



Forest Service

Eastern Region
Law Enforcement & Investigations
South Central Zone

13700 US Hwy 33
Nelsonville, OH 45764
(740) 753-0578

File Code: 5330

Date: March 18, 2015

Route To:

Subject: Proposed Closure Order WNF-14-01-2015

To: Mary V. King, Special Agent in Charge

From: Joseph A. McGallicher, Zone Patrol Captain

Through: Michael J. Clemens, Regional Patrol Commander

The Wayne National Forest has proposed a Closure Order (WNF-14-01-2015) to protect the underground mines, tunnels, and historic iron furnaces located within the Forest.

The proposed closure order is needed to provide for the public health and safety of the visiting public because of the potential for collapse, entrapment, and carbon monoxide poisoning within the underground mines and tunnels. Closing historic iron furnaces to the public allows for the preservation of irreplaceable historic sites. Prohibiting public entry to these areas also has the added benefit of potentially reducing the spread of White-Nose Syndrome among bats.


The proposed order and supporting documentation is attached. I recommend approval and implementation of the proposed order. Please advise if you have questions or require additional information to complete your review.

I have reviewed the proposed order for the Wayne National Forest and decided the following:

Return the Order to the Forest for implementation

Return the Order to the Forest due to insufficient documentation

Forward to OGC for additional legal review

for 
Mary V. King
Special Agent in Charge

3/23/2015
Date



Wayne National Forest (Ohio)

ORDER CHECKLIST

(Prepared using FSH 5309.11, Chapter 30 – WO Amendment Dated 3/7/2008)
Underground Mines, Tunnels, and Historic Iron Furnaces.
 (WNF Supervisor's Order WNF-14-01-2015)

<u>Action</u>	<u>Responsible Official(s)</u>	<u>Initials/Date</u>
Prepare Proposed Order	Appropriate Staff	<u>LA 3-18-15</u>
NEPA Requirements Completed	Appropriate Staff	<u>LA 3-18-15</u>
CRIA Requirements completed	Appropriate Staff	<u>LA 3-18-15</u>
Prepare Enforcement Plan	Reviewed by Zone Patrol Captain	<u>LA 3-18-15</u>
Review Proposed Order and Approve Enforcement Plan	Forwarded to Regional Patrol Commander for review	<u>LA 3-20-15</u>
Review Proposed Order and Approve Enforcement Plan	Forwarded to R9 Special Agent in Charge for review	<u>KCM 3-23-15</u>
Forwarded to OGC for review	Regional LE&I staff	_____
Reviewed by OGC and returned to Regional LE&I staff	Regional OGC staff	_____
Sent to Zone Patrol Captain for Approval by Forest Supervisor	Regional LE&I staff	_____
Approve Order	Forest Supervisor or Regional Forester (Deputy or Acting should not sign)	<u>AV-AL 3/19/2015</u>
Post Order (36 CFR 261.51)	District Ranger/Forest Supervisor	_____

Prepare news release for order describing the order and management objectives. Describe implementation/action taken for order, such as planned patrols, enforcement strategies, tolerance, contacts with local public agencies.

PAO (with Appropriate Staff/LEI)

Implement Plan

LEO/Field-going Personnel

Complete Case File Filing

Order Records Officer

Update Regional Order Database

Special Agent in Charge



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Subject: Proposed Closure Order WNF-14-01-2015

To: Joseph A. McGallicher, Zone Patrol Captain

Attached is a proposed closure order (WNF-14-01-2015) for the Wayne National Forest and supporting documentation as required by Forest Service Handbook 5309.11, chapter 30 and the Order checklist.

The proposed prohibitions as described in the order are needed for the health and safety of the public who visit the WNF, employees of the U.S. Forest Service who work managing the Forest resources, and the protection of underground mines, tunnels, and historic iron furnaces located within the Wayne National Forest.

I respectfully request that you begin the review and implementation process of the proposed Supervisor's Order WNF-14-01-2015.

If I can be of assistance during the review and or implementation process, feel free to contact me at 740-753-0880.

