

DECISION RECORD

for the

Revelation Energy, LLC Coal Lease Modification KYES-51005

(formerly Bledsoe Coal Lease-by-Application KYES-53865)

NEPA No. ES-020-2012-05

Background

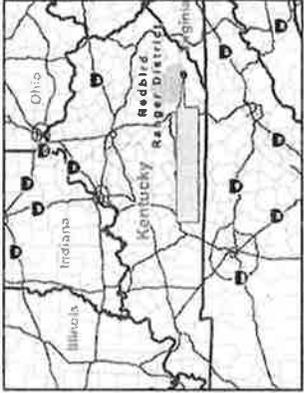
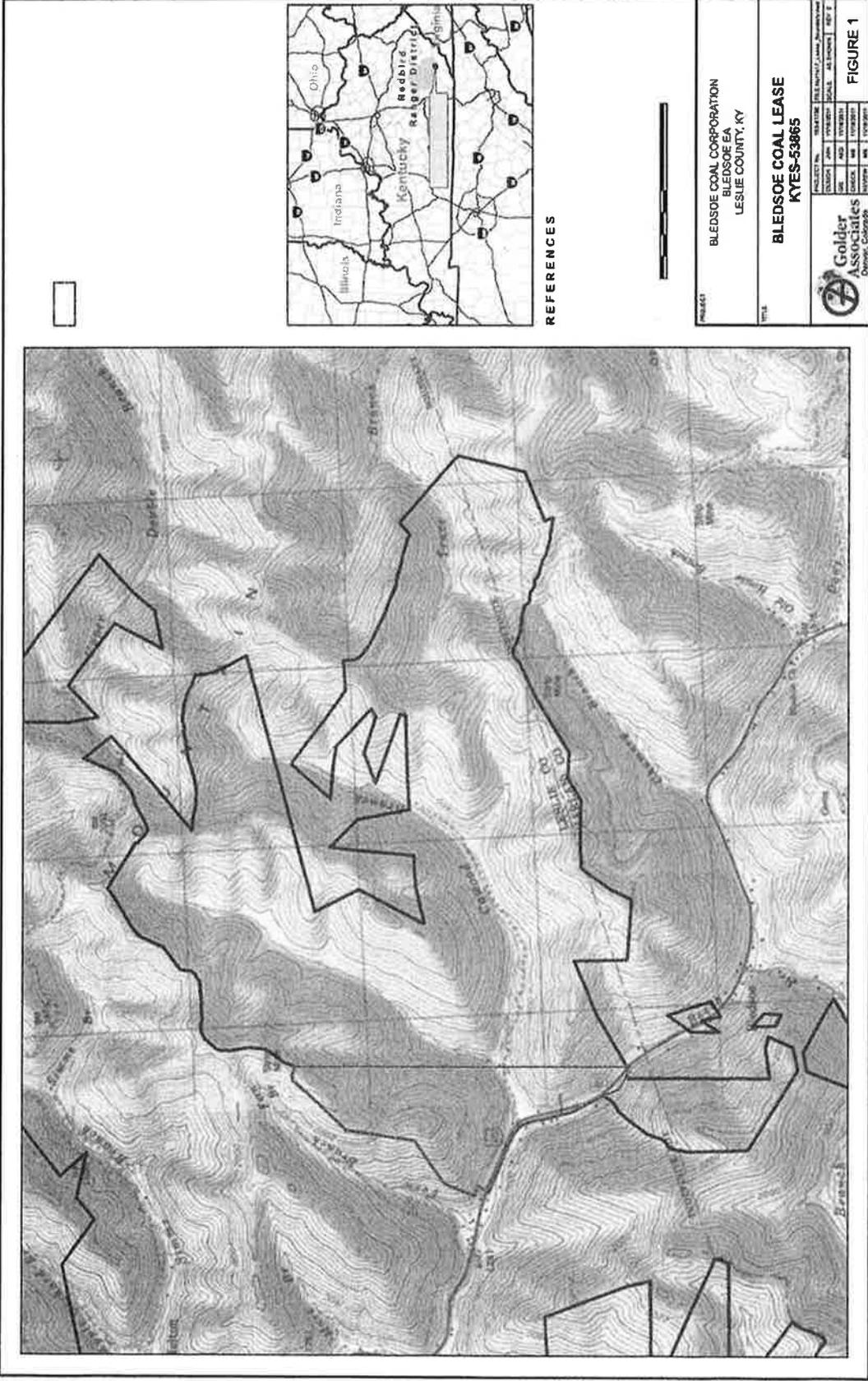
The Bledsoe Coal Lease Environmental Assessment (EA) presents an analysis of the environmental, social, and economic effects of the proposed action which is to offer 174.36 acres of federal coal from Forest Service Tract 3094bd for underground mining (Figure 1). The tract, if mined, would serve as an 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 application was assigned BLM case file No. KYES 53865.

For the purposes of the environmental analyses, 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. Instead, the Bledsoe Coal Company submitted an application requesting a lease modification of KYES-51005. As such, the BLM is closing the KYES-53865 case file. 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), which is incorporated into this Decision Record under "EA-Part 1." The 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.

Consultation, Public Participation, and Response to Comments

The project proposal was first listed in the quarterly Daniel Boone National Forest Schedule of Proposed Actions in July of 2008. Public scoping was initiated on January 27, 2012 with a scoping letter which was made available online at the Daniel Boone National Forest / Land & Resources Management / Projects web page. The USFS also sent email notification to addressees on the Forest Service mailing list. The BLM for its part also posted the scoping notice online. 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.



