Chapter 3).
  5. The Forest Service has considerable experience with the types of activities to be implemented. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk (Chapter 3).
  6. The action is not likely to establish a precedent for future actions with significant effects, because the project is site specific and effects are expected to remain localized and short-term (Chapter 3).
  7. The cumulative impacts are not significant (Chapter 3).
  8. The action will have no effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places (Section 3.1.4, Chapter 3). The action will also not cause loss or destruction of significant scientific, cultural, or historical resources (Section 3.1.4, Chapter 3). Heritage reports were completed for this project which found that there were no archeological sites eligible for the National Register of Historic Places. The State Historic Preservation Office (SHPO) concurred with the reports on May 19, 2009 and the Tribal Historic Preservation Office (THPO) concurred with the reports on September 19, 2012.
  9. The Supplemental Biological Evaluation (August 2013) (Appendix B, Chapter 6) concluded:
    - A. *This proposal may affect, but is not likely to adversely affect the Indiana bat. This proposal will not affect (directly, indirectly, or cumulatively) any other proposed or listed Federal T&E species. The U.S. Fish & Wildlife Service concurred with the determination of effect on September 10, 2013. The Clay County Shooting Range Project may impact individuals of the sensitive wildlife species Myotis leibii (small-footed bat), Plethodon teyahalee (Southern Appalachian salamander), and Speyeria diana (diana fritillary) but is unlikely to affect the viability of the species across the forest as a whole. Such impacts will not lead to a loss of species viability across the Nantahala or Pisgah National Forests or a trend towards federal listing. This proposal will not impact any other Regional Forester's sensitive animal species.*
    - B. *No risk to population viability of any botanical federally listed species across the forest will occur as a result of the implementation of the Clay County Shooting Range Project. The project may impact individuals of the sensitive plants*

*Juglans cinerea, Thalictrum macrostylum, Helianthus glaucophyllus, and Prenantbes roanensis but is unlikely to affect the viability of the species across the forest as a whole. Such impacts will not lead to a loss of species viability across the Nantahala or Pisgah National Forests or a trend towards federal listing. This proposal will not impact any other Regional Forester's sensitive plant species.*

*C. No risk to population viability of any aquatic federally listed or Regional Forester's sensitive species across the Forest would occur as a result of the implementation of the Clay County Shooting Range Project. The project will have no effect or impact on any federally listed or Regional Forester's sensitive aquatic species or their habitat.*

10. The action will not violate Federal, State, or local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA. The action is consistent with the Nantahala and Pisgah National Forests Land and Resource Management Plan Amendment 5.

## Findings Required by Other Laws and Regulations

My decision to implement the Selected Alternative is consistent with the intent of the long-term goals and objectives listed on page III-2 of Forest Plan Amendment 5. The project was designed to meet land and resource management plan standards and incorporates appropriate land and resource management plan guidelines to provide for outdoor recreation opportunities.

## Administrative Review and Contacts

This decision is subject to appeal pursuant to 36 Code of Federal Regulation (CFR) 215.11. A written appeal, including attachments, must be postmarked or received within 45 days after the date this notice is published in *The Cherokee Scout*, the Responsible Official's newspaper of record (36 CFR 215.2). The appeal shall be sent to:

National Forests in North Carolina  
 ATTN: Appeals Deciding Officer  
 160-A Zillicoa Street  
 Asheville, North Carolina 28801

Hand-delivered appeals must be received within normal business hours of 8:00 a.m. to 4:30 p.m. Appeals may be faxed to (828) 257-4263 or mailed electronically in a common digital format to: [appeals-southern-north-carolina@fs.fed.us](mailto:appeals-southern-north-carolina@fs.fed.us). Those who provided comments or otherwise expressed interest in a particular proposed action by the close of the formal notice and comment period may appeal this decision pursuant to 36 CFR 215.13. Appeals must meet content requirements of 36 CFR 215.14. For further information on this decision, contact Steverson Moffat, NEPA Team Leader, at 828-837-5152.

## Implementation Date

As per 36 CFR 215.9, if no appeal is received, implementation of this decision may occur on, but not before, the 5<sup>th</sup> business day following the close of the appeal-filing period (36 CFR 215.15). If an appeal is filed, implementation may occur on, but not before the 15<sup>th</sup> business day following the date of appeal disposition.

Lauren Stull

9/27/13

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**LAUREN STULL**

District Ranger

Tusquitee and Cheoah Ranger Districts

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**Date**