Anthony V. Scardina
Forest Supervisor
Wayne National Forest



Wayne National Forest
ORDER OF FOREST SUPERVISOR
ORDER NUMBER WNF-14-01-2015

Under the authority of the Act of Congress dated June 4, 1897, as amended (16 U.S.C. 551), and pursuant to the Secretary of Agriculture's Regulations set forth as 36 CFR Part 261, Subpart B (36 CFR 261.50(a) and (b)), the following acts and omissions are prohibited on the Wayne National Forest located within the State of Ohio. Specific site locations are privileged information. See Exhibit A. Attached map Exhibit B, is attached and made a part hereto:

1. Entering any underground mine on National Forest System lands within the Wayne National Forest, unless posted open **36 CFR 261.53(e)**
2. Entering any tunnel on the Wayne National Forest **36 CFR 261.53(e)**
3. Entering, climbing, or otherwise disturbing a historic iron furnace located within the Wayne National Forest **36 CFR 261.53(e)**


THESE RESTRICTIONS ARE NECESSARY FOR PUBLIC SAFETY AND TO PROTECT NATIONAL FOREST PROPERTY/RESOURCES. THEY ARE IN ADDITION TO THE GENERAL PROHIBITIONS SET FORTH IN 36 CFR PART 261. THE PROHIBITION WILL BE IN EFFECT FROM THE DATE OF THIS ORDER UNTIL SPECIFICALLY WITHDRAWN BY TERMINATION ORDER OF THE FOREST SUPERVISOR.

Pursuant to the provisions of 36 CFR 261.50(e), the following persons are exempt from this order:

1. Persons with a permit specifically authorizing the otherwise prohibited act or omission (36 CFR 261.50(e)(1)); and,
2. Any Federal, State, or local officer, or member of any organized rescue or fire fighting force in the performance of an official duty (36 CFR 261.50(e)(4)).

These prohibitions are in addition to the general prohibitions in 36 CFR Part 261, Subpart A.

Executed in Nelsonville, Ohio this 19th day of MARCH, 2015.



ANTHONY V. SCARDINA
Forest Supervisor
Wayne National Forest

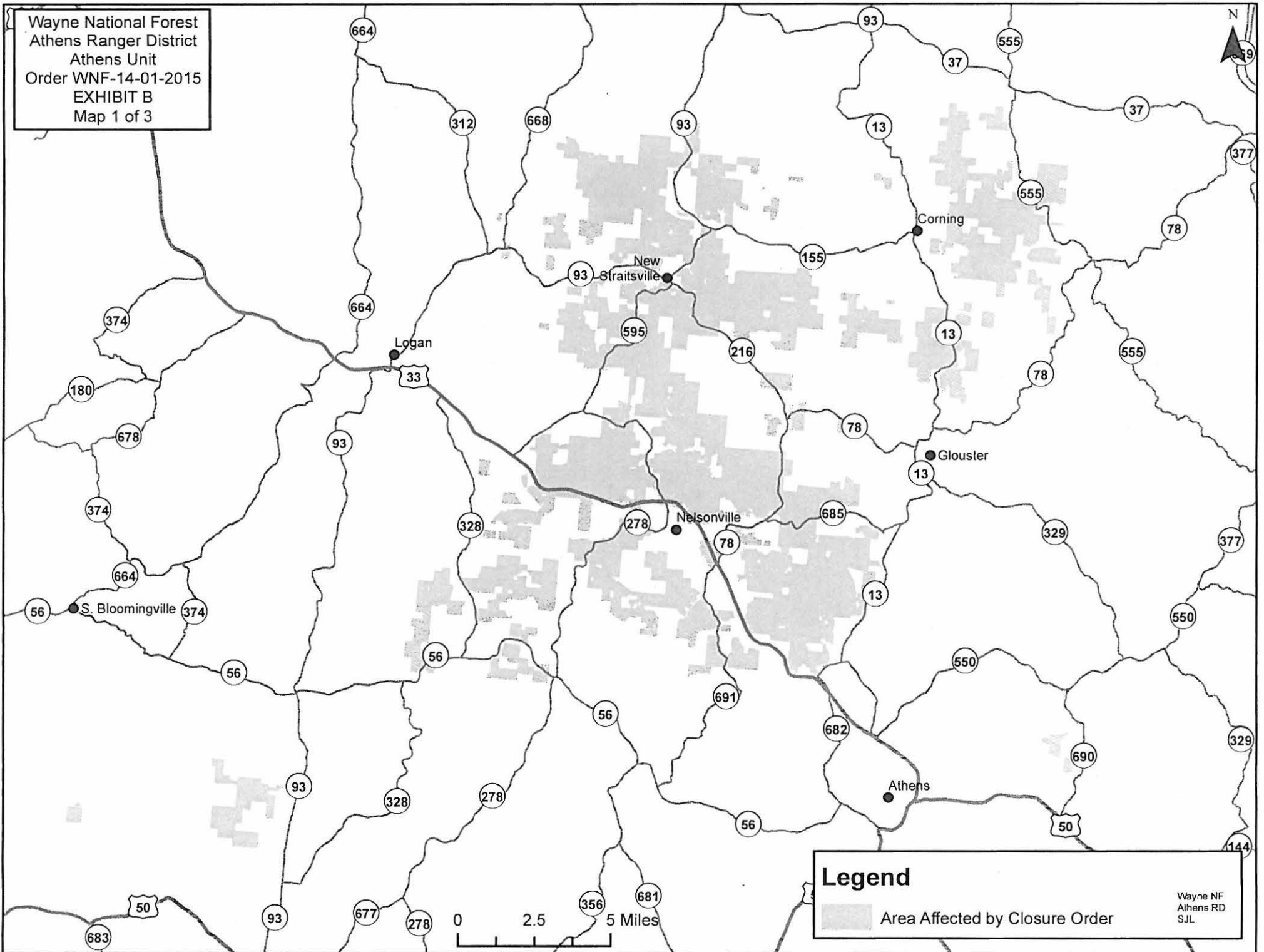
Violation of these prohibitions is punishable by a fine of not more than \$5000.00 for an individual or \$10,000.00 for an organization, or imprisonment for not more than six (6) months, or both (16 U.S.C., 18 U.S.C. 3559 and 3571).