REFERENCES



PROJECT	BLEDSOE COAL CORPORATION BLEDSOE EA LESLIE COUNTY, KY
TITLE	BLEDSOE COAL LEASE KYES-53865
	
PROJECT NO.	DATE
SCALE	SCALE
DATE	DATE
BY	BY
CHECKED	CHECKED
DATE	DATE
BY	BY
DATE	DATE

FIGURE 1

Working in partnership with the BLM, the USFS DBNF led the effort to review and address the public scoping comments. 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 attached Bledsoe Coal Lease EA (EA-Part 1).

In July of 2012, 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 (EA-Part 2).

Due to the “no effect” determination by the USFS DBNF District Biologist, formal consultation with the US Fish and Wildlife Service in accordance with Section 7 of the *Endangered Species Act of 1973*, as amended was not required. The District Biologist forwarded a copy of the Biological Assessment and Evaluation to the US Fish and Wildlife Service in Frankfort, Kentucky with a request for concurrence. The US Fish and Wildlife Service granted their concurrence in a letter dated August 16, 2012 (EA-Part 2).

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 USFS and BLM posted the EA online on their respective public websites. The USFS posted legal notice announcing the 30-day public review and comment opportunity in the *Lexington Herald-Leader*, Lexington, KY. The USFS also sent letters to the aforementioned six recognized tribes. 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; EA-Part 3).

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 (EA-Part 4). The Redbird Ranger District, DBNF, in Leslie County, KY published legal notice of the decision in the *Lexington Herald-Leader*, Lexington, KY, on May 11, 2013. 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 (EA-Part 5). 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 (EA-Part 6).

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 (EA-Part 7). 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 2015, the BLM conducted an independent review of the aforementioned documents and as a result of this independent review, the BLM is providing additional responses to substantive public comments (EA-Part 8) and is updating the EA with additional information (EA-Part 9), which are incorporated into this Decision Record.

Decision

It is my decision to authorize the Coal Lease Modification KYES 51005, as analyzed in EA No. ES-020-2012-05, and updated to include additional information and analyses described in the aforementioned “Public Participation and Response to Comments” section of this document. This decision is contingent on meeting all mitigation measures, monitoring requirements, terms, conditions, and stipulations listed below.

- All conditions included in the formal consent letter, signed by the USFS DBNF Forest Supervisor on September 25, 2013, are hereby incorporated into this Decision Record as special stipulations (EA-Part 6).
- Mitigation -The Environmental Protection Agency (EPA), under the Clean Air Act, has developed a complex system of regulations to protect air quality and is authorized to implement provisions of the Clean Air Act. This would assure compliance with related air quality standards. In addition, the Kentucky Department for Natural Resources, Division of Mine Reclamation and Enforcement (DMRE), as the agency authorized to enforce requirements of SMCRA, would monitor potential future operations as a result of this lease, to insure health and safety of the public and protection of the environment through the control attendant air pollution.
- Mitigation -The agencies authorized to enforce State and Federal regulations (committed mitigation) would monitor any potential future mining as a result of this lease to insure the public health and safety, and protection of the environment (OSM is the agency authorized to enforce the associated requirements of SMCRA).
- All terms and conditions included in BLM Coal Lease Form 3400-12.

Rationale

The approved action is in conformance with the *Daniel Boone National Forest Land and Resource Management Plan and Record of Decision* (2004) which provides guidance for mineral extraction, which are incorporated into this Decision Record as stipulations. The EA was tiered to the analyses presented in the 2004 Final Environmental Impact Statement for the Daniel Boone National Forest-Land and Resource Management Plan. The 2004 LRMP and ROD together are known as the 2004 Forest Plan. The environmental analysis presented in the EA is consistent with the 2004 Forest Plan.

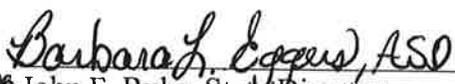
The BLM participated in preparing this document as the United States Department of the Interior's delegated agency for leasing Federal minerals. This action meets the objectives of 43 CFR 3425.1-9, Modification of application area. The EA was prepared in order to provide the BLM's Authorized Officer with the information necessary to make a decision regarding whether the proposed action, modifying an existing lease to include additional Federal minerals, would have a significant impact on the human environment. The EA includes a discussion of the proposed action, reasonable alternatives, public participation and consultation, estimate of recoverable coal, description of the existing environment, an analysis of anticipated impacts from the proposed action and alternatives, and mitigation measures to minimize potential adverse impacts.

The proposed action and alternatives were evaluated under the following authorities:

- Mineral Leasing Act of 1920 as amended;
- Multiple-Use Sustained Yield Act of 1960;
- National Environmental Policy Act (NEPA) of 1969, as amended;
- Federal Coal Leasing Amendments Act of 1976;
- Federal Land Policy and Management Act of 1976;
- Surface Mining Control and Reclamation Act of 1977, and
- Energy Policy Act of 2005, as amended.

Under the conditions stipulated for lease KYES-51005, I find that this action will not result in significant impacts on the human environment pursuant to 40 C.F.R. 1508.27 (a) and (b) (1) through (10) and that an environmental impact statement is not required. Documentation of a finding of no significant impact (FONSI) has been prepared separately.

The proposed action as mitigated, meets the criteria described in the *Federal Land Policy and Management Act of 1976* to make decisions that are based on understanding of environmental consequences and take actions that protect, restore and enhance the environment and to prevent undue and unnecessary degradation of the public land.


John F. Ruhs, State Director
Eastern States

November 13, 2015
Date

Appeal Procedures

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the BLM Eastern States Office located at 20 M Street SE, Washington DC, 20003 within 30 days of publication of the decision on BLM-Eastern States' internet page. The protestor has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision, to the Interior Board of Land Appeals, and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the protestor's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.