FINDING of NO SIGNIFICANT IMPACT
for the
Revelation Energy, LLC Coal Lease Modification KYES-51005
(formerly Bledsoe Coal Lease-by-Application KYES-53865)
EA No. ES-020-2012-05

INTRODUCTION

The Bledsoe Coal Lease Environmental Assessment (EA) presents an analysis of the environmental, social, and economic effects of the proposed action which is to offer 174.36 acres of federal coal from Forest Service Tract 3094bd for underground mining. The tract, if mined, would serve as an underground extension of the Beechfork Mine. As such, no new facilities would be constructed. Existing and permitted surface facilities would be used to support underground mining activities. The no action alternative, which is to not lease the federal coal, is also considered in the EA.

The purpose of the proposed action is to respond to an application submitted to the Bureau of Land Management (BLM) to lease federal coal beneath the U.S. Department of Agriculture Forest Service (USFS) tract by competitive leasing protocols found at Title 43 Code of Federal Regulations Part 3425 (43 CFR §3425). The application was assigned BLM case file No. KYES 53865. Coal leasing in this area helps meet the national growing demand for energy in the generation of electricity for residential and industrial uses. It also supports the President's Energy Initiative and Memorandum of Understanding on Energy Leasing. Mining of this coal would provide economic returns to the national, state, and local economies. The leasing of federal coal would allow for the extraction of coal reserves in the safest, most economic and efficient manner and maximize recovery of the coal. Not developing the proposed lease now, which is adjacent to other federal and private leases, may make it economically infeasible to return to it later.

For the purposes of the environmental analysis, the BLM served as the lead federal agency, with the U.S. Department of Agriculture Forest Service (USFS) Daniel Boone National Forest (DBNF) and the U.S. Department of the Interior Office of Surface Mining (OSM) serving as cooperators. A third party, Golder Associates (Lakewood, CO), was contracted to prepare the EA with guidance from the BLM, the USFS, and OSM. The EA was issued for public review and comment in October of 2012.

Since then, a couple of circumstances have changed. The Bledsoe Coal Leasing Company acquired Federal Coal Lease No. KYES 51005, which is contiguous to the KYES-53865 tract. Per the regulations at 43 CFR §3432, a competitive lease sale is no longer required as the Bledsoe Coal Leasing Company meets all the criteria laid out in 43 CFR §3432.2. The Bledsoe Coal Company re-submitted their application to request a lease modification of KYES-51005 instead, and the BLM is closing the KYES-53865 case file. The tract would be leased as Federal Coal Lease Modification KYES-51005. The proposed action to lease the identified federal minerals and potential environmental impacts are the same as described in the Bledsoe Coal Lease EA (October, 2012). Bledsoe Coal Company subsequently filed for bankruptcy and its assets are now owned by Revelation Energy, LLC. The BLM will continue processing the lease modification request in coordination with the new applicant, Revelation Energy, LLC.

EXTERIOR SCOPING

Public scoping was initiated on January 27, 2012. Scoping comments were received from the United Keetoowah Band of Cherokee Indians in Oklahoma, Tribal Historical Preservation Office, the Cumberland Chapter of the Sierra Club, and the Kentucky State Historic Preservation Office. In August of 2012, the USFS/BLM completed a Scoping Issue Analysis which identified the substantive scoping comments and the USFS/BLM response to those comments. A copy of the Scoping Issue Analysis is provided in Appendix B of the Bledsoe Coal Lease EA (Appendix B).

In July of 2012, the USFS sent consultation letters to the Kentucky Heritage Council, State Historic Preservation Office; the Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians, North Carolina; the United Keetoowah Band of Cherokee, Oklahoma; the Shawnee Tribe, Oklahoma; Eastern Shawnee Tribe, Missouri; and the Absentee Shawnee Tribe, Oklahoma. In a letter dated August 10, 2012, the Kentucky State Historic Preservation Office provided their concurrence for the proposed Bledsoe Coal Lease project (Appendix B).The US Fish and Wildlife Service granted their concurrence for potential impacts to listed species in a letter dated August 16, 2012 (Appendix B).

