January 30, 2026

Submitted via Email

Mr. Ken Arney, Regional Forester
Regional Forester
U.S. Forest Service Southern Region
1720 Peachtree Road NW, Suite 760S,
Atlanta, GA 30309
ken.arney@usda.gov

Objection Coordinator
ATTN: Objections
2946 Chestnut Street
Montgomery, Alabama 36107
objections-southern-alabama@usda.gov

RE: Objections to Conecuh National Forest Oil and Gas Leasing Availability Analysis Project #63294
Conecuh Ranger District, Conecuh National Forest
Linwood Butler, Forest Supervisor

Dear Regional Forester Arney:

The Center for Biological Diversity and the Alabama Ornithological Society submit the following objections to the Conecuh National Forest Oil and Gas Leasing Availability Analysis Project:

I. Objectors

The Center for Biological Diversity is a national, nonprofit conservation organization dedicated to the protection of endangered species and wild places like the Conecuh National Forest. The Center has more than 1.8 million members and supporters, including more than 10,000 members and supporters in Alabama. The Center has provided comments at each phase of the Conecuh National Forest Oil and Gas Leasing Analysis, including comments at the scoping phase (submitted February 11, 2025) and the Draft Environmental Assessment (submitted August 11, 2025).[1] The Center is the lead objector for these objections.[2] Its address and phone number are:

[1] The Center incorporates its past comments into this objection by reference. 36 C.F.R. § 218.8 (b).
[2] 36 C.F.R. §§ 218.2, 218.8(d)(3).

Center for Biological Diversity
338 Merrimon Avenue
Asheville, NC 28801
Tel.: (828) 230-6818

The Alabama Ornithological Society (AOS) was founded in 1952 and is the official keeper of the state's ornithological records. Its purposes are: (i) to promote scientific and educational activities, (ii) to promote legislation to protect birds, (iii) to stimulate interest in the study of birds, (iv) to bring together those interested in birds, and (iv) to make available for the public the findings of such observations. AOS currently has 409 members dedicated to these causes. AOS submitted public comments on the Conecuh National Forest Oil and Gas Leasing Analysis and the Draft Environmental Assessment (submitted August 11, 2025).[3] Its address is:

Alabama Ornithological Society
220 County Road 43
Tyler, AL 36785
Tel.: (205) 807-8055

We are appreciative of the opportunity to participate in public comment on the U.S. Forest Service's analysis of oil and gas leasing on the Conecuh National Forest. During this process, the Service has made improvements to its analysis and range of alternatives that show that we share a common goal of safeguarding the forest as a valuable resource for recreation, biodiversity, and freshwater. We are submitting these objections because the Draft Decision Notice and Finding of No Significant Impact do not adequately protect those resources or comply with the procedures required by law. Alternative D, the selected alternative, does not close any of the forest to oil and gas leasing. We oppose oil and gas leasing on the Conecuh National Forest and believe that, at a minimum, sensitive areas of the forest must be closed for leasing, as explained further below.

II. Request for Explanation and Opportunity for Public Comment

On January 28, 2026, the U.S. Department of Agriculture (USDA) published a Final Rule revising its regulations governing federal oil and gas resources within the National Forest System, including the Conecuh National Forest.[4] The regulations revise the process for analyzing whether the USDA, Forest Service will consent to making certain lands available for oil and gas leasing by the Bureau of Land Management (BLM).[5] The Forest Service may interpret the new regulations as affecting its ability to do site-specific analyses on lands available for leasing and its ability to withdraw consent to lease certain acreage.[6] These regulatory changes are specifically directed at oil and gas leasing analyses, like the Conecuh National Forest Oil and Gas Leasing Availability Analysis.

[3] The Alabama Ornithological Society (AOS) incorporates its past comments into this objection by reference. 36 C.F.R. § 218.8 (b).
[4] 91 Fed. Reg. 3643.
[5] 91 Fed. Reg. 3643.
[6] *See* 91 Fed. Reg. 3643, 3646 (discussing changes to 36 C.F.R. § 226.103).

The Forest Service must provide an explanation as to how the new regulations affect the Forest Service's decision and assessment of environmental impacts here, including its evaluation of alternatives and its ability to do site-specific analyses in the future. The Forest Service must also open an additional public comment period for the public to review the new regulations and the potential implications for its leasing analysis. The public has not had a meaningful opportunity to consider these regulatory changes in the context of the leasing availability analysis for the Conecuh; indeed, at a meeting with the Forest Service on January 26, 2026, the Forest Service did not mention the impending regulatory changes. Its failure to do so violates the public notice and comment as required by National Forest Management Act (NFMA) and applicable regulations.

III. Objections

A. Areas of the Conecuh National Forest should be closed to leasing.

In the Decision Notice, the Forest Service indicates its intention to "select Alternative D, which will continue to make up to approximately 81,300 acres of the CNF available for leasing. No lands will be designated as unavailable."[7] Under Alternative D, No Surface Occupancy (NSO) leasing stipulations would be placed on 28,300 acres of rare communities, riparian corridors, and concentrated recreational zones.[8]

The formulation and selection of Alternative D demonstrate that the Forest Service recognizes the value in protecting recreational zones, riparian areas, and sensitive habitats from oil and gas exploitation. While the NSO stipulations are an improvement over the standard lease terms, they do not accomplish such protection. These lands could still suffer impacts from mineral extraction.

Today's drilling technologies allow for directional or horizontal drilling into subsurface minerals from nearby parcels, meaning that oil and gas extraction could occur on acreage subject to NSO and "controlled surface use" (CSU) stipulations from adjacent lands.[9] As the Forest Service recognized in the Final Environmental Assessment (EA), "Horizontal or directional drilling has recently become more prevalent than vertical drilling, and typically includes hydraulic fracturing, which consumes large quantities of water, usually from local surface water or groundwater sources."[10] Even with NSO limitations, there would still be considerable risk to surface and groundwater resources. The Forest Service concedes this: "NSO stipulations would provide protections by minimizing surface disturbance; however, impacts on surface water and groundwater resources could occur from underground activities."[11]

The potential for adverse effects on water resources is particularly concerning. As discussed in previous comments[12] and in more detail, *infra,* horizontal drilling and hydraulic fracturing will have deleterious effects on aquatic ecosystems by impairing water quality and

[7] FONSI, p. 2.
[8] FONSI, pp. 2-3. Controlled Surface Use (CSU) stipulations would be placed on 100 acres.
[9] FONSI, p. 6.
[10] Final EA, p. 85.
[11] Final EA, p. 53.
[12] Center's August 11, 2025 Comments at pp. 3-12; Center's February 11, 2025 Comments at pp. 7-18; Southern Environmental Law Center ("SELC") et al.'s August 11, 2025 Comments at pp. 12-13.

quantity. The Conecuh is of unique importance as designated critical habitat for six federally-listed freshwater mussels and the Gulf Sturgeon. These aquatic species are especially at risk from ground and surface water impacts, which are not avoided by NSO stipulations.