Exhibit A
Supervisor's Closure Order
WNF-14-01-2015

Underground mine, tunnel, and historic iron furnace site locations are privileged information and are protected from release to the public by the following statutes:

- 5 USC 552 (The Freedom of Information Act)
- 16 USC 470 (National Historic Preservation Act)
- 16 USC 470aaa-8 (Confidentiality)

Wayne National Forest
Athens Ranger District
Athens Unit
Order WNF-14-01-2015
EXHIBIT B
Map 1 of 3

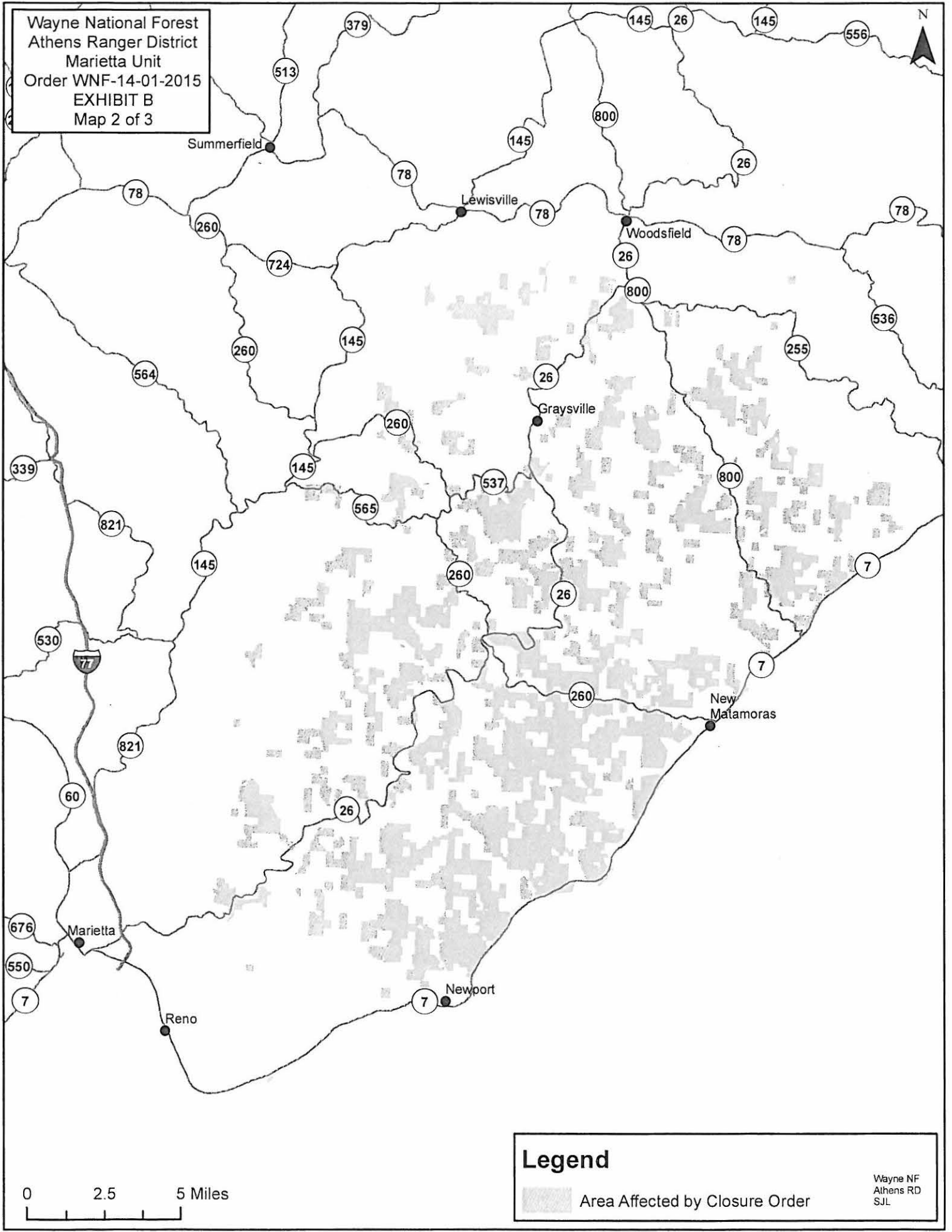


Legend


Area Affected by Closure Order

Wayne NF
Athens RD
S.J.L.

Wayne National Forest
Athens Ranger District
Marietta Unit
Order WNF-14-01-2015
EXHIBIT B
Map 2 of 3

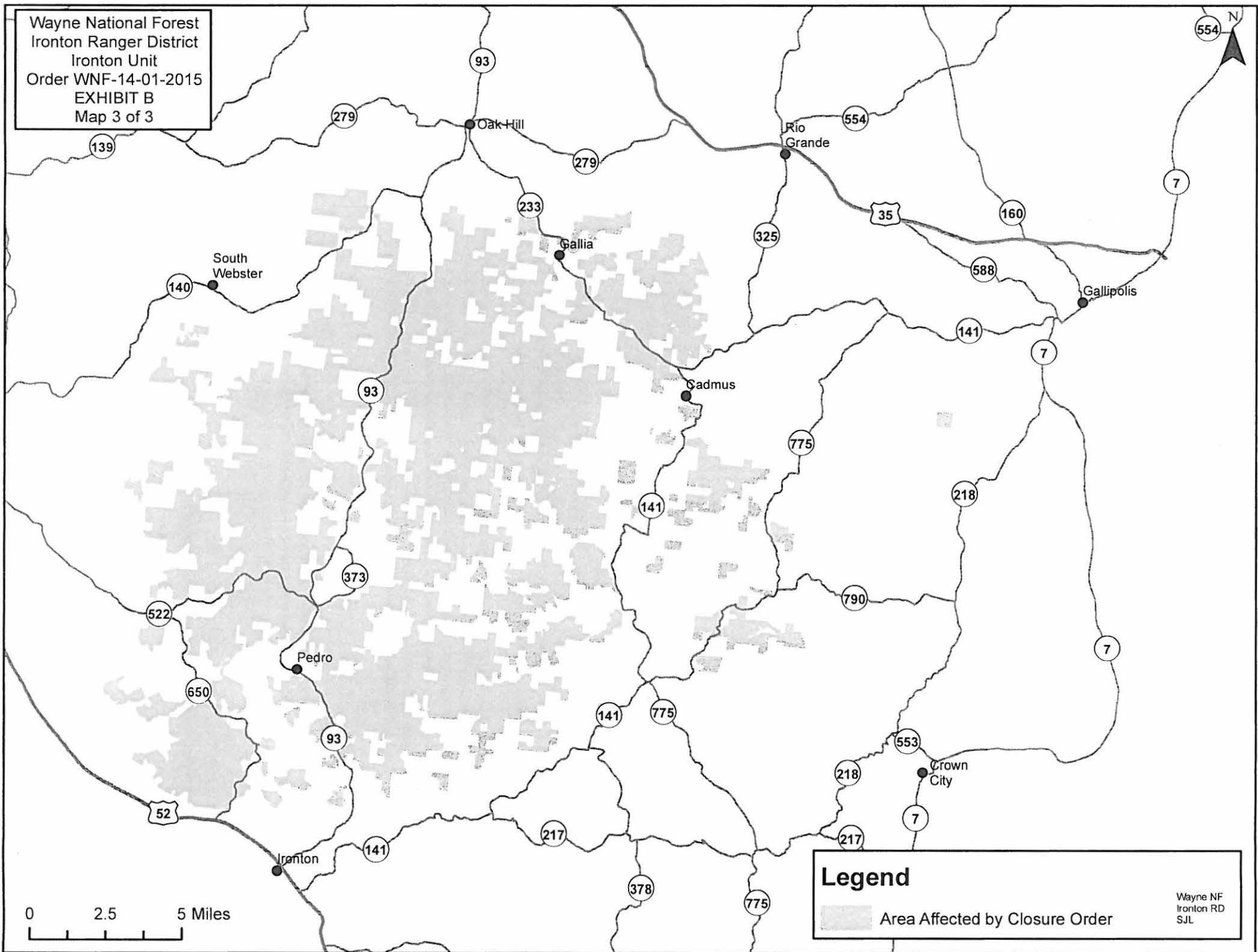


Legend


 Area Affected by Closure Order

Wayne NF
Athens RD
SJL

Wayne National Forest
Ironton Ranger District
Ironton Unit
Order WNF-14-01-2015
EXHIBIT B
Map 3 of 3