The EA prepared by Golder Associates was completed in October, 2012 and released for a 30-day public review and comment period which ended on November 24, 2012. The BLM and USFS received two comment letters, one from Kentucky Heartwood. The second was a letter from the United Keetoowah Band of Cherokee Indians in Oklahoma Tribal Historical Preservation Office. In March of 2013, the BLM and USFS reviewed the public comments and prepared responses, which are documented in the attached "Consideration of Comments" (March, 2013; Appendix C).

The Forest Supervisor for the DBNF gave consent to leasing in a Finding of No Significant Impact (FONSI) and Decision Notice dated May 9, 2013 (Appendix D). Kentucky Heartwood and the Cumberland Chapter of the Sierra Club jointly submitted a notice of appeal, dated June 15, 2013, to the Regional Forester of the Southern Region. The USFS Appeal Reviewing Officer (ARO) considered the issues identified by the appellant and reviewed the project record to ensure the analysis and decision was in compliance with applicable laws, regulations, and policies. The ARO recommended that the Forest Supervisor's decision of May 9, 2013 be affirmed. In a decision dated August 1, 2013 (Appeal 13-08-02-0009), the USFS Appeal Deciding Officer (ADO) issued a final administrative determination affirming the decision of the DBNF Forest Supervisor to consent to leasing (Appendix E). In a letter dated September 25, 2013, the DBNF Forest Supervisor granted the BLM consent to lease the coal minerals with a specific list of conditions to be incorporated into the lease terms (Appendix F).

On a separate decision-making track, the BLM published a *Federal Register* notice on June 24, 2013 (78 FR37842) notifying the public of a second 30-day public comment period on the EA, and to consider comments on the fair market evaluation and maximum economic recovery. A public hearing was also held on June 25, 2013. The BLM received one comment from Kentucky Heartwood in a letter dated July 16, 2013 (Appendix G). In that letter, Kentucky Heartwood submitted new comments and incorporated prior comments for re-consideration, including: 1) the scoping letter dated February 24, 2012 from the Cumberland Chapter of the Sierra Club; 2) the EA comment letter dated November 20, 2012 from Kentucky Heartwood, and 3) the Notice

of Appeal submitted to the USFS dated June 15, 2013, and jointly signed by Kentucky Heartwood and the Cumberland Chapter of the Sierra Club. Kentucky Heartwood also submitted three emails (dated July 22 and 23, 2013) which included the aforementioned letters /documents as attachments.

In January-February, 2015, the BLM conducted an independent review of the aforementioned documents (43 CFR 3420.4-2(b)). As a result of this independent review, the BLM is providing additional responses to substantive public comments (Appendix H) and updating the EA with additional information (Appendix I), which are incorporated into the Decision Record.

FINDING OF NO SIGNIFICANT IMPACT

Based upon a review of EA-020-2012-05 and supporting documents, I have determined that the proposed action is not a major federal action, and will not significantly affect the quality of the human environment, individual or cumulatively, with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. This finding is based on the context and intensity of the project as described:

Context:

The USFS tract associated with the proposed action is located on Beech Fork, Fern Branch, and Cawood drainages in southern Leslie County, within the DBNF Redbird Ranger District. The area is approximately 140 miles southeast of Lexington, Kentucky; 160 miles northeast of Knoxville, Tennessee, and 15 miles south of Hyden, Kentucky. Historically, surface mining near the USFS tract was active but sparse, due primarily to the federal coal reserve boundaries that divided and precluded large continual mining operations. No active surface mining operations exist within the USFS tract. Underground mining has occurred at numerous locations along Beech Fork during the past century; however, there are no known underground mine openings within the proposed lease area. Past mining activities, however, have been conducted near the USFS tract and are considered in the cumulative effects analysis presented in the EA.