NSO stipulations also do not ensure that oil and gas impacts would be minimized on the designated acres. "NSO stipulations do not prohibit the lessee from submitting special-use permit applications for roads, pipelines, or other uses."[13] Additionally, each of the NSO stipulations is subject to exception, modification, and waiver.[14] Allowance of exceptions, modifications, and waivers to NSO stipulations could result in the piecemeal erosion of safeguards for important resources. Not only does this create uncertainty for the long-term protection of the forest's natural resources, but it also creates more work and expense for the Forest Service in administering these lands and for the public in monitoring their stewardship. Rather than gambling the Conecuh's future on administration of NSO stipulations, the Forest Service should simply close rare communities, riparian corridors, and concentrated recreational zones to leasing.

In addition, the Forest Service should close leasing in all 27,600 acres of longleaf pine forest restoration areas.[15] The Conecuh National Forest has been a national leader in managing fire across these landscapes and restoring species. Oil and gas activities in longleaf pine forests would jeopardize decades of success and progress and undermine all future efforts and recovery of these critical ecosystems. Longleaf pine forests are where much of the Conecuh's prescribed fire management activities are focused. Keeping oil and gas drilling out of areas where fire naturally or artificially occurs is an important step for public safety and community health as well as the survival of key species and habitats.

Longleaf pine ecosystems are among the most endangered systems on earth, and they are especially important for the Conecuh's red-cockaded woodpeckers and Eastern indigo snakes.[16] The recent successes of both Eastern indigo snake reintroductions and the thriving red-cockaded woodpecker population highlight the Conecuh's exemplary record of longleaf pine restoration.

Eastern indigo snakes occur throughout the longleaf pine forests of the Conecuh. The Conecuh is a key forest for the restoration of the Eastern indigo snake to Alabama and the South. In May 2024, forty Eastern indigo snakes were released into Conecuh National Forest by the Forest Service, in partnership with Alabama Department of Conservation and Natural Resources, Auburn University, U.S. Fish and Wildlife Service, Zoo Atlanta and the Orianne Center for Indigo Conservation at the Central Florida Zoo.[17] The release was part of a decades-long collaboration. A previous release of 18 Eastern indigo snakes occurred in 2010. The longleaf pine forests of the Conecuh are the world's most significant reintroduction site and population stronghold for Eastern indigo snakes.

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[13] Final EA, p. 7.
[14] FONSI, Appendix A, pp. A-2 to A-5, A-8 to A-9.
[15] Final EA, Table 6-1, p. 21. *See also* Center's August 11, 2025 Comments at p. 21; SELC's August 11, 2025 Comments at p. 19; Alabama Ornithological Society (AOS)'s August 11, 2025 Comments, p. 1.
[16] *See* Center for Biological Diversity Map of Sensitive Habitats and Ecosystems on the Conecuh National Forest: https://cbdnet.info/portal/apps/instant/basic/index.html?appid=f85568386aea4d78a595e536240546f0
[17] Outdoor Alabama. May 15, 2024. Alabama Department of Conservation and Natural Resources. https://www.outdooralabama.com/articles/eastern-indigo-release-adds-40-conecuh-national-forest

Additionally, red-cockaded woodpeckers have thrived in the Conecuh's longleaf pine forests because of decades of successful prescribed burning by the Forest Service. Red-cockaded woodpeckers bore nest holes in longleaf pine trees, which depend on frequent low-intensity fires for survival and reproduction. As a result of the Forest Service's successful use of prescribed burning in longleaf pine forests there, the Conecuh National Forest is one of the most important locations for red-cockaded woodpeckers in the country. The Forest Service has identified 150 active clusters of red cockaded woodpeckers across the forest.[18] Protecting this red-cockaded woodpecker stronghold has been a top management priority for the Conecuh National Forest for several decades. Under Alternative D, only roughly one-third of red-cockaded woodpecker habitat management areas are subject to NSO stipulations. Rather than reverse its important work on saving this imperiled species, the Forest Service should close all 37,600 acres of red-cockaded woodpecker habitat management areas to leasing.

NSO stipulations are not sufficient to protect water, species, community health, or public safety. NSO stipulations also fail to adequately safeguard the rivers and trails that are vital to the Conecuh's recreation and tourism economy. Throughout previous comments, we have raised the concern that the Forest Service has failed to identify the "full spectrum of alternatives" required for a National Environmental Policy Act (NEPA) analysis.[19] It has only proposed scenarios that leave the entire forest open to leasing or none of it. Alternative D, notwithstanding the NSO stipulations, is squarely within the former category. We object to the Forest Service's failure to propose any type of alternative that closes sensitive forest areas to leasing, including habitat for threatened and endangered species.

The remedy for this NEPA violation is for the Forest Service to develop an alternative or modify Alternative D so that it closes all sensitive areas to leasing as opposed to simply designating them as NSO.[20]

B. The Forest Service cannot defer to site-specific analyses to protect sensitive areas from oil and gas leasing.

Throughout our prior comments, we have raised the concern that the failure of the Forest Service to close any part of the Conecuh to leasing will deprive sensitive ecosystems, like the forest's ephemeral ponds, citronelle glades, and pitcher plant bogs, of necessary protection from mineral extraction.[21] We commented that wildlife habitat, like longleaf pine forests that are critical to imperiled species such as gopher tortoises, Eastern indigo snakes, and red-cockaded woodpeckers, would be at risk from oil and gas impacts and fragmentation.[22] We pointed out that the Forest Service has failed to designate and identify management prescriptions for Rare

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[18] Conecuh RCW Clusters Map. Conecuh National Forest. 20-24. U.S. Forest Service.

[19] 42 U.S.C. § 4332(H) (requiring development of appropriate alternatives in any proposal involving unresolved conflicts concerning alternative uses of available resources); Forty Most Asked questions Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18,026 (Mar. 23, 1981). According to the Council of Environmental Quality, this guidance is still current except to the extent it conflicts with newly promulgated NEPA regulations.

[20] *Dubois v. U.S. Dep't of Agric.*, 102 F.3d 1273, 1289 (1st Cir. 1996) (holding failure to consider a viable but unexamined alternative renders a NEPA analysis inadequate).

[21] Center's August 11, 2025 Comments at pp. 2, 17, 26.

[22] Center's August 11, 2025 Comments at pp. 3-9, 19, 21-22; AOS's August 11, 2025 Comments, p. 1.