Legend

 Area Affected by Closure Order

Wayne NF
Ironton RD
SJL



Forest
Service

Wayne National Forest

13700 US Hwy 33
Nelsonville, OH 45764

File Code: 5330

Date: March 18, 2015

Route To:

Subject: Proposed Closure Order WNF-14-01-2015-NEPA

I have reviewed the agency NEPA regulations and have found that closure orders under 36 CFR 261 can be categorically excluded from documentation in an EA or EIS (FSH 1909.12, 31.11, and 31.12). Furthermore, this category does not require a decision memorandum or NEPA project file (36 CFR 220.6(d)(1)).

ANTHONY V. SCARDINA
Forest Supervisor
Wayne National Forest

Date





File Code: 5330

Date: March 18, 2015

Route To:

Subject: Proposed Closure Order WNF-14-01-2015-CRIA

Major civil rights impacts are those consequences of proposed policy actions that, if implemented, would negatively and disproportionately affect groups or classes of people by virtue of their race, color, sex, national origin, age, religion, family status, or disability.

I have considered the impact of the proposed prohibitions on the civil rights of minorities, women, persons with disabilities, and other protected groups. In considering the effects of the proposed action, it was determined that the civil rights of any protected group or class of people would not be affected by this closure.

ANTHONY V. SCARDINA

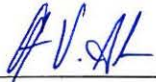
Forest Supervisor
Wayne National Forest

Date



Civil Rights Impact Analysis (CRIA)

It is my determination that there will be no potential for major civil rights or social impacts related to the Wayne National Forest Prohibitions (36 CFR 261.50 (a) and (b)) Order number WNF-14-01-2015, and therefore, a CRIA and Civil Rights Impact Statement (CRIS) are not required. Although the proposed action appears as if it would affect ten (10) or more persons or entities either inside or outside the Forest Service, I feel the CRIA and CRIS are not needed because the project decision is for an administrative action that is not listed as one of the six specific categories for which the preparation of a civil rights impact statement is required (see Forest Service Manual 1730 and Forest Service Handbook 1709.11, section 31.1).



ANTHONY V. SCARDINA
Forest Supervisor
Wayne National Forest



Date

Statement of Purpose and Need
Supervisor's Closure Order
WNF-14-01-2015

The Wayne National Forest is proposing to implement Closure Order # WNF-14-01-2015 to close underground mines, tunnels, and historic iron furnaces to persons visiting the Wayne National Forest in an effort to protect the health and safety of the visiting public from possible mine or tunnel collapse, entrapment, and/or carbon monoxide poisoning within the aforementioned structures. The closing also has the added benefit of potentially slowing the spread of White-Nosed Syndrome among bats.

Closing historic iron furnaces to the public increases the potential for preservation of these irreplaceable historic sites and reduces the potential for acts of vandalism or other destructive activities.

The Proposed Order would add the following prohibited acts:

- Entering any underground mine or tunnel on National Forest System Lands within the Wayne National Forest (unless posted open) 36 CFR 261.53(e)
- Entering any historic tunnel located within the Wayne National Forest 36 CFR 261.53(e)
- Entering or climbing on any historic iron furnace 36 CFR 261.53(e)

Implementation and Enforcement Plan
Supervisor's Closure Order
WNF-14-01-2015

Public Notice:

- Copies of the approved closure order shall be made available to the public at the Wayne National Forest Headquarters (Forest Supervisor's Office), and the Athens, Marietta, and Pedro Ranger Stations.
- Contents of the approved closure order shall be posted on the Wayne National Forest website at <http://www.fs.fed.us/r9/wayne>
- A news release describing the prohibited acts of the order shall be published in local newspapers.
- Signs shall be posted at those locations identified by field personnel as being areas likely to be used by the public in violation of the closure order.

Enforcement:

- Enforcement of the closure order shall be limited to Law Enforcement personnel and Forest Protection Officers who hold an up-to-date certification.
- Regular patrols of the areas closed by the order shall be conducted by law enforcement personnel.
- Officers and Forest Protection Officers shall exercise appropriate discretion when issuing warnings or violation notices.
- All violations of the order shall be documented using the appropriate law enforcement forms (5300-1 incident report) or (5300-4-violation notice).