The EA analysis includes a proposed development scenario (PDS) to disclose and assess reasonably foreseeable impacts that could potentially occur from mineral extraction as a result of the proposed lease. As previously discussed, there would be no new facilities constructed and no surface disturbance associated with the PDS. Existing and permitted facilities would be used to support underground mining activities under the PDS. After leasing, when a proposed mine plan is available for consideration, additional environmental review, including a detailed analysis of direct, indirect, and cumulative effects of mining, would be conducted in accordance with the National Environmental Policy Act (NEPA). Mine permits from the State of Kentucky/OSM are required before any mining may take place, as well as oversight by the US Environmental Protection Agency.

Intensity:

The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into resources and issues considered (includes supplemental authorities Appendix 1 H-1790-1) and supplemental Instruction Memorandum, Acts, regulations and Executive Orders. The following have been considered in evaluating intensity for this proposal:

1. **Impacts that may be both beneficial and adverse.**

Based on a review of the proposed action and anticipated environmental impacts associated with the PDS, thirteen resources were included for analysis in the EA: Topography and geologic resources, Soils, Vegetation, Wildlife and fisheries, Special-status species, Water resources, Air Quality, Visual resources, Noise, Socioeconomics and Environmental justice, Land use, Cultural resources, Transportation, and Recreation. The EA includes an analysis of the reasonably foreseeable impacts from mineral extraction after leasing through evaluation of the PDS. Since the PDS would result in no new facilities or surface disturbance, potential impacts from mineral extraction to surface resources would be minimal to negligible or not measureable. A subsidence control plan would be implemented to protect the integrity of surface features and structures through protection zone identification, minimization of the occurrence of subsidence through mine panel design, and monitoring and control of the extent of the planned subsidence. The subsidence control plan would also include a damage mitigation plan; however, minimal subsidence is expected. Implementation of the PDS is anticipated to result in no acid mine drainage. Best management practices and permit requirements, including handling of chemicals during mining, would be followed. During mining operations, a spill contingency plan would be maintained and followed, minimizing potential adverse impacts to groundwater resources. The proposed action would result in minor to moderate beneficial impacts to socioeconomics through the generation of new revenue. Measures to reduce impacts to the various resources were incorporated in the design of the proposed action, such as the subsidence control plan and damage mitigation plan, as well as best management practices to control potential spills. None of the direct, indirect, or cumulative environmental effects discussed in detail in the EA are considered significant. After leasing, when a proposed mine plan is available for consideration, additional environmental review, including a detailed analysis of direct, indirect, and cumulative effects of mining, would be conducted in accordance with NEPA. Mine permits from the State of Kentucky/OSM are required before any mining may take place, as well as oversight by the US Environmental Protection Agency.

The EA analysis was tiered to the following documents: 2004 Final Environmental Impact Statement, Land and Resource Management Plan, DBNF and the Record of Decision for the Revised Land and Resource Management Plan, DBNF. The 2004 Land and Resource Management Plan and 2004 Record of Decision together are referred to as the 2004 Forest Plan. The analysis presented in the EA is consistent with the 2004 Forest Plan.

2. **The degree to which the proposed action affects public health or safety.**

As discussed in the EA, there would be no surface disturbance or new facilities constructed as a result of the proposed lease and PDS. No aspect of the proposed action would have an effect on public health and safety, as impacts to resources such as air quality, water quality, noise, and recreation safety would be negligible or not measurable, as discussed and disclosed in the EA. Adherence to permit requirements and spill control plans would minimize any potential for public health or safety risks associated with the PDS. When a proposed mine plan is available for consideration, additional environmental review, including the direct, indirect, and cumulative effects of mining on public health and safety, such as burning coal on air quality near the point of combustion and coal ash disposal, would be conducted in accordance with NEPA. An environmental impact statement would be required, providing multiple opportunities for public

participation. Mine permits from the State of Kentucky/OSM are required before any mining may take place, as well as oversight by the US Environmental Protection Agency.

3. **Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.**

The EA evaluated the area of the proposed action and determined that no unique geographic characteristics such as Wild and Scenic Rivers, Prime or Unique Farmlands, Areas of Critical Environmental Concern, Designated Wilderness areas, or Wilderness Study Areas were present. There are no jurisdictional wetlands located on the USFS tract. While there are several surface waters in the vicinity, only one first order stream (Cawood Branch) crosses the project area. The proposed action would not include any surface disturbance or new facilities. A subsidence plan and damage mitigation plan would be implemented to help protect surface resources, but subsidence is expected to be minimal. Therefore, potential impacts to surface waters and wetlands are not expected to be significant.