Communities and Riparian Corridors in violation of NFMA and the applicable planning rules, instead deferring these analyses to the project level.[23]

The Forest Service has responded to these comments by stating that site-specific analyses would be conducted at the Application for Permit to Drill (APD) phase.[24] For example, it contends, "Site-specific analysis and protections for sensitive resources would be implemented at the APD stage for individual leases,"[25] "Site-specific analysis regarding wildlife would be conducted at the APD stage in the event of future leasing,"[26] and "The EA is programmatic in nature, and site-specific BMPs to mitigate impacts to water, soil, air emissions, and species would be implemented at the APD stage for individual leases."[27] The Forest Service's reliance on later site-specific analyses to assuage concerns about leasing is problematic.

On January 28, 2026, the USDA published a final rule revising the regulations that govern the process for analyzing whether the Forest Service will consent to making certain lands available for oil and gas leasing by the BLM.[28] The revisions affect, *inter alia,* 36 C.F.R. § 228*,* governing the oil and gas leasing consent analysis. Changes to the leasing consent analysis are made under 36 C.F.R. § 228.103. The USDA explains the changes to 36 C.F.R. § 228.103 (b) as follows:

> "The leasing consent analysis process directs the Forest Service to *make a single decision* identifying lands on which the Agency would consent to the BLM's offering oil and gas leases for the affected National Forest System lands. The existing regulation directs an administrative review by the Forest Service at the time that specific lands, which have already been subject to an area or forest-wide leasing analysis, are being scheduled for leasing by the BLM."[29]

Similarly, the USDA explains the changes to 36 C.F.R. § 228.103 (c) as: "The paragraph clarifies that the Forest Service has *one decision point* in the process and clearly defines the required components of the Forest Service decision: which lands are open to leasing and under what conditions (standard lease terms or added stipulations); and which lands are closed through exercise of management direction, statute, regulation, or withdrawal EOI's on a regular and recurring basis."[30] "The final rule removes section 228.103(e) titled *Withdrawing Leasing Consent* and adds a new section 228.103(e) titled *Review of Leasing Consent Decision for Specific Lands,* with the review leading to either a confirmation of the leasing consent decision or a withdrawal of consent (based on new information necessitating further analysis, for example)."[31]

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[23] SELC et al.'s August 11, 2025 Comments at pp. 5-6.
[24] *See e.g.* Conecuh National Forest Oil and Gas Leasing Availability Analysis EA Public Comment Response Report, at pp. A-16 to A-17, A-25, A-29, A-35, A-42 to 44, A-49, A-57, A-59 to 60.
[25] *Id.* at p. A-19.
[26] *Id.* at p. A-29.
[27] *Id.* at p. A-57.
[28] 91 Fed. Reg. 3643.
[29] 91 Fed. Reg. 3643, 3646 (Emphasis added), *compare* 36 C.F.R. § 228.103 (b) (effective through February 26, 2026).
[30] 91 Fed. Reg. 3643, 3646 (Emphasis added), *compare* 36 C.F.R. § 228.103 (b) (effective through February 26, 2026).
[31] 91 Fed. Reg. 3643, 3646, *compare* 36 C.F.R. § 228.103 (b) (effective through February 26, 2026).

The 2025 Reconciliation Act provided for additional amendments to the Mineral Leasing Act (MLA) that further augment the oil and gas leasing process. As relevant here, the MLA now states that:

> Any parcel of land subject to disposition under this Act that is known or believed to contain oil or gas deposits *shall be made available for leasing*, subject to paragraph (2), by the Secretary of the Interior, not later than 18 months after the date of receipt by the Secretary of an expression of interest in leasing the applicable parcel of land available for disposition under this section, *if the Secretary determines that the parcel of land is open to oil or gas leasing under the approved resource management plan* applicable to the planning area in which the parcel of land is located that is in effect on the date on which the expression of interest was submitted to the Secretary (referred to in this subsection as the "approved resource management plan").[32]

Thus, the 2025 Reconciliation Act amended the MLA to replace language providing that lands subject to disposition which are known or believed to contain oil or gas deposits "*may* be leased,"[33] with a provision stating that such lands "*shall* be made available for leasing . . . not later than 18 months after the date of receipt . . . of an expression of interest in leasing the applicable parcel."[34] Additionally, the 2025 Reconciliation Act provides that any oil and gas leases issued "may not require any stipulations or mitigation requirements not included in the approved resource management plan."[35]

While, to our knowledge, the BLM has not provided an interpretation of the 2025 Reconciliation Act's impact on oil and gas leasing, the state of Wyoming has asserted in litigation (to which the United States is a party) that the MLA now strips the BLM of discretion to determine which parcels should be offered for lease: "there is no discretion—nominated lands open under an RMP must be leased."[36] Wyoming further asserted that "Congress has mandated" an approach in which the BLM's response to industry nominations may "create[] widespread leasing, even in sensitive habitat."[37] To be clear, we do not endorse Wyoming's interpretation; however, the position advanced by Wyoming (which occurred after the submission of our prior comments) gives rise to serious questions about BLM's ability to balance oil and gas development against other public land values and achieve its statutory obligations. Taken as a whole, considering the repeated references and apparent intent to make the leasing analysis the single "decision point," as well as the changes to BLM's leasing process under the MLA, there are serious concerns regarding agency discretion at later stages of oil and gas development that the Forest Service must now address and make clear.

Finally, although the new Forest Service regulations allow the Forest Service to withdraw its consent to lease certain lands, it is unclear whether its ability to do so is now restricted to

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[32] 30 U.S.C. § 226(a)(1).
[33] 30 U.S.C § 226(a) (2024) (Emphasis added).
[34] 30 U.S.C. § 226(a)(1) (2025) (Emphasis added).
[35] 30 U.S.C. § 226(a)(2)(A)(ii).
[36] *See* Int.-Def. State of Wy. Not. of Supp. Auth., *W. Watersheds Proj. v. Bernhardt*, 1:18-cv-00187 (D. Idaho, filed 8/12/25), at *2.
[37] *Id.*

instances where there is "significant new information or a circumstance that requires additional environmental analysis be conducted, or leasing would not be consistent with the applicable land management plan," under the revised 36 C.F.R. § 228.103(e)(2).[38] If Forest Service and BLM interpret this language as restricting the Forest Service's ability to withdraw consent, then this would constrain the Forest Service's ability to prevent mineral development on acreage of the Conecuh that is open for leasing at a later date.[39] Moreover, if BLM and the Forest Service further believe that the recent MLA amendments restrict BLM's discretion over oil and gas leasing, then the Forest Service faces even greater burdens at the leasing availability analysis stage in demonstrating that its analysis comports with NFMA's substantive mandates and in demonstrating compliance with NEPA.

Finally, deferring to the APD stage is insufficient. The revised regulations strike language from 36 C.F.R. § 228.107, governing APDs, which previously required the Forest Service to ensure that surface use plan of operations were acceptable "based upon a review of the environmental consequences of the operations."[40] The final rule now only references the surface use plan's consistency with the lease and the Forest Plan.[41] To the extent the Forest Service interprets this language impedes its obligation or ability to examine environmental consequences, it underscores our contention that such analyses should not be deferred. All in all, the new rules and related uncertainties demonstrate that it is imperative that the Forest Service close all sensitive areas of the Conecuh to oil and gas leasing altogether at *this* stage of the process.

The U.S. Forest Service is in violation of NFMA[42] and the applicable 1982 planning rule[43] for failing to identify the areas in which management prescriptions apply, and it is in violation of NEPA for failing to analyze any alternative that would close sensitive areas of the Conecuh to leasing.[44]

The remedy for these NFMA and NEPA violations is for the Forest Service to develop an alternative that closes all sensitive areas to leasing or modify Alternative D so that it closes all sensitive areas to leasing.

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[38] 91 Fed. Reg. 3643, 3661.

[39] Because these revisions were published on January 28, 2026, we were unable to raise our concerns about their impact during public comment; however, they underscore the importance of our prior requests that the Forest Service close acreage of the Conecuh to oil and gas leasing altogether.

[40] 36 C.F.R. § 228.107(a)(4) (effective through February 26, 2026).

[41] 91 Fed. Reg. 3643, 3362.

[42] 16 U.S.C. § 1604(k).

[43] 36 C.F.R. § 219.3 (1982); see also *id.* § 219.11(c).

[44] 42 U.S.C. § 4332(H) (requiring development of appropriate alternatives in any proposal involving unresolved conflicts concerning alternative uses of available resources); Forty Most Asked questions Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18,026 (Mar. 23, 1981). According to the Council of Environmental Quality, this guidance is still current except to the extent it conflicts with newly promulgated NEPA regulations. *Dubois v. U.S. Dep't of Agric.*, 102 F.3d 1273, 1289 (1st Cir. 1996) (holding failure to consider a viable but unexamined alternative renders a NEPA analysis inadequate).

C. The 2004 Forest Plan must be revised.

NFMA requires the Forest Service to revise Forest Plans if conditions in the unit have significantly changed, "but at least every fifteen years."[45] The Forest Plan that covers the Conecuh National Forest was completed in 2004 and is now 22 years old. As far as we know, the Forest Service has not even begun the revision process for the 2004 Forest Plan. Because conditions on the Conecuh National Forest have changed significantly since 2004, and because the Forest Plan is well over 15 years old, the Forest Service is in ongoing violation of NFMA.[46]

The Forest Service acknowledges in the EA for the leasing availability analysis that conditions on the Conecuh National Forest have changed significantly, which triggers the requirement for a Forest Plan revision under NFMA. The stated purpose and need for the availability analysis was to determine whether "changed conditions and circumstances . . . are significant."[47] The Forest Service answered in the affirmative, as it determined that the Forest Plan needed to be amended to provide additional protections for oil and gas leasing and development. This required the agency to proceed to a Forest Plan revision; instead, the Forest Service chose to make these changes to the Forest Plan through "administrative changes." Under NFMA, however, "administrative changes" to a Plan are intended for things such as "clerical errors."[48]

The development and widespread use of unconventional oil and gas technologies constitutes a significant change since completion of the 2004 Forest Plan. As the Forest Service acknowledges in the EA:

> Horizontal or directional drilling has recently become more prevalent than vertical drilling, and typically includes hydraulic fracturing, which consumes large quantities of water, usually from local surface water or groundwater sources. According to the American Petroleum Institute, multistaged hydraulic fracturing may use up to 4 million gallons or more of water, sand, and chemicals per well (BLM 2021; API 2025). This number is consistent with a USGS assessment that multistaged hydraulic fracturing may use between 1.5 and 16 million gallons of water per well (Gallegos and Varela 2015; BLM 2021; USGS 2025c). [49]

The water withdrawals for hydraulic fracturing "could deplete groundwater resources and lead to localized drawdown, affecting aquifer recharge, groundwater availability, and groundwater-dependent ecosystems."[50]

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[45] 16 U.S.C. § 1604(f)(5); *see also* 36 C.F.R. § 219.7(a) ("A plan must be revised at least every 15 years.").
[46] 16 U.S.C. § 1604(f)(5); 36 C.F.R. § 219.7(a).
[47] Final EA, p. 8.
[48] 36 C.F.R. § 219.13(c).
[49] Final EA, p. 50; *see also id*., p. 83 ("In the last 5 to 10 years, unconventional (horizontal and hydraulic fracturing) drilling techniques have increased in other basins in the United States.").
[50] Final EA, pp. 53-54.

Hydraulic fracturing typically involves pumping millions of gallons of fluid into a well at high pressure to create fractures in shale rock.[51] This pressure exceeds the rock strength, and the fluid enlarges fractures in the rock, allowing oil or gas to flow from the fractures and up into the wellbore.[52] Wells may extend to depths greater than 8,000 feet, and horizontal drilling may extend several thousands of feet away from the location of the drill pad on the surface.[53]

The Forest Service recognizes that the use of unconventional technologies such as hydraulic fracturing can result in not only significant increases in the use of water and chemicals, but also pollution.

> The contamination of groundwater resources could occur as a result of spills during management of hydraulic fracturing fluid and chemicals or produced water, the injection of hydraulic fracturing fluids into mechanically inadequate wells, the direct injection of fluids into groundwater areas, or the disposal or storage of hydraulic fracturing wastewater in unlined pits. Additionally, cross-aquifer contamination may occur when fractures or faulty well construction permit the migration of fluids between geological layers, allowing pollutants to reach previously unaffected aquifers.[54]

New oil and gas development technologies including slickwater fracturing fluids, micro seismic mapping, and horizontal drilling have the potential to unlock previously inaccessible or economically infeasible natural gas reserves on the Conecuh National Forest. Moreover, these technologies differ significantly from the conventional oil and gas drilling that the Forest Service considered and evaluated when the 2004 Forest Plan was being prepared.

Unconventional drilling techniques including hydraulic fracturing technologies were not evaluated or considered when the Forest Service prepared the 2004 Forest Plan that includes the Conecuh National Forest and considers the environmental consequences of the Plan. In fact, the 2004 Forest Plan and its supporting 2004 Environmental Impact Statement (EIS) include no mention of "hydraulic fracturing," "fracking," or "horizontal drilling." As a result, the 2004 Forest Plan provides no direction, standards, guidelines, or protections concerning unconventional oil and gas drilling and development and the related environmental impacts. Nevertheless, the Final EA still relies heavily on the outdated 2004 Forest Plan, and its supporting 2004 EIS, which failed to address and disclose the potential impacts of fracking and other new drilling technologies on species, water quantity and quality, soils, air quality, and climate.