With regard to cultural resources, a cultural resources assessment was completed in 2012 that determined there are no historic resources listed on or eligible for listing on the National Register of Historic Places (NRHP), nor are there any paleontological resources, such as significant fossils, that have been identified on the Redbird Ranger District or elsewhere on the DBNF. The cultural resources assessment report was submitted to the Kentucky State Historical Preservation Office and concurrence was received on August 10, 2012.

4. **The degree to which the effects on the quality of the human environment are likely to be controversial.**

Effects on the quality of the human environment are not expected to be significant or controversial. Numerous studies have been reviewed and cited in the EA to ensure effects on the quality of the human environment were thoroughly reviewed and analyzed. Controversy in this context is considered to be in terms of disagreement about the nature of the effect- not the political controversy or expression of opposition to the action or preference among the alternatives analyzed within the EA.

5. **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

The proposed action of coal leasing is not unique or unusual. The BLM and USFS have experience implementing similar actions in similar areas. The potential environmental effects on the human environment are fully analyzed and disclosed in the EA. There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks. The lessee or operator would be required to obtain the necessary permits prior to any mineral extraction, and a spill contingency plan would be implemented during mining operations to minimize risk.

6. **The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

Coal leasing is conducted in accordance with the Mineral Leasing Act of 1920 and the Federal Coal Leasing Amendments Act of 1976, and, therefore, the proposed action would not establish a precedent for future actions. A decision to lease would not limit later resource management decisions for areas open to development proposals, although lease stipulations do establish sideboards for future development.

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

The proposed action was evaluated in the context of past, present and reasonably foreseeable actions, including other mining activities such as the Beech Fork Mine and BLM Lease KYES 51005, and treatment areas for the suppression of Hemlock Woolly Adelgid infestations. The cumulative impacts may result in a very small increase in greenhouse gas emissions but are not expected to result in climate change impacts because climate change is a global process that is affected by the total of greenhouse gases in the atmosphere. The incremental contribution to global greenhouse gases from the proposed action cannot be translated into effects on climate change globally or within the area of the lease parcels. Significant cumulative impacts to other resources are not expected, as the proposed action would contribute minimal adverse impacts to resources, and would have no measureable impacts to some resources. The use of best management practices and lease stipulations, as well as adherence to permit requirements, subsidence control plans, and spill contingency plans, would lessen the potential for cumulative effects. When a proposed mine plan is available for consideration, additional environmental review, including the direct, indirect, and cumulative effects of mining, such as burning coal on air quality near the point of combustion and coal ash disposal, would be conducted in accordance with NEPA. An environmental impact statement would be required, providing multiple opportunities for public participation. Mine permits from the State of Kentucky/OSM are required before any mining may take place, as well as oversight by the US Environmental Protection Agency.

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

There are no sites within the project area listed or eligible for listing on the NRHP that would be adversely affected by the proposed action, as discussed under Criteria #3.

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

A Biological Assessment was prepared and submitted to the USFWS for seven species proposed for listing or listed as endangered, threatened, or sensitive (PETS) on the Endangered Species Act that have the potential to occur in the project area. Only two of the species, Indiana Bat and Snuffbox, have suitable habitat within the project area. The USFWS concurred with the conclusions in the Biological Assessment on August 16, 2012 that the proposed action may

affect but is not likely to adversely affect the Indiana Bat and Snuffbox. USFS lease stipulations for the protection of forest resources would be applied to reduce impacts to wildlife and fisheries.

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

The project does not violate any known federal, state, local or tribal law or requirement imposed for the protection of the environment. In addition, the project is consistent with applicable land management plans, policies and programs. The proposed action does not significantly affect energy supply, distribution, and/or use and therefore a Statement of Adverse Energy Impact is not required.

Bruce Dawson

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Southeastern States District

11-13-2015

Date