In addition to new drilling technologies, other significant changes have occurred in the 22 years since the 2004 Forest Plan was issued. For instance, nine species have been federally listed as threatened or endangered with extinction under the Endangered Species Act (ESA).[55] These

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[51] Robert B. Jackson et al., Duke University, *Research and Policy Recommendations for Hydraulic Fracturing and Shale-Gas Extraction*, Center on Global Change (2011), http://www.nicholas.duke.edu/cgc/HydraulicFracturingWhitepaper2011.pdf.
[52] U.S. Env't Prot. Agency, Office of Research and Development, *Hydraulic Fracturing Research Study* (June 2010), http://www.epa.gov/safewater/uic/pdfs/hfresearchstudyfs.pdf.
[53] *Id*.
[54] Final EA, p. 54.
[55] 16 U.S.C. § 1531 *et seq*.

newly listed species and their habitat could be adversely affected by oil and gas leasing and development on the Conecuh National Forest. A revision to the 2004 Forest Plan is again required before further consideration of oil and gas drilling on the Conecuh National Forest can occur.

The issues being analyzed and considered in the oil and gas leasing availability analysis are directly related to the significant new information and changed circumstances on the Conecuh National Forest since 2004. As a result, we object on the basis that, as raised in our previous comments,[56] the Forest Service's failure to revise the 2004 Forest Plan prior to making its final decision on the oil and gas leasing determination is arbitrary, capricious, and in violation of NFMA.[57]

The remedy for this NFMA violation is to revise the 2004 Forest Plan in accordance with the required NFMA procedures and requirements prior to issuing any oil and gas related decisions on the Conecuh National Forest.

D. The Forest Service failed to reevaluate the analysis in the 2004 EIS for the Forest Plan, and any underlying assumptions in the 2004 EIS, to ensure that the agency's reliance on the 2004 EIS within the 2025 EA remains valid.

When an agency has prepared a programmatic EIS, it may only rely on the analysis in that EIS in a subsequent NEPA analysis after five years have passed if the agency "reevaluates the analysis in the programmatic EIS and any underlying assumptions to ensure reliance on the analysis remains valid."[58] The Forest Service prepared a programmatic EIS when it developed the Forest Plan in 2004. It has now been 22 years since that EIS was prepared. The Forest Service repeatedly relies on the 2004 EIS in the EA for the oil and gas leasing availability determination;[59] however, the Forest Service failed to reevaluate its analysis in the 2004 EIS, and the underlying assumptions therein, to ensure that the agency's continued reliance on that EIS remains valid, in violation of NEPA.[60]

Moreover, had the Forest Service reevaluated its analysis and assumptions from 2004, as required by NEPA, it would have determined that they are no longer valid. This is especially true concerning oil and gas leasing and development. The 2004 EIS includes no mention of horizontal or directional drilling, hydraulic fracturing, or fracking. As a result, the significant environmental impacts often associated with this type of drilling are not assessed or considered.

To the contrary, at the time of the 2004 EIS, the Forest Service anticipated very little oil and gas development on the national forests in Alabama, all of which the agency presumed would be by conventional drilling methods. The Forest Service only anticipated two to three producing wells across *all* national forests in Alabama, with a disturbance of only four to six acres or 0.5 acres annually.[61] As a result, the Forest Service only minimally assessed the environmental

[56] Center's August 11, 2025 Comments at pp. 22-23, 26; SELC et al.'s August 11, 2025 Comments at pp. 2-9.
[57] 16 U.S.C. § 1604(f)(5); 36 C.F.R. § 219.7(a).
[58] 42 U.S.C. § 4336b(2).
[59] Final EA, pp. 29, 39, 41, 63, 65, 85, 89, 90, 94, 95, 97.
[60] 42 U.S.C. § 4336b(2).
[61] 2004 EIS, p. 3-74.

consequences of oil and gas leasing and development in the 2004 EIS, and determined the impacts to "air quality, water quality (hydrology), aquatic habitat, wildlife, T&E species, soils, and visuals over the life of this plan . . . would be negligible."[62]

In 2021, the BLM prepared the Reasonably Foreseeable Development Scenario for Oil and Gas Activities (RFDS) on the Conecuh National Forest. The BLM's 2021 RFDS demonstrates that the Forest Service's assumptions concerning oil and gas development in the 2004 EIS are no longer valid. In contrast to the predicted four to six acres of disturbance, across all national forests in Alabama, the BLM estimated that oil and gas development on the Conecuh National Forest alone would disturb up to 44 acres.[63]

Additionally, the Forest Service's analysis and assumptions in the 2004 EIS concerning impacts to threatened and endangered species are no longer valid, as numerous additional species have been listed since 2004. In the 21 years since the 2004 Forest Plan was issued, nine species have been federally listed under the ESA that live in the Conecuh National Forest: Escambia map turtle (2024); Northern long-eared bat (2022); Eastern black rail (2020); Fuzzy pigtoe (2012); Narrow pigtoe (2012); Round ebonyshell (2012); Choctaw bean (2012); Southern kidneyshell (2012); and Southern sandshell (2012).

As we raised in our past comments,[64] we object to the Decision Notice on the basis that the Forest Service has violated NEPA by failing to reevaluate the analysis in the 2004 EIS for the Forest Plan, and any underlying assumptions in the 2004 EIS, to ensure that the agency's reliance on the 2004 EIS within the 2025 EA remains valid.

The remedy for this violation is to reevaluate the analysis in the 2004 EIS for the Forest Plan, and any underlying assumptions in the 2004 EIS, prior to issuing any oil and gas related decisions on the Conecuh National Forest, in order to ensure that the agency's reliance on the 2004 EIS within the 2025 EA remains valid.

E. Neither the 2004 EIS nor the 2021 RFDS accurately reflects the potential for oil and gas leasing or the associated impacts under Alternative D.

The Forest Service's selected alternative, Alternative D, would leave the entire forest open to oil and gas leasing with no lands designated as unavailable.[65] Presenting this alternative, the Forest Service relies on both the 2004 EIS and 2021 RFDS for its assessment of the likely impacts of oil and gas exploration on the forest. As we noted in our comments,[66] however, neither of those documents accurately reflects the leasing scenario presented by Alternative D.

In 2004, the Forest Service expected that the National Forests in Alabama had low potential for oil and gas.[67] Given the historically low interest in drilling across Alabama's National Forests,

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[62] *Id*.
[63] RFDS, p. 6.
[64] SELC et al.'s August 11, 2025 Comments at pp. 14-16.
[65] FONSI, p. 2.
[66] Center's August 11, 2025 Comments at pp. 2, 20-22, 25; SELC et al.'s August 11, 2025 Comments at pp. 15-16, 22.
[67] *See, e.g.*, 2004 EIS at 3-57, 3-64 to 3-66.

the 2004 EIS projected similarly low mineral development over the next ten years.[68] As a result, the 2004 EIS only cursorily described the potential environmental effects of oil and gas development.[69] Overall, the agency predicted that oil and gas development would disturb around 0.5 acres per year across the *entire* Alabama National Forests unit and have "negligible" impacts to air quality, water quality, aquatic habitat, wildlife, threatened and endangered species, soils, and visuals.[70]

Things changed. Advances in drilling technologies, including the development of hydraulic fracturing and horizontal drilling, made drilling in places like the Conecuh more feasible. BLM's more recent RFDS estimated that oil and gas development on the Conecuh *alone* will disturb up to 44 acres over the next fifteen years.[71] On an annual basis, that is roughly six times the impact described in the 2004 EIS.

The 2021 RFDS forecasts 11 oil and gas wells: 9 exploratory wells and 2 new wells.[72] Tracking the RFDS, the Forest Service's current EA only analyzes the impacts of 11 projected wells on *up to* 44 acres. This analysis is flawed because it does not reflect what is actually being proposed. Alternative D does not limit oil and gas development to 11 wells or 44 acres; instead, it opens nearly the entire 81,300 acre national forest to oil and gas leasing.

Leaving the entire forest open to leasing could exponentially increase the number of wells and their impacts beyond the 11 analyzed in the EA. As explained in our prior comments,[73] we have reason to believe that it would. According to a document provided in response to a Freedom of Information Act request by the Center, a single expression of interest letter in January 2025 sought consent to lease five different areas totaling more than 3,200 acres.[74] Documents that the Center received from BLM in August 2025 (after we submitted comments on the Draft EA) catalogued another 38 expressions of interest that are "under review that nominate 11,385 acres of the Conecuh National Forest."[75]

The EA does not reflect these realities. The Forest Service has only analyzed the environmental impact of a tiny fraction of what it is proposing. Put another way, the 2004 EIS only addresses annual surface impacts for approximately 0.0006% percent of the 81,300 acres available for leasing, while the 2021 RFDS only addresses environmental impacts for about 0.054% of that acreage over fifteen years. *It does not analyze how such impacts could affect the Conecuh if drilling occurs on even 1, 5, or 10% of the acreage that is available for leasing*. Additionally, the impacts estimated in the EA from 11 wells and 44 acres of drilling reflect only .003% of the impacts from the 11,385 acres of lease expressions of interest *already received*.

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[68] *Id.* at 3-66, 3-74.
[69] *Id.* at 3-69 to 3-70.
[70] *Id.* at 3-74.
[71] Bureau of Land Mgmt., *Reasonably Foreseeable Development Scenario for Oil and Gas Activities: Conecuh National Forest* at 6 (2021) [hereinafter "2021 RFDS"], attached as Appendix B to the Final EA, at p. B-31.
[72] RFDS, p. B-4.
[73] August 11, 2025 Center comments, p. 3.
[74] *See* Letter to Stephen Klimetz, U.S. Forest Service, dated January 21, 2025, attached hereto.
[75] Bureau of Land Management Spreadsheets for Expressions of Interest Under Review, attached hereto.

The Forest Service's failure to fully assess the environmental impacts, including the surface disturbance, of the selected alternative means that its NEPA analysis is deeply flawed. Agencies are prohibited from artificially minimizing impacts to avoid triggering a finding of significance; instead, they must comprehensively consider direct, indirect, cumulative, and connected actions to accurately disclose the full environmental consequences to the public.[76] If the Forest Service proposes leaving 81,300 acres of the forest open to new oil and gas leasing, it must evaluate the full impact of that proposal. The Center objects on the basis that the EA must analyze the impacts for all acreage it is making available for leasing. As raised in our prior comments,[77] we object to the Forest Service limiting the EA to the impacts from 11 wells or 44 acres, without any restriction or guarantee that drilling would not exceed that amount, because it violates NEPA and is arbitrary and capricious.

The remedy for this violation would be for the Forest Service to prepare an EA or EIS that analyzes the impacts for all 81,300 acres that is available for leasing. An alternative remedy would be to limit new oil and gas activity to 11 wells in the next 15 years as described by the RFDS and EA, and for the Forest Service to commit to preparing a supplemental NEPA analysis prior to considering any proposed development beyond the 11 wells and 44 acres.

F. By confining its analysis to the RFDS, the Forest Service underestimated impacts to freshwater.

The Forest Service relies on the limited development of 11 wells forecasted under the RFDS for its assessment of impacts to water quantity and quality, but these impacts become more severe for each additional well that is drilled. For example, the Forest Service estimates that such hydraulic fracturing would consume 1.5 to 16 million gallons of water *per well* and would generate waste fluids of a similar volume.[78] With even eleven wells, that would mean between 16.5 and 176 million gallons of water consumption and wastewater. Since the proposed action is not limited to eleven wells, it could be double, triple, or some other unknown multiple of that amount. The EA does not examine how such greater water withdrawals would affect the forest or the reliability of wells and drinking water for local communities.

The EA also fails to use the best available information on per-well fracking water use, and it fails to disclose how the numbers for horizontal fracking operations and other fracking operations were derived. In recent years, the oil industry has been rapidly increasing its per-well water usage for fracking. Between 2011 and 2016, there was a 770% increase in water use per well for fracking and wastewater production.[79]

Removing water for fracking and other oil and gas development can stress existing water supplies by lowering water tables and dewatering aquifers, decreasing stream flows, and reducing water in surface reservoirs.[80] In addition, reductions in water quantity can impact aquatic and

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[76] 7 C.F.R. §§ 1b.2(f)(3), 1b.8(b); *Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976).
[77] Center's August 11, 2025 Comments at pp. 20, 25; SELC's August 11, 2025 Comments at pp. 21-23.
[78] Final EA, p. 50.
[79] Kondash, Andrew J. et al., The intensification of the water footprint of hydraulic fracturing, 4 Science Advances 1(2018).
[80] *Id.* at 60.

riverine species, leading to declines of fish and other wildlife essential to the region. It will also threaten endangered species—especially six federally-listed mussels in the project area—who depend on adequate water quantity and flow for their survival.

Additionally, as detailed in our prior comments,[81] oil and gas development has significant potential to contaminate groundwater and surface water in the Conecuh and surrounding communities. Contamination happens through numerous pathways including: (1) spills, leaks, and transportation accidents; (2) during the fracking process due to well malfunctions, migration of fracking fluids or fluids from the fractured formation to aquifers, and mobilization of subsurface materials to aquifers; (3) during flowback due to releases, leakage of on-site storage, and spills from pits (caused by improper construction, maintenance, or closure); and (4) during wastewater disposal due to injection of wastewater into groundwater, incomplete treatment, and transportation accidents.[82]

Again, the Forest Service is prohibited from artificially minimizing impacts to avoid triggering a finding of significance; instead, it must comprehensively consider direct, indirect, cumulative, and connected actions to accurately disclose the full environmental consequences to the public.[83] If the Forest Service proposes leaving 81,300 acres of the forest open to new oil and gas leasing, it must evaluate how that proposed action will affect water resources on the Conecuh. The Center objects on the basis that the EA must analyze water quantity and quality impacts for all acreage it is making available for leasing. We have raised these concerns at each comment phase.[84] Limiting the EA to the impacts from 11 wells or 44 acres, without any restriction or guarantee that drilling would not exceed that amount, violates NEPA and is arbitrary and capricious.

The remedy for this violation is for the Forest Service to prepare an EIS that analyzes the impacts on water resources for all 81,300 acres that is available for leasing. An alternative remedy would be to limit new oil and gas activity to 11 wells in the next 15 years as described by the RFDS and EA, and for the Forest Service to commit to preparing a supplemental NEPA analysis prior to considering any proposed development beyond the 11 wells and 44 acres.

G. The Forest Service must prepare an Environmental Impact Statement.

NEPA is widely recognized as the foundational "national charter" for environmental protection, establishing a national policy designed to safeguard the environment and requiring that federal agencies integrate environmental considerations rigorously into their decision-making

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[81] Center's August 11, 2025 Comments, pp. 9-11.

[82] Vengosh, A. et al., A critical review of the risks to water resources from unconventional shale development and hydraulic fracturing in the United States, 48 Environmental Science and Technology 8334 (2014); Burton, Taylour G. et al., Elucidating hydraulic fracturing impacts on groundwater quality using a regional geospatial statistical modeling approach, 545 Science of Total Environment 114 (2016); DiGiulio, D.C. & R.B. Jackson, Impact to underground sources of drinking water and domestic wells from production well stimulation and completion practices in Pavillion, Wyoming, Field, 50 Environmental Science and Technology 4524 (2016); Cahill, Aaron G. et al., Mobility and persistence of methane in groundwater in a controlled-release field experiment, 10 Nature Geoscience 289 (2017).

[83] 7 C.F.R. §§ 1b.2(f)(3), 1b.8(b); *Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976).

[84] Center's August 11, 2025 Comments at pp. 5, 7-12; Center's February 11, 2025 Comments at pp. 14-18.

processes.[85] At its core, NEPA mandates the preparation of a detailed EIS for all "major Federal actions significantly affecting the quality of the human environment."[86] Under the USDA's current NEPA regulations, significance refers to potentially affected environment and degree of the effects.[87]

Here, the environment that would be potentially affected by the proposed action demonstrates its significance. For example, as discussed more fully in prior comments,[88] the Conecuh National Forest is locally important due to the presence of sensitive ecosystems, including federally designated critical habitat for endangered species. It contains regionally significant longleaf pine forests and watersheds.[89] The forest is also significant for outdoor recreation and its scenic value, with local economies supported by both of these functions. On a statewide scale, it supports a disproportionately high percentage of Alabama's fish and mussels. It has significant national and global importance for biodiversity, particularly of fish, turtles, mollusks, and crayfish.

Several factors of degree also underscore the need for an EIS. For example, as discussed in our comments,[90] the proposed oil and gas drilling presents substantial public health and safety risks, including risks to water quality and quantity, air quality, and the climate. The forest faces unknown and uncertain threats not only due to the Forest Service's failure to evaluate the effects of modern mineral development in an updated Forest Plan, but also because the EA discusses only the projected impacts from 11 wells when 96% of the forest would remain open to leasing. Even though the Draft EA contends that environmental review would be supplemented if the RFDS were exceeded, the impacts of such leasing must be analyzed in the EA because there is nothing that limits the proposed action to 11 wells.[91] The Forest Service's assurance of subsequent analyses is on even shakier ground following the regulatory changes discussed in Section B, *supra.* NEPA prohibits agencies from artificially segmenting or minimizing impacts to avoid triggering a finding of significance. Instead, agencies must comprehensively consider direct, indirect, cumulative, and connected actions to accurately disclose the full environmental consequences to the public.

The Forest Service must also consider whether the proposal complies with other environmental laws, including the Clean Water Act, 33 U.S.C. § 1251 *et seq*., Clean Air Act, 42 U.S.C. § 7401 *et seq*., NFMA (discussed *supra*), 16 U.S.C. § 1600 *et seq*., as well as Section 7 of the ESA, 16 U.S.C. § 1536. If the Forest Service proposes new oil and gas leasing on the Conecuh National Forest, it must evaluate the full impact of that proposal. We raised the need to prepare an EIS in our prior comments.[92] We object to the Forest Service's failure to prepare an EIS for the proposed action.

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[85] 42 U.S.C. § 4321; *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348–49 (1989).
[86] 42 U.S.C. § 4332(2)(C) (2025).
[87] 7 C.F.R. § 1b.2(f)(3) (2025).
[88] *See e.g.* Center's August 11, 2025 Comments at pp. 2-9, 17; AOS's August 11, 2025 Comments, p. 1.
[89] *See* Center's August 11, 2025 Comments at pp. 2-9, 17; AOS's August 11, 2025 Comments, p. 1.
[90] *See* Center's August 11, 2025 Comments at pp. 9-16, 25.
[91] *See* 7 C.F.R. § 1b.2(f)(3) (2025).
[92] Center's August 11, 2025 Comments at pp. 24-25.

The remedy for this violation would be for the Forest Service to prepare an Environmental Impact Statement that analyzes the impacts for all 81,300 acres that is available for leasing prior to issuing any oil and gas related decisions on the Conecuh National Forest.

H. The Forest Service must formally consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act for Alternative D.

If the Forest Service selects Alternative D, the proposed action, it must also formally consult with the U.S. Fish and Wildlife Service regarding the effects to listed species and critical habitat, in order to ensure that the proposal is not likely to jeopardize any of the numerous listed species or result in the destruction or adverse modification of any designated critical habitat within the national forest.[93]

Congress enacted the ESA "to halt and reverse the trend toward species extinction, whatever the cost."[94] The "heart of the ESA" is its "Section 7" consultation requirement.[95] Section 7 imposes a substantive duty on each federal agency to "insure that any action . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species."[96]

Under Section 7, after preparing a Biological Assessment to assess the potential effects of a proposed action on listed species and critical habitat, the Forest Service must *formally consult* with FWS if it determines that the proposed action is likely to adversely affect listed species.[97] FWS completes the consultation process by providing a "biological opinion" explaining how the proposed action will affect the listed species or habitat.[98] When preparing a biological opinion, FWS must use the "the best scientific and commercial data available" and make a jeopardy determination to ensure that the proposed action is not likely to jeopardize protected species or adversely affect designated critical habitat.[99]

Here, the Forest Service is instead attempting to proceed with only informal consultation. After first failing to do any type of biological assessment in connection with the Draft EA, the Service added a Biological Assessment to the Project page in January 2025. This Biological Assessment contains one single paragraph about the impacts that leasing 81,300 acres of national forest would have on nineteen threatened and endangered species – ranging from insects to mammals to mussels and fish – that occupy entirely different habitats on the Conecuh as well as seven species with federally designated critical habitat.[100] No individual species impacts are discussed. The Biological Assessment fails to provide any meaningful analysis of the potential impacts of the Proposed Action on the numerous threatened and endangered species found on the

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[93] 16 U.S.C. § 1536(a)(2); 50 C.F.R. §§ 402.10-16.
[94] *TVA v. Hill*, 437 U.S. 153, 184 (1978).
[95] *W. Watersheds Project v. Kraayenbrink*, 632 F.3d 472, 495 (9th Cir. 2011).
[96] 16 U.S.C. § 1536(a)(2).
[97] 16 U.S.C. § 1536(c)(1); 50 C.F.R. §§ 402.02, 402.12(f), 402.14(a).
[98] 16 U.S.C. § 1536(b); 50 C.F.R. § 402.14.
[99] 16 U.S.C. § 1536(a)(2).
[100] *See* Center for Biological Diversity Map of Sensitive Habitats and Ecosystems on the Conecuh National Forest: https://cbdnet.info/portal/apps/instant/basic/index.html?appid=f85568386aea4d78a595e536240546f0

Conecuh National Forest. The Center detailed those species and the likely impacts of mineral development in its prior comments.[101]

The Forest Service's single paragraph of analysis within the Biological Assessment relies on existing state and federal protections, standards and guidelines in the 2004 Forest Plan, and the NSO stipulations. The Forest Service cannot rely on these to satisfy its Section 7 obligations.[102] For example, in its generic reference to "existing State and Federal protections," the Forest Service fails to disclose or specify what protections it is referring to. Federal protections might include the ESA, but these are only effective when the agency complies with Section 7, which it has not done here.[103] The reference to the 2004 Forest Plan also falls short. In the 21 years since the 2004 Forest Plan was issued, nine species have been federally listed under the ESA that live in the Conecuh National Forest:

Escambia map turtle (2024)
Eastern black rail (2020)
Narrow pigtoe (2012)
Choctaw bean (2012)
Southern sandshell (2012)
Northern long-eared bat (2022)
Fuzzy pigtoe (2012)
Round ebonyshell (2012)
Southern kidneyshell (2012)

The Forest Service and the U.S. Fish and Wildlife Service have not reinitiated consultation on the 2004 Forest Plan for any of these newly listed species or the related designation of critical habitat.[104] Moreover, as discussed in our prior comments,[105] neither the 2004 Forest Plan nor the associated EIS contain any discussion of the impacts of fracking and unconventional drilling on species. These practices would be especially detrimental to aquatic species and designated critical habitats.

With respect to the NSO stipulations, the agency failed to consider the numerous exceptions identified *supra*, including that lessees may still submit special use permits for roads, pipelines, and other uses on these lands, and that horizonal drilling could still access the areas with NSO stipulations. Moreover, the Forest Service wholly failed to consider or address that there are listed species and critical habitat that falls outside of the NSO stipulation areas, including 27,500 acres of red-cockaded woodpecker habitat management areas.[106]

In response to numerous public comments regarding the risk to sensitive habitats and freshwater resources, the Forest Service maintains that it would have "the ability to relocate oil and gas wells by up to 800 meters or prohibit new surface disturbance for up to 90 days."[107] These standard lease terms and conditions are discretionary measures which do not provide certainty for the future of these sensitive resources and which impose additional burden on the public and the

[101] Center's August 11, 2025 Comments at pp. 2-9; Center's February 11, 2025 Comments at pp. 7-14.
[102] *See* 16 U.S.C. § 1536.
[103] 16 U.S.C. §1536.
[104] 50 C.F.R. § 402.16(a).
[105] Center's August 11, 2025 Comments at pp. 22-24; SELC et al.'s August 11, 2025 Comments at pp. 3, 16, 19.
[106] Final EA, p. A-1. *See also* AOS's August 11, 2025 Comments at p. 1; Center's August 11, 2025 Comments, p. 21. *See* Center for Biological Diversity Map of Sensitive Habitats and Ecosystems on the Conecuh National Forest: https://cbdnet.info/portal/apps/instant/basic/index.html?appid=f85568386aea4d78a595e536240546f0
[107] FONSI, p. 7.

Forest Service in stewarding these lands. It would be more effective and efficient to close the 28,300 acres identified under Alternative D to leasing. In further response to comments regarding the need for consultation, the Forest Service summarily stated, "Site-specific analysis regarding wildlife would be conducted at the APD stage in the event of future leasing."[108] The Forest Service must re-evaluate and provide an explanation as to whether this is an accurate statement following the changes to the regulations at 36 C.F.R. § 228. We object to the Forest Service's failure to formally consult on Alternative D.

The remedy for this violation would be for the Forest Service to formally consult with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the ESA, prior to issuing any oil and gas related decisions on the Conecuh National Forest.

IV. Conclusion

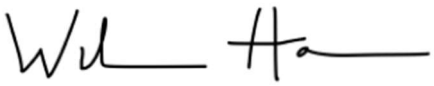
We share a common goal with the Forest Service of safeguarding the Conecuh National Forest as a valuable resource for recreation, biodiversity, and freshwater, and we appreciate the opportunity to work with the Forest Service towards that mutual goal. We are submitting these objections because the Decision Notice does not adequately protect those resources or comply with the procedures required by law. We believe that the remedies we recommend in this objection, including improvements to Alternative D, provide a straightforward path to addressing deficiencies in the Conecuh National Forest Oil and Gas Leasing Availability Analysis. We appreciate the opportunity to participate in the U.S. Forest Service's decision-making process and hope we can work together to obtain the best result for the Conecuh.

Sincerely,

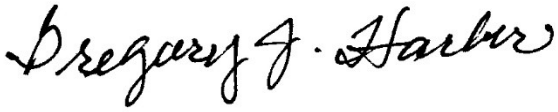
Marc Fink, Senior Attorney
Center for Biological Diversity
mfink@biologicaldiversity.org

Lindsay E. Reeves, Senior Attorney
Center for Biological Diversity
lreeves@biologicaldiversity.org

[108] Conecuh National Forest Oil and Gas Leasing Availability Analysis EA Public Comment Response Report, p. A-60.



Will Harlan, Southeast Director and Senior Scientist
Center for Biological Diversity
wharlan@biologicaldiversity.org



Gregory J. Harber
Alabama Ornithological Society
gharber@mindspring.com

Cc (via email):

Linwood Butler, Forest Supervisor
Conecuh National Forest
U.S. Forest Service
2946 Chestnut Street
Montgomery, Alabama 36107
linwood.butler@usda.gov

Garner Westbrook
U.S. Forest Service
2946 Chestnut Street
Montgomery, AL 36107

garner.westbrook@usda